

Q Why would you twist the beer can?

A I don't know. Just something to do.

Q Did you first fold it in half?

A Like that. Something like that.

Q Tell me because this lady here has to write it down.

Did you first fold the beer can in half from the middle and twist it from the two tops or top and bottom?

A Yes.

Q And did you manage to separate the two pieces, do you remember?

A I don't remember.

Q But sometime during that process you cut yourself?

A Yes.

Q Where did you cut yourself?

A Right here (indicating).

Q Is that your left hand you're showing us?

A Yes.

Q Are you pointing to the heel of your left hand or in the palm?

A Right here; right in here (indicating).

Q Do you have a scar from that?

A There was one. It is not there no more.

Q Did you put a band-aid on that that night?

A No.

Q Did you get a paper towel to stop the bleeding?

A. I don't remember what I stopped it with. It wasn't bleeding awfully bad; just a little bit.

Q. Did you use anything to stop the bleeding, a kleenex?

A. I guess.

Q. You don't remember?

A. I don't remember.

Q. But that is while you were inside Keith's trailer?

A. Explain.

Q. You cut your hand while you were inside Keith's trailer?

A. Yes.

Q. Did you sometimes, when you cut yourself, maybe lick it or try to stop the bleeding that way? Did you try it that way?

A. I don't think so.

Q. Was it right after you cut your hand that you laid down?

A. Just a few minutes after that, yes.

Q. You say you laid down fifteen or twenty minutes?

A. Yes.

Q. And then shortly after that you left the trailer?

A. Yes.

Q. There are two doors on the trailer, aren't there?

Do you know?

A. I don't know.

Q. Did you leave through the front door?

A. I left through the door facing the field.

Q. Did you have to open the door handle?

A Yes.

Q And there is a screen door or storm door outside that, isn't there?

A Yes.

Q You had to open that door, too?

A Yes.

Q And Joey followed behind you?

A Yes.

Q Jimmy, did you know that Keith and his next door neighbor, John McGarvey, would trap rabbits in the field?

A No.

Q You never heard about that?

A No.

Q When was it that you said you saw this knife?

A Over at Keith's trailer.

Q When?

A I don't know. It was before that night. About maybe a few weeks before that.

Q How many weeks?

A I don't know. It was before that. It was sometime, because I have been over there a couple occasions.

Q Jimmy, have you got a knife?

A No.

Q Have you ever had one?

A I have had one before.

Q Why don't you have one now?

A I don't know. I just don't got one.

Q Did your dad tell you you can't have one?

A No, he never told me that.

Q What did you do with yours?

A I lost it a long time ago.

Q You lost it?

A Yes. I ain't had a knife in maybe a couple years.

MR. STEPHAN: Would you read his answer, please.

(Whereupon the previous answer was read by the  
Court Reporter.)

MR. STEPHAN: Your Honor, that is all the questions

I have.

THE COURT: Very well. Redirect?

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

THE COURT: You may step down.

MR. BOSTICK: May we approach the bench?

THE COURT: Certainly.

(Whereupon an off the record discussion was had.)

(Whereupon Counsel returned to their respective tables.)

\* \* \* \* \*

WHEREUPON:

ELLEN PURVIS

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

DIRECT EXAMINATION

BY MR. HEAD:

Q Ma'am, tell us your name, please?

A Ellen Purvis.

Q What do you do?

A I am a cashier for Save Mart.

Q Where is Save Mart?

A On Springboro Pike.

Q Is that over in or close to Moraine City?

A It is in Moraine.

Q Do you know the Shipman family?

A Yes, I do.

Q How do you know them?

A I worked with Mrs. Shipman.

Q When she worked at Save Mart?

A Yes.

Q Do you recall the day that the body of David Rowell was found out there in that field?

A Yes, I do.

Q Taking you back to the night before, which would be a Friday night, --

A Yes.

Q Did you happen to see the Shipmans, Mr. and Mrs. Shipman, that night?

A Yes, I did.

Q About what time was that?

A It was between 10:00 and 10:30.

Q They dropped by to see you, did they?

A Yes, they did.

Q Were you at work at the time?

A Yes, I was.

Q As a result of them dropping by to see you, did you happen to make a phone call to anybody?

A Yes. They asked if I would call their son, keep calling their house until I could get a hold of their son and tell him where they were at.

Q Did you in fact call over to the Shipman's residence?

A Yes, I did.

Q About what time was that?

A I got a hold of Jim. It was maybe a little bit after 11:00, between 11:00 and 11:30.

Q You say Jim. There is a Jim, Sr. and a Jim, Jr.

A Jim, Jr.

Q You got a hold of Jim, Jr.?

A Yes, I did.

Q What did you tell Jim, Jr.?

A I told him his mom and dad had to go to Sidney and for him to stay home until they got home.

Q Have you ever talked to Jim, Jr. on the phone before?

A Yes, I have.

Q Was there any doubt in your mind it was Jim, Jr. you were talking to?

A No. It was him.

MR. HEAD: No other questions.

THE COURT: Cross examination?

MR. BOSTICK: No questions, Your Honor. Thank you.

THE COURT: Very well. You may step down.

