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1 WHEREUPON, AT 10:25 A.M., MONDAY, OCTOBER 3, 1994, WITH THE
2 DEFENDANTS AND ALL ATTORNEYS PRESENT IN CHAMBERS, THE FOLLOWING
3 PROCEEDINGS WERE HAD OUT OF THE PRESENCE OF THE PROSPECTIVE JURORS:

4 BY THE COURT: About the plea-bargaining agreement, the
5 District Attorney did not mention that the recommendation in the
6 case of Christopher Patrick was a consecutive sentence, and with
7 the announcement it is a consecutive sentence with the one he
8 received last term of Court, I am going to accept his plea.

9 All right. Now, I will hear your motion.

10 BY MR. ALEXANDER: Your Honor, in February, 1994, pursuant to
11 the Court's directive, we filed various motions. One of the
12 motions we filed was for discovery, and I was going to provide the
13 Court a copy of that motion.

14 That motion basically asks for the criminal histories of all
15 witnesses who might testify for the State, and I think you will
16 find it in the file.

17 We haven't received any criminal histories on any of the
18 persons who have been listed as witnesses for the State. We
19 understand Mr. Duckworth is currently incarcerated in the
20 Department of Corrections at Parchman, and we have not received any
21 documentation concerning that. It is our understanding he came
22 into Court this morning in shackles.

23 We also understand that Christopher Patrick, who has been
24 listed by the State, has a criminal history, and I think the Court
25 just mentioned he had been convicted of some offense last term. We
26 have not been provided with any documentation of that.

27 As the Court is aware, under Mississippi procedure, in order
28 to impeach a person based on criminal history, we would have to
29 have available to us certified copies of conviction records and so

1 forth, and although we made a timely request, it was not provided
2 to us. . . .
3 We feel like that is a basis for dismissal of the cause, and
4 we ask for a dismissal, and we want to be on record asking for a
5 dismissal for failure to comply with a reasonable discovery
6 request; but, also, in the alternative, should the Court not
7 dismiss the case on this basis, we are asking the Court to give us
8 a continuance in order that we may get the necessary documentation
9 and do the necessary investigation, to be able to use this
10 information regarding these criminal histories.

11 Your Honor, as I pointed out, it has been eight months since
12 we requested that information, and we have never received anything
13 even verbal from the District Attorney's office regarding criminal
14 histories of these persons.

15 BY THE COURT: All right, Mr. D. A.

16 BY MR. TURNER: Your Honor, first of all, it is incorrect Mr.
17 Duckworth is in Parchman and was brought into Court today in
18 shackles. That is not the case.

19 Nothing was ever -- to my knowledge, or I did not have any
20 knowledge, if it, in fact, exists, he was ever convicted of
21 anything, or any of the other witnesses.

22 Mr. Alexander made a request, I believe, on Thursday of last
23 week about Mr. Duckworth. Said he understood he had a criminal
24 record and was at Parchman. I began checking on it. I had the
25 Scott County Sheriff's office check for me, and they said it was a
26 possibility he might be in the Simpson County Jail. I had my
27 secretary call down there, and they said they had, I believe, it
28 was a Charles Duckworth down there, but they didn't have a Mitchell
29 Duckworth.

1 I asked him just then if he had a prior record, and he said he
2 had a DUI. I said, "Well, was it a third offense DUI?" and he
3 said, "Yes." So, if he's got a felony conviction, it's a DUI
4 offense, which I don't see any way the defense could use it in this
5 case.

6 Could I see the motion?

7 (PAUSE IN PROCEEDINGS)

8 BY MR. TURNER: Judge, as to Christopher Patrick, I didn't
9 know whether or not he would even be a witness until this morning.
10 Mr. Donald and I conferred and finalized he was going to plead, and
11 if there's any problem there, I would, rather than continue it, not
12 use that particular witness, but if I recall correctly, Mr.
13 Alexander was here last term of Court when Christopher Patrick was
14 charged with the crime he was convicted of.