MR. HEAD: Your Honor, we don't have any other witnesses. We anticipate our next witness will be rather long.

THE COURT: Ladies and Gentlemen, we are going to give you a little edge on the lunch hour at this point and break for the luncheon recess. I want to go over the admonition of the Court with you briefly before you go. 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 this case until it is finally submitted to you. Do not talk with the attorneys or the witnesses during the trial of this case. Likewise, any of the participants in the trial must not talk with you. If anyone should attempt to discuss the case with you, report the incident at your earliest opportunity to any of the Court Officers, that is,

Mr. Findlay or Mrs. Maynard. That information then will be relayed to the Court and appropriate action will be taken. Do not investigate or attempt to obtain any additional information about this case outside the courtroom. If any personal problems arise during the recess period, likewise, please report those at your earliest opportunity to Mr. Findlay or Mrs. Maynard.

Anything further by Counsel?

MR. HEAD: Not on the part of the State, Your Honor.

MR. BOSTICK: None, Your Honor.

THE COURT: Ladies and Gentlemen, perhaps if you could, reconvene around 1:15 or thereabout and we can get started in the afternoon session.

(Whereupon a recess was had.)

(Whereupon the following was had in chambers:)

MR. HEAD: Your Honor, I have asked that we come into chambers prior to the anticipated testimony of one of our witnesses. That witness is Joe Shipman, who is in chambers. Joe is seven years old and, therefore, will have to be qualified by the Court as being competent to testify.

THE COURT: Very well. Joe, how are you today?

JOE SHIPMAN: Good.

THE COURT: Do you go to school, Joe?

JOE SHIPMAN: Yes.

THE COURT: Where do you go to school?

JOE SHIPMAN: In Piqua.

THE COURT: Piqua?

JOE SHIPMAN: Yes.

THE COURT: What grade are you in up there?

JOE SHIPMAN: Going in the second.

THE COURT: Second grade. Okay. Before we go further, does Counsel waive Defendant's presence for this purpose?

MR. BOSTICK: Yes, we do, Your Honor.

THE COURT: Thank you. Joe, do you remember when you lived in Moraine City?

JOE SHIPMAN: Yes.

THE COURT: Pardon me?

JOE SHIPMAN: Yes.

THE COURT: Where did you live in Moraine?

JOE SHIPMAN: In the trailer park.

THE COURT: The trailer park?

JOE SHIPMAN: Yes.

THE COURT: Did you go to school when you were living in the trailer in the trailer park?

JOE SHIPMAN: Yes.

THE COURT: What school did you go to then?

JOE SHIPMAN: Moraine Meadows.

THE COURT: Right up the street a little bit?

JOE SHIPMAN: No, but I walked to school.

THE COURT: Did you walk to school?

JOE SHIPMAN: Yes.

THE COURT: Okay. What grade were you in when you lived in Moraine?

JOE SHIPMAN: First.

THE COURT: What kind of grades did you get in the first grade, pretty good grades?

JOE SHIPMAN: Yes.

THE COURT: What was your teacher's name?

JOE SHIPMAN: Miss Reed.

THE COURT: Do you live with your mom and dad in Piqua?

JOE SHIPMAN: Yes.

THE COURT: Joey, do you know what it means to take an oath and swear to tell the truth?

JOE SHIPMAN: Yes.

THE COURT: What does it mean to you?

JOE SHIPMAN: Tell the truth.

THE COURT: But when you swear to tell the truth, what does that mean?

JOE SHIPMAN: Tell the truth.

THE COURT: Does it mean in your opinion you promise to tell the truth?

JOE SHIPMAN: Yes.

THE COURT: If you promise to tell the truth, what do you have to do when they ask you?

JOE SHIPMAN: Tell the truth.

THE COURT: Right. What happens to you if you don't tell

the truth after you promise to tell the truth? If you wouldn't tell the truth, what would happen to you after you promised to do it?

JOE SHIPMAN: I don't know that part.

THE COURT: Do you think you would be in trouble?

JOE SHIPMAN: Yes.

THE COURT: A lot of trouble, right?

JOE SHIPMAN: Yes.

THE COURT: Have you ever testified in any Court before?

JOE SHIPMAN: No.

THE COURT: Never have?

JOE SHIPMAN: No.

THE COURT: Have you ever taken an oath or sworn to tell the truth before in any kind of a thing?

JOE SHIPMAN: Yes.

THE COURT: When was that?

JOE SHIPMAN: Last year.

THE COURT: Oh, yes. What kind of a thing was that last year that you did that with?

JOE SHIPMAN: A friend.

THE COURT: A friend. You swore to tell the truth to a friend?

JOE SHIPMAN: Yes.

THE COURT: Did you tell him the truth?

JOE SHIPMAN: Yes.

THE COURT: So, you didn't get in trouble, did you?

JOE SHIPMAN: No.

THE COURT: If you would have lied to the friend, what would have happened to you?

JOE SHIPMAN: He would have punched me.

THE COURT: Have you talked to your parents about the fact that you would be testifying in this case?

JOE SHIPMAN: Yes.

THE COURT: And did they tell you to tell the truth?

JOE SHIPMAN: Yes.

THE COURT: They told you not to lie, right?

JOE SHIPMAN: Right.

THE COURT: So, when you get on the witness stand and testify in the case today, is that what you are going to do? You are going to tell the truth?

JOE SHIPMAN: Yes.

THE COURT: Okay. Have you ever told a lie, Joey, that you can remember?

JOE SHIPMAN: No.

THE COURT: You never told a lie?

JOE SHIPMAN: No.

THE COURT: Good. Do you think you would get a whipping if you did tell a lie?

JOE SHIPMAN: Yes.

THE COURT: Is that why you have never told a lie?

JOE SHIPMAN: Yes.

THE COURT: Does Counsel have anything to supplement the Voir Dire?

MR. BOSTICK: Nothing, Your Honor.

THE COURT: Counsel?

MR. HEAD: No. Thank you, Judge.

THE COURT: Very well. Okay, Joe. I am going to let you testify. You make sure you tell the truth. Do you understand?

JOE SHIPMAN: Okay.

THE COURT: We will see you in a few minutes.

MR. HEAD: That's all we have.

(Whereupon Court reconvened.)

MR. HEAD: We will call to the stand Joe Shipman.

\* \* \* \* \*

WHEREUPON:

JOE SHIPMAN

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

DIRECT EXAMINATION

BY MR. HEAD:

Q Joey, could you tell the Jury over here your name?

A Joe.

Q What is your last name?

A Shipman.

MR. HEAD: Can everybody hear him?

BY MR. HEAD:

Q You have to keep your voice up, Joe, all right?

A Okay.

Q How old are you, Joe?

A Seven.

Q Joe, where do you live now?

A In Piqua.

Q Who do you live with in Piqua?

A My mom.

Q Does anybody else live there with you?

A My dad and brother.

Q What is your brother's name?

A Jim.

Q Joe, did you live down in Moraine City back last

wintertime?

A. Yes.

Q. Where did you live over there? Do you remember?

A. In a trailer park.

Q. Did you live in a trailer in a trailer park?

A. Yes.

Q. Did you go to school?

A. Yes.

Q. What school did you go to?

A. Moraine Meadows.

Q. What grade were you in then?

A. First.

Q. What grade are you going into, the second grade?

A. Yes.

Q. In Piqua?

A. Yes.

Q. Joe, do you know a fellow named Keith Wampler?

A. Yes.

Q. Do you see him anywhere here in the Courtroom?

A. Over there (indicating).

Q. What is he wearing? What color shirt is he wearing?

A. Sky blue shirt.

MR. HEAD: Indicating the Defendant for the record,

Your Honor.

THE COURT: It may so indicate.

BY MR. HEAD:

Q Was Keith Wampler a neighbor of yours?

A Yes.

Q He lived in a trailer in that same trailer park with you?

A Yes.

Q Do you know a fellow by the name of David Rowell?

A Yes.

Q That is the fellow who was killed out there near your trailer or found out there?

A Yes.

Q Do you remember the day that David's body was found?  
Was that a Saturday?

A Yes.

Q Let me take you back to the Friday just before that Saturday, okay?

A Okay.

Q Did you see David Rowell that day?

A Yes.

Q Do you remember about what time it was you saw him?

A Around 2:30.

Q Where did you see him, do you remember?

A At our trailer.

Q What was he doing there?

A Bumming a cigarette off my brother.

Q Bumming a cigarette off your brother. Did your brother

give him a cigarette?

A Yes.

Q After your brother gave him a cigarette, did he tell you where he was going, where David was going?

A Yes.

Q Where did he say he was going?

A Keith's.

Q What did he say he was going to do?

A Get drunk.

Q I am sorry?

A Get drunk.

Q He was going to get drunk at Keith's. After he said that to you --

MR. BOSTICK: We object to that testimony and ask it be stricken.

THE COURT: The Court feels there is an exception provided under the rule for this testimony. Overruled.

BY MR. HEAD:

Q After he told you that, did you see which way David went?

A Yes.

Q Where did he go?

A Keith's.

Q Over in Keith's trailer, did he?

A Yes.

Q Did you watch him go over there?

A Yes.

Q Were you inside the house or outside when you watched him?

A Inside.

Q You watched through a window, did you?

A Yes.

Q Later that night, Joey, did you and your brother, Jim, go to a movie at the Civic Center?

A Yes.

Q Do you remember what was playing?

A Yes.

Q What was it?

A Benji.

Q Benji. Did you stay for the whole movie?

A No.

Q How long did you stay there, do you remember?

A About five minutes.

Q Did you then leave the movie theater?

A Yes.

Q Where did you go?

A Keith's.

Q Did you go anywhere before you went to Keith's?

A No.

Q Who did you go to Keith's with, do you remember?

A Mike, Teddy, and --

Q How about your brother, was he with you, too?

A Yes.

Q Do you know Mike's last name?

A Yes.

Q What is it?

A Johnson.

Q Do you know Teddy's last name?

A No.

Q When you went to Keith's, did you -- did someone knock on the door?

A Yes.

Q After they knocked on the door, did Keith let you all in?