15 BY MR. ALEXANDER: Your Honor, that does not respond to the
16 allegations of our motion. The District Attorney knew about
17 Christopher Patrick's record. He wrote us a letter saying that
18 Christopher Patrick was listed as a potential witness and should be
19 added to their witness list as a potential witness, but he did not
20 provide us with any criminal history concerning Christopher
21 Patrick, and he has provided no excuse for not doing so, and, Your
22 Honor, we are entitled to have that information before the day of
23 the trial.

24 BY THE COURT: I agree.

25 BY MR. ALEXANDER: As far as --

26 BY THE COURT: I am going to sustain your motion as to
27 Christopher Patrick. I am going to let you have a conference with
28 Duckworth and make some determination about his criminal record,
29 and then I will make a ruling on that. If you want to have a

4

1 conference with him, you may also have a conference with him.

2 BY MR. TURNER: I don't believe it's necessary for me, Judge.

3 BY THE COURT: All right. Is he in the Courtroom?

4 BY MR. TURNER: Yes, sir.

5 (PAUSE IN PROCEEDINGS)

6 BY MR. ALEXANDER: Your Honor, he was convicted of grand
7 larceny in 1988. He was given probation. His probation was
8 violated. He has also been convicted of a DUI third offense. None
9 of that information was ever provided to us.

10 BY THE COURT: What county was he convicted in?

11 BY MR. ALEXANDER: Simpson County.

12 BY MS. PIERSON: And, he is presently in detention,
13 incarcerated, and was brought over this morning, last night, by
14 Scott County authorities.

15 BY THE COURT: What is your response?

16 BY MR. TURNER: Judge, when I asked him, the only thing he
17 said was a DUI. You know, if he says he was convicted of grand
18 larceny, we will concede that, but, you know, and if the Court
19 rules they can ask him about it, I guess they can impeach him as a
20 witness if they want to by asking him that; but, I don't see how it
21 would be any detriment to them to go on with the case.

22 BY THE COURT: Well, I think the State has the responsibility
23 of furnishing this information requested by the defense counsel.
24 I think it places a burden upon the State to make a search, other
25 than conversation with a person named as a witness.

26 I would have no hesitancy in sustaining the motion to continue
27 or even to preclude the witness from testifying, provided, first,
28 that there has been some effort to bring this matter to my
29 attention before today.

1 Now, this Defendant was indicted on the 9th day of February,
2 1994. We have had two -- we have had one intervening term of Court
3 since then. This is the third term this matter has been before me,
4 and this case has been set for trial on this day since the last
5 term of Court.

6 So, since the matter has not been brought to my attention, I
7 am going to overrule the motion. I am going to permit him to
8 cross-examine regarding his criminal record.

9 BY MR. ALEXANDER: May I be heard further on that?

10 BY THE COURT: Yes.

11 BY MR. ALEXANDER: First, Your Honor, this matter was set for
12 this date back in February, is my understanding. Secondly, we also
13 filed a motion for severance at that time. It was not until the
14 last two weeks that we were notified that other witnesses might
15 testify, and we have had their witness list since February.

16 They had a responsibility, Your Honor, to determine the
17 conviction for grand larceny, at least after we provided it, after
18 we served that request.

19 It is grossly prejudicial to us not to be able to have at our
20 fingertips at this point the actual arrest and conviction records
21 of this victim of the alleged crime.

22 Your Honor, it grossly denies our clients due process of law
23 for the Court to require that our discovery request actually means
24 nothing. That the State can come in here on the morning of the
25 trial, and Your Honor says we can cross-examine. We don't have
26 anything to force him to testify to, based on your ruling.

27 BY THE COURT: Motion overruled.

28 BY MR. ALEXANDER: Your Honor, we have other motions. We
29 brought this continuance motion first, but we also have a motion

1 for severance, as well as a motion to suppress.

2 BY THE COURT: Motion for severance between the two ladies?

3 BY MS. PIERSON: I filed the motion, Your Honor, and I would
4 like to go forward with it.

5 BY THE COURT: Of course, severance is being granted with the
6 three Patricks, because they are all entering a plea. So, there
7 only remains for trial Gladys Scott and Jamie Scott, and you have
8 a motion for severance for Gladys Scott?

9 BY MR. ALEXANDER: Jamie Scott.

10 BY MS. PIERSON: It is not a separate motion for severance.
11 It was the initial motion for severance that was filed back in
12 February to sever Jamie's case from all of the Defendants.