A Yes.

Q Do you remember him saying anything to you when he let you in?

A No.

Q Do you remember him saying to you that he thought it might have been --

MR. STEPHAN: Objection.

THE COURT: Sustained.

BY MR. HEAD:

Q Joe, did Keith tell you who he thought it might have been at the door?

A Yes.

Q What did he say?

A He thought it might have been the cops.

Q Did you go inside after that?

A Yes.

Q Once inside, what did you guys all do? What did you  
do?

A Watched TV.

Q Were the other fellows in there drinking?

A Yes.

Q What were they drinking, do you remember?

A Beer.

Q Did you have any beer?

A No.

Q Do you drink beer?

A No.

Q Do you remember when your brother cut himself on his  
hand?

A Yes.

Q Where did he go after he cut himself on his hand?

A In Keith's room.

Q In Keith's what?

A Keith's room.

Q What did he do in there, do you remember?

A Laid on the bed.

Q Did you go in there and see him laying there on the bed?

A Yes.

Q Had you been in Keith's trailer before?

A No.

Q Do you know where the bathroom is in Keith's trailer?

A Yes.

Q Where is that?

A The second before the last room.

Q Had you been -- did you go in that last room anytime that night?

A No.

Q Do you remember whether the door was open or closed to that room?

A Open about that much (indicating).

Q About two inches maybe?

A Yes.

Q How long do you think you stayed there at Keith's trailer?

A Half hour.

Q Did you go home then or what did you do after you left Keith's trailer?

A Went home.

Q Who went with you?

A Me and my brother.

Q You and your brother, Jim?

A Yes.

Q What did you do when you got home?

A Went to bed.

Q Do you know whether or not your brother, Jim, ever left your home after you guys went to bed?

A No.

Q No, you don't know or no, he didn't?

A No.

Q Did your brother leave your home after you guys went to bed?

A No.

MR. HEAD: I don't have any other questions, Judge.  
Thank you.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. STEPHAN:

Q Joey, the day that you went to Keith's -- may I approach the witness?

THE COURT: You may.

BY MR. STEPHAN:

Q Joey, the day that you went to Keith's trailer, did you go to school that day?

A Yes.

Q And were you in the first grade?

A Yes.

Q What time did you get home out of school?

A. Around 2:30.

Q. How do you get from school to home?

A. Walk through the field, by the field.

Q. You don't take the bus?

A. No. I walk home.

Q. Is the school right by the Civic Center?

A. Yes.

Q. Is it right next to it or behind it?

A. Yes. If you are back here, here's the school (indicating).

Q. Is there a short-cut from the school to your trailer?

A. Yes.

Q. What is the short-cut?

A. There is a walk.

THE COURT: Joey, could you say that again?

THE WITNESS: There is three paths. I go through the first one.

BY MR. STEPHAN:

Q. Tell me where the path goes if you start from school?

A. To our trailer.

Q. Joey, you have to speak up a little bit.

A. To our trailer.

Q. Can you tell me how you get from school to the trailer?

How do you walk there? What do you walk past?

A. I walk past -- I walk out of the trailer park. I walk past the fence and I walk past another fence.

Q You go behind the trailer court?

A No.

Q How do you get out of the trailer court? Do you know where that dirt road is behind the trailer court?

A Yes.

Q Do you use that for the short-cut?

A No.

Q Do you walk between the trailers?

A Yes, I walk between two trailers.

Q Do you know where Kreitzer Road is?

A No.

Q That is the name of the road by the Civic Center.

Okay? Do you cross over Kreitzer Road?

A Yes.

Q Did you see David Rowell the day before you were at Keith's house, Keith's trailer?

A Yes.

Q You did?

A Yes.

Q Do you know what time that would have been?

A Around 2:00.

Q Did you play with David Rowell or was he too old for you?

A Too old for me.

Q But would you see him around the trailer court?

A Yes.

Q Do you know how often you would see him around the trailer court?

A About twice a week.

Q Did you see David Rowell earlier that week, too, after school?

A Yes.

Q Did you see him a couple times that week after school?

A No, just once.

Q Just once?

A Yes.

Q You saw him on Friday, right?

A Right.

Q And you said you saw him on Thursday?

A No.

Q Did you see him one day earlier that week?

A Yes.

Q Do you know what day that would have been?

A Wednesday.

Q Would that have been about 2:00?

A No.

Q What time do you usually get out of school?

A 2:30.

Q Did David ever come over and bum a cigarette from your brother any other time? Had he done that before?

A No.

Q How long did he stay there and talk with you?

A About five minutes.

Q Was your brother, Jimmy, outside, too?

A Yes. I was --

Q Say that again.

A I was out by the door.

Q On the porch?

A Yes.

Q Were you inside or out?

A Out.

Q Was it a pretty cold day that day?

A Yes.

Q Did you have your coat on?

A Yes.

MR. STEPHAN: That's all the questions I have.

THE COURT: Very well. Redirect?

MR. HEAD: No. Thank you.

THE COURT: You can step down, Joe.

\* \* \* \* \*

WHEREUPON:

JAMES SHIPMAN

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

DIRECT EXAMINATION

BY MR. HEAD:

Q Sir, tell the Jury your name, please?

A James Shipman.

Q You are the father of Jim and Joey Shipman?

A Yes.

Q You are living in Piqua now, right?

A Right.

Q What do you do there? Where do you work?

A I run a service station.

Q Back in February of this year, where were you living?

A Moraine.

Q Where were you living in Moraine, do you remember?

A In the trailer park.

Q Do you recall the address of your trailer?

A Cozy Lane.

Q Do you remember if your trailer had any particular name on it?

A Fairmont.

Q Back in February, the first part of February, where were you working?

A The first part of February?

Q Yes.

A Piqua.

Q You had just taken over managing that station?

A The 31st of January.

Q So, you commuted from Moraine City up to Piqua each day?

A Right.

Q Was your wife working at that time?

A Right.

Q Where was she working?

A She was working with me for the first week.

Q Okay.

A For the first week. Then, after that, she took the station in Sidney, a Sohio Station.

Q She is managing a gas station now?

A In Sidney, yes.

Q You both manage Sohio Stations?

A Right.

Q When did you move to Piqua, do you remember?

A We drove it two or three weeks. I wrecked my car on the ice. I don't recall exactly when, but it was -- I am sure it was in February. I am pretty sure.

Q Mr. Shipman, do you remember the day that David Rowell's body was found out there in that field?

A. I think it was on a Saturday.

Q. Let me take you back to the day, or night before actually, Friday. Did you work that day?

A. Yes.

Q. This was up at the Sohio Station in Piqua?

A. Yes.

Q. About what time did you get home, do you recall?

A. It was between 7:00 and 7:30, I think.

Q. Were your boys at home when you got home?

A. No, they weren't home. We was going to take them to the Civic Center for a movie. They left a note they was going, so when it was over, we started looking for them.

Q. Did you have the occasion to go to the Civic Center looking for them that night?

A. Yes. We drove over after the movie was over.

Q. About what time was that, do you remember?

A. I don't know. They was closing up. It was after -- I guess it was around 9:00 or 9:30, I guess.

Q. Did you see them there?

A. No.

Q. What did you do after that?

A. We drove around through the trailer park a couple times and went back to the trailer to see if they were home. We left and went back to -- went up to the Save Mart. We got a phone call from the Sidney station. We had the only keys to lock up the

station because she hadn't given anybody any keys. We had to drive back up to there to lock up.

Q You stopped by the Save Mart before you drove back to lock up the store?

A Yes. I had to get gas, and we had a friend call to check on the boys.

Q What was the friend's name?

A Pardon?

Q What was the friend's name?

A Ellen Purvis or something like that.

Q A friend of your wife's?

A Yes.

Q Ellen Purvis?

A Yes. Someone my wife used to work with.

Q What time did you get home from Piqua the second time?

A We drove straight up there and back. We was probably gone two or two and a half hours, I guess. We drove to Sidney and back, stopped and got a sandwich on the way back, which took about twenty minutes, I guess. Probably two or two and a half hours from the time we left.

Q That would put the time about when, estimating?

A Oh, it was somewhere around 10:00, I guess, or so when we left; 10:00 or 10:30, I guess when we left Save Mart.

Q So, you were back home about 12:30 or 1:00?

A Approximately there, yes.

Q When you got there, did you notice whether or not your boys were home?

A Yes, they were home.

Q What were they doing?

A Sleeping.

Q What did you do then the rest of the evening? Did you go to bed, too?

A Yes, I went to bed.

Q I will ask you whether or not either one of your boys ever left to your knowledge, ever left your trailer after you got home that night?

A No.

MR. HEAD: No other questions. Thank you.

THE COURT: Cross examination?

MR. STEPHAN: No questions, Your Honor.

THE COURT: You may step down, sir. Thank you.

\* \* \* \* \*

WHEREUPON:TED RITCHIE

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

DIRECT EXAMINATIONBY MR. HEAD:

Q Young man, tell the Jury your name, please?

A Ted Ritchie.

Q Ted, how old are you?

A Seventeen.

Q Where are you living right now?

A Orlando, Florida.

Q Back in February, were you living up in Dayton?

A In Moraine.

Q When did you come to Moraine?

A In January.

Q What was the reason for you coming here?

A My brother's funeral.

Q Were your folks up here at that time?

A Yes, sir.

Q When you were down in Florida, were you living with your folks then?

A No. I was living with some friends of the family.

Q Where were your folks living?

A Gordon's Trailer Park on Kreitzer Road.

Q Is that in Moraine?

A Yes, sir.

Q How long did you live with them up here?

A About a month and a half.

Q Did you move back to Florida?

A Yes, sir.

Q Did your folks move back at that same time?

A Yes, sir.

Q Did you know a fellow by the name of David Rowell?

A No, sir.

Q Do you remember the day that the body of a little boy was found in the field next to Gem City Trailer Court?

A Yes, I remember.

Q Let me take you back, if I can, to the night before, which would have been a Friday night. Okay? Do you know a girl by the name of Judy Tabor?

A Yes.

Q Were you over at Judy's house that night?

A Yes, sir.