13 BY THE COURT: Including Gladys?

14 BY MS. PIERSON: Yes, Your Honor.

15 BY THE COURT: All right. I will hear your motion.

16 BY MS. PIERSON: We believe there will be testimony and then
17 may be evidence presented in the form of statements made by Gladys
18 Scott that would be detrimental to Jamie Scott, if introduced in
19 the trial of Gladys Scott, and it would be hearsay as to Jamie
20 Scott, and, therefore, would not be admissible if the cases were
21 heard together.

22 BY THE COURT: Was there a confession? Did Gladys --

23 BY MS. PIERSON: She did not file a written confession, but
24 there was an interrogation made of her, and we believe the officers
25 are going to be placed on the witness stand to testify as to what
26 may have developed in their investigation of the case, and we
27 believe that information would highly prejudice Jamie Scott.

28 BY THE COURT: Well, I am going to rule on objections as they
29 are made at that time. So, I am going to overrule your motion.

7

2 BY MR. ALEXANDER: We would like to call up our motion to
3 ~~suppress the statement~~, Your Honor.

4 BY THE COURT: That will be heard during the trial. Ms.
5 Pierson, do you have any more motions to bring up?

6 BY MS. PIERSON: We have nothing further.

7 BY THE COURT: The motion to suppress you have, I will rule on
8 that with a separate hearing out of the presence of the jury during
9 the trial of the case.

10 All right.

11 (CONCLUSION OF PROCEEDINGS IN CHAMBERS)

12 WHEREUPON, AT 10:45 A.M., THE JUDGE, COURT REPORTER,
13 DEFENDANTS, AND ALL ATTORNEYS RETURNED TO THE COURTROOM. VOIR-DIRE
14 EXAMINATION WAS CONDUCTED BY THE COURT, BY MR. TURNER FOR THE
15 STATE, BY MR. ALEXANDER FOR DEFENDANT GLADYS SCOTT, AND BY MS.
16 PIERSON FOR DEFENDANT JAMIE SCOTT, AT THE CONCLUSION OF WHICH THE
17 FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

18 BY THE COURT: By my time, I have five minutes past 12:00
19 o'clock. The attorneys will meet with me. You will have your
20 conference on the selection of this jury, and you will meet with me
21 in Chambers at fifteen minutes past 1:00 o'clock and give me your
22 challenges.

23 What happens, I give them a conference to sit down and talk
24 about you, and then they select the names of those they desire to
25 challenge with the exercise of their peremptory challenges. I will
26 receive those, and oftentimes, there's motions to be heard at that
27 time.

28 Perhaps, we can be through by 1:30, and, hopefully, we will
29 be; but, you will be recessed to go your separate ways until 1:30.

§

Now, be reminded that during the time that you are in recess, you have not been selected to hear this case. It would be highly inappropriate for you to be seen having a conversation at all with these attorneys, or anyone who may be connected to this case, that you may know or find out later had some interest in the case. Do not discuss this case among yourselves, or with anyone else.

This Court is in recess until 1:30.

WHEREUPON, AT 12:09 P.M., THE LUNCH RECESS WAS TAKEN. AT 1:15 P.M.; THE JUDGE, COURT REPORTER, DEFENDANTS, AND ALL ATTORNEYS RETIRED TO CHAMBERS, WHERE THE FOLLOWING PROCEEDINGS WERE HAD OUT OF THE PRESENCE OF THE PROSPECTIVE JURORS:

BY THE COURT: All right. We are in Chambers now to select the jury in the case of State vs. Gladys Scott and Jamie Scott. Let the record show the Defendants are present.

Twelve jurors will be Jury No. 1.

BY MR. ALEXANDER: Judge, you want our challenges for cause?

BY THE COURT: Yes.

BY MR. ALEXANDER: On 5, John Waggoner, currently serving as a law enforcement officer.

BY THE COURT: I am going to strike him.

BY MR. ALEXANDER: Judge, we have a question about Juror No. 2 on Panel 3.

BY MS. PIERSON: Costenia Patrick. We didn't establish whether or not that was a relative to the Patrick boy.