Q Let's talk about -- Were you there more than one time that night?

A Yes.

Q When did you first go over there, do you remember?

A It was about 8:00 o'clock.

Q Who was all over there?

A Judy and Alice Johnson and me and Mike went over there.

Q Mike who?

A Johnson.

Q Is that Alice's brother?

A Yes, sir.

Q Was Alice more or less your girlfriend?

A Well, I liked her, but we weren't --

Q Hadn't gotten that far yet?

A No.

Q When you were over there, did you do any beer drinking?

A Yes.

Q And I will ask you did you smoke any marijuana over there?

A Yes.

Q We are just talking -- About how many people were there at that time?

A Around five or six?

A Were Jim and Joe Shipman there by that time?

A Yes.

Q Did they smoke marijuana, either one of them?

A No.

Q After Judy's -- How many beers did you have at Judy's trailer?

A We drunk maybe about two apiece.

Q And how many joints or manijuana cigarettes did you smoke?

A Two or three.

Q For all of you or just yourself?

A For all of us.

Q After Judy's trailer, did you go anywhere else?

A Yes. We went to Darrell's, another guy named Darrell.

Q Is that Darrell Doan?

A Yes.

Q What did you do over at Darrell's?

A We drunk some more beer.

Q What did you do after Darrell's?

A Me, Mike and Jimmy's little brother, we took a walk.

Q A walk where?

A We stopped at Judy's and told his sister we were going to go to Keith's.

Q Did you go over to Keith's?

A Yes, sir.

Q I will have you look around the courtroom, Teddy, and ask if you can see Keith anywhere here?

A Over there (indicating).

Q What is he wearing?

A A blue shirt, blue pants, and a pair of boots.

MR. HEAD: Indicating the Defendant for the record, Your Honor.

THE COURT: It may so indicate.

BY MR. HEAD:

Q About what time did you get to Keith's, do you remember?

A It was 9:00 or 9:30.

Q We are talking about four people, right?

A Yes, sir.

Q You and Mike?

A And Jim and his brother.

Q Did Keith let you in?

A Yes.

Q Did he say anything to you when he opened the door as to who he thought you might have been?

A He said he thought it was somebody, but I don't remember what he said. He thought it was somebody else, but I don't remember what he said.

Q What did you do once you got inside?

A Well, we watched some television. We sit down in the living room. We was listening to the stereo, and Mike asked him did he have some beer, and he gave us all a beer.

Q Was Keith asked to supply anything else other than beer?

A Yes, sir. Mike asked Keith did he have any liquor or pot.

Q What did Keith reply to that?

A He said that he had about a half a fifth of vodka left. He said he was going to save that for his party, but he said the rest of it, as I recall, he said him and David had drunk.

Q Did he tell you David's last name?

A No, sir.

Q Did you know who he was referring to?

A No, sir.

Q Do you remember talking to the police shortly after David

Rowell's body was found in the field?

A Yes, sir.

Q Did the police ask you what went on in Keith's trailer?

A Yes, sir.

Q Did you tell them at that time what you just told us here today?

A I told them that he had said somebody, but I couldn't recall their name, but then the next day, you know, I was thinking about it because they told me if I remembered anything else to call them. Then I remembered that he said David, so I called them.

Q Did you tell the police that?

A Yes, sir.

Q Do you recall what Keith was wearing that night?

A Yes, sir.

Q What was that?

A He was wearing a hat, a pair of dark blue pants. I think they were corduroys, and a pair of cowboy boots. No shirt.

Q I will show you what we have marked State's Exhibit No. 7 for identification. What are these?

A Boots.

Q Have you ever seen those boots before?

A Yes, sir.

Q Where?

A He was wearing them that night.

Q Had you known Keith before that night, Teddy?

A No, sir.

Q First night you had met him?

A Yes, sir.

Q Were you party to a conversation or did you overhear the Defendant and Mike Johnson talking about roughing up somebody?

MR. STEPHAN: Objection, Your Honor.

THE COURT: I am sorry?

MR. STEPHAN: It is hearsay. Objection. I don't think that this young man is of such an age that Mr. Head needs to lead him.

THE COURT: Would you read the question?

(Whereupon the previous question was read by the reporter.)

THE COURT: Well, the hearsay objection is overruled, but perhaps you can refrain from the leading questions. We will let this question stand.

BY MR. HEAD:

Q Did you hear my question?

A Yes, sir.

Q Could you tell us about that conversation, Ted?

A Yes. Mike and Keith, they were sitting on the far end of the sofa, and Mike called Keith a queer and Keith said, you know, they stood up. He said, you want to go outside and fight about it? Then they dropped it somehow.

MR. STEPHAN: Could we have a conference?

THE COURT: Yes.

(Whereupon the following was had at the bench.)

MR. STEPHAN: If it please the Court, we move to strike the last series of questions and answers on several grounds. First of all, we renew our objection on the basis that Mr. Head asked a leading question. Secondly, we move to strike it on the basis it is not responsive. The question, as I recall it, was do you remember whether or not there was a conversation about roughing somebody up and his answer was, yes, Keith -- or Mike called Keith a queer and they went out and had a fight. I don't think that is responsive. I stand on my objection that he was leading the witness with the question. We move to strike that portion of his testimony.

THE COURT: The Court is going to overrule the objection but does instruct counsel to refrain from leading the witness.

(Whereupon counsel returned to their respective tables.)

BY MR. HEAD:

Q Ted, before the little conversation between Mike and Keith, did you hear Keith talk to Mike about anything else?

A Yes, sir.

Q What was that?

A He was telling Mike that he had to rough up someone for a hundred dollars, get some information out of him. Something to do with Pit Bulls.

Q After that, after he said that, did you hear the next little bit of conversation?

A No, sir. I was kind of like off and on listening to them, you

know.

Q What was the next thing you heard Keith and Mike talk about?

MR. STEPHAN: Your Honor, I am going to object to the form of the question.

THE COURT: Sustained.

MR. STEPHAN: Thank you.

BY MR. HEAD:

Q After you said this about what you have already testified to -- Well, strike that. I think we have gone over that. Do you remember you said you went to Jim -- Jim Shipman was there, right?

A Yes, sir.

Q Do you remember anything unusual happening with Jim Shipman?

A Yes. He cut his hand on a beer can.

Q Do you remember what he did after he cut his hand?

A No.

Q Do you remember about what time or I will ask you this way. Did the Shipmans leave Keith's that night?

A Yes, sir.

Q Do you remember about what time?

A It was about 10:40, 10:45.

Q Were you intoxicated that night?

A No, sir.

Q Between the time when you first started testifying about the time you were at Judy Tabor's all the way up to Keith's --

A About 5:00 or 6:00.

Q How much marijuana had you smoked?

A Myself or all of us?

Q Yes.

Q I'd smoked maybe about a half a joint.

Q How long -- What did you do after the Shipmans left?

A We stood around in the kitchen and we didn't talk about anything. Just we were watching a little bit of television, listening to the stereo. We only stayed for about 15 minutes after they left.

Q Then what happened?

A We left and went to Andy's.

Q When you say we left, who is we?

A Me and Mike Johnson.

Q What kind of beer were you drinking at Keith's?

A Old Milwaukee Lite.

Q Then you went to somebody's named Andy?

A Yes, sir.

Q Where was that, do you remember?

A It was over -- They call it the Dog Patch. It was behind the Civic Center. Then you go through the field and it is that first street over there.

Q How long did you stay over at Andy's?

A About a half an hour.

Q What did you do when you were over there?

A We just talked mostly.

Q Did you know this Andy fellow before?

A No, sir.

Q About how old is he?

A Maybe about 14.

Q Did Mike Johnson know him?

A Yes, sir.

Q What did you do, if anything, after leaving Andy's?

A We went to our trailer park, which was Gordon's, and we stopped at his cousin's, Judy, and she told me my mother was looking for me. I went on home and Mike stayed there.

Q Just so we are clear about this. Gordon's Trailer Park, where is that in relation to Gem City Trailer Park?

A The next one over to that one.

Q So, you went home about what time?

A About 15 to 12:00.

Q Did you -- What did you do when you got home?

A Me and my mother went to Frisch's to get something to eat.

Q Did you get something to eat at Frisch's?

A Yes, sir.

Q Where did you go after Frisch's, if anyplace?

A We stopped at 7-Eleven.

Q What was the purpose of that?

A We got some cigarettes and some pop.

Q What if anything did you do after stopping at 7-Eleven?

A We went home.

Q About what time was this now?

A It was about 1:15, 1:20.

Q After you got home, what if anything did you do?

A I went back up to Judy's to talk to Alice for a few minutes.

Q Was Alice still there?

A Yes, sir.

Q Who else was there?

A Judy, and Mike was on the floor asleep, covered up.

Q Anybody else there?

A No, sir.

Q How long did you stay up there at Judy's?

A Just about five minutes.

Q What did you do after that?

A Went home.

Q Did you stay at home the rest of the evening?

A No, sir.

Q Was your mom home when you got home?

A Yes, sir.

Q Was she in bed or not?

A No, she was still up.

Q Do you recall about what time your mom went to bed?

A Between 1:30 and quarter till 2:00.

Q After she went to bed, what if anything did you do?

A I went back up to Judy's, which is Mike's cousin.

Q How long did you stay there?

A I stayed there until about 3:30 or 4:00.

Q It is in the morning now, right?

A Yes.

Q Who was all there, do you recall?

A Me, Mike, Judy, Alice, Darrell, and Donnie.

Q All right. What if anything happened at 3:30 or 4:00?

A Me, Mike and Darrell left and we walked over to Darrell's house because Mike was going to spend the rest of the morning or evening with him, and I went on home.

Q Were you supposed to be out that late?

A No, sir.

Q Did your mom know you were out?

A No, sir.

Q What did you do after you got to Darrell's?

A I left.

Q Where did you go?

A Home.

MR. HEAD: One moment, Judge.

BY MR. HEAD:

Q Teddy, when you went back to Judy's after you got back from Frisch's and 7-Eleven --

A Yes, sir.

Q Who was all there?

A Mike, Judy, and Alice, and when I got there I was there.

Q After you left and came back, who was all there?

A Donnie, Darrell, and the rest of us I have already said.

Q Ted, what kind of shoes were you wearing that night, do you recall?

A No, sir.

Q I will ask you whether or not you own a pair of cowboy boots?

A I own a pair now. I just got them yesterday, though. I didn't at the time.

Q Do you recall when you went back to Judy's whether or not Mike Johnson had on any shoes?

A He didn't have on any shoes.

Q Were the shoes off, you mean?

A Yes, they were off.

Q Do you remember what kind of shoes they were?

A Yes. They were something like snow boots, something like that. They had red shoe strings.

Q I am sorry?

A They had red shoe strings.

Q Could you describe the toe of those snow shoes for us?

A They were round like this (indicating). On the bottom, they were like, you know, about this thick (indicating), like tracks, something like car tires off a car or something like that.

MR. HEAD: No other questions.

THE COURT: Cross examination?

MR. BOSTICK: Yes, Your Honor.

CROSS EXAMINATION

BY MR. BOSTICK:

Q How old are you now?

A Seventeen.

Q You attend school down in Florida?

A Yes, sir.

Q Beg pardon?

A Yes, sir.

Q What is your status; what grade?

A Eleventh.

Q Did you drop out of school when you came to Dayton?

A Yes, momentarily.

Q For about two or three months, did you?

A Yes.

Q You had a death in your family about the first part of the year and that is why you came to Dayton?

A Yes, sir.

Q You were here what, a couple months?

A Yes, sir.

Q Did you work during that time?

A No.

Q Did you attend school?

A No.

Q What did you do all day long and all night long?

A Just hung around the trailer.

Q Hung around the trailer?

A Yes, sir.

Q And engaged in some of the activities you told us about?

A Not very often.

Q You didn't drink often?

A No.

Q Didn't smoke often?

A No.

Q You had only met Keith Wampler one time?

A That's right.

Q And that is the night that you are telling us about?

A Yes, sir.

Q You indicated that you were not intoxicated that night?

A No.

Q Are you a light, medium, or heavy drinker?

A I don't know. Medium, I guess.

Q Medium?

A Yes.

Q The beer and alcohol, if any, and the marijuana that you had on that Friday evening was that the most that you had ever had of drugs and intoxicants at one time?

A I guess a few times I have had more.

Q A few times you have had more?

A I suppose, yes.

Q You are the kind of young man who is not out of it if you have

had a beer or two?

A No. If I drink them all at one time. We wasn't drinking all at one time. There was a span in between the beer we drunk, so --

Q By the time that you had gotten to Keith's trailer you and the other fellows had at least a 12 pack, hadn't you?

A Together?

Q I am concerned about you.

A Myself, did I have a 12 pack?

Q You had been drinking from a 12 pack?

A What do you mean? I don't understand.

Q Well, let's back up a minute. By the time that you went to Keith's trailer, how many beers had you drunk?

A About three.

Q Incidentally, you didn't know Keith's trailer from any other trailer that night, did you?

A Well, what do you mean?

Q It wasn't your idea to go to Keith's trailer, was it?

A No.

Q Actually, you fellows were looking for more booze, weren't you?

A I wasn't. Maybe Mike was.

Q Well, you were with Mike, weren't you?

A Yes.

Q And you had been to Darrell's, had you?

A Yes.

Q And things got pretty boring because you ran out of beer there, didn't you?

A No. We did not run out of beer over there.

Q Let me ask you this, young man. Had all the beer been drunk at Darrell's or hadn't it been?

A No. All of it hadn't been.

Q What you are saying is you could have stayed there at Darrell's or whoever else's house you were at and had more beer?

A Yes.

Q Why were you out walking around?

A Because Mike told me he wanted me to meet one of his friends.

Q Did he say who his friend was?

A Yes, he said Keith, but I didn't know him.

Q Go ahead.

Q He said Keith, but I didn't know who he was.

Q Did he say why he wanted you to meet Keith?

A Yes.

Q What did he tell you?

A He said he might have, you know, some pot.

Q He might have some pot?

A Yes.

Q You are sure that is what he said to you?

A He might have -- I don't know exactly what he said, but I think that is what it was.

Q You gave a statement to the Moraine Police Department?

A Yes.

Q The one that the prosecutor asked you about?

A Yes.

Q Do you remember giving this answer? Well, we were around, walking around the trailer court. It was boring and it was nothing to do. All the beer was gone. Everything. Mike said, let's go to my friend, Keith's house. I said, all right, you know. He said he might have some beer or something or his dad might not be home, you know. I said, all right. So, we walked over there. That's about it.

A Yes.

Q That was about it, wasn't it?

A Yes.

Q The beer had run out, and your friend, Mike, said let's get more at Keith's. He may have some. His dad is probably not home. Wasn't that about it?

A There was more over at Darrell's, but I didn't know that at the time.

Q Would it be fair to say as far as you know that Keith didn't know you were coming, you and the other boys?

A Yes.

Q He wasn't expecting you?

A No.

Q When you knocked on the door and he came to the door and let you in and shortly thereafter you said that you thought he was