BY THE COURT: Pamela Patrick, No. 1 on 4, said she was related to them.

BY MS. PIERSON: We got that one.

BY THE COURT: You may be right. I am bringing her in.

(JUROR COSTENIA PATRICK ENTERS CHAMBERS)

9

1 EXAMINATION OF JUROR COSTENIA PATRICK BY THE COURT:

2 Q. Ms. Patrick, in the voir-dire this morning, there were
3 number of people who indicated they were related to the Patricks.
4 I don't remember if you said you were or not.

5 A. Those boys?

6 Q. Christopher Patrick and Gregory Patrick?

7 A. No, sir, I don't even know them.

8 Q. All right. That's just fine. You go back and have a
9 seat. Thank you.

10 (JUROR COSTENIA PATRICK EXITS CHAMBERS)

11 BY THE COURT: Any more challenges for cause?

12 BY MR. ALEXANDER: No more challenges for cause.

13 BY THE COURT: Does the State have any?

14 BY MR. TURNER: No, sir, none other than the ones I believe
15 you have already indicated were excused.

16 BY THE COURT: All right. Go back to Jury No. 1. What do you
17 say to those twelve jurors?

18 BY MR. TURNER: We would excuse No. 1, McGriff, No. 7, Hobbs;
19 No. 12, Stingley.

20 BY THE COURT: That would be Hines and Massey and Woodard on
21 2.

22 BY MR. TURNER: We will accept them.

23 BY THE COURT: Are you announcing, Firnist?

24 BY MR. ALEXANDER: Did you say 12 on 1 you excused?

25 BY THE COURT: Right. No. 1, No. 7, and No. 12 on 1. That
26 will take you through Woodard. I will call yours separately. What
27 do you say to James Curtis?

28 BY MR. ALEXANDER: We would like to excuse Curtis.

29 BY THE COURT: Virgie Battle?

10

1 BY MR. ALEXANDER: Accept Battle.
2 BY THE COURT: Vallira Gilbert?
3 BY MR. ALEXANDER: We accept Gilbert.
4 BY THE COURT: James Underwood?
5 BY MR. ALEXANDER: We excuse Underwood.
6 BY THE COURT: Louvenia Hillie?
7 BY MR. ALEXANDER: We accept Hillie.
8 BY THE COURT: Emma Jo Nutt?
9 BY MR. ALEXANDER: That will be D-3.
10 BY THE COURT: Lois Thompson?
11 BY MR. ALEXANDER: Accept.
12 BY THE COURT: Johnny Breedlove?
13 BY MR. ALEXANDER: Accept.
14 BY THE COURT: Danny Weems?
15 BY MR. ALEXANDER: That will be D-4.
16 BY THE COURT: Billy Hines?
17 BY MR. ALEXANDER: We will accept him.
18 BY THE COURT: Lilly Massey?
19 BY MR. ALEXANDER: Accept.
20 BY THE COURT: Carolyn Woodard.
21 BY MR. ALEXANDER: Your Honor, that will be D-5.
22 BY THE COURT: All right. D.A., what do you say to Braggs,
23 Gardner, Everett, Breland, and Fountain?
24 BY MR. TURNER: Judge, we excuse No. 5, Braggs, and No. 8,
25 Breland.
26 BY THE COURT: Bradford and Gibbs?
27 BY MR. TURNER: We will accept.
28 BY THE COURT: All right. Firnist, what do you say to Michael
29 Gardner?

1 BY MR. ALEXANDER: Accept Gardner.
2 BY THE COURT: Robert Everett?
3 BY MR. ALEXANDER: That will be D-6.
4 BY THE COURT: Estella Fountain?
5 BY MR. ALEXANDER: Accept Fountain.
6 BY THE COURT: Bradford, James Bradford?
7 BY MR. ALEXANDER: How many jurors have we got, Judge?
8 BY THE COURT: We've got nine.
9 BY MR. ALEXANDER: Bradford will be D-7.
10 BY THE COURT: Gene Austeen Gibbs?
11 BY MR. ALEXANDER: That will be D-8.
12 BY THE COURT: All right. D.A., what do you say to Dorothy
13 Hollis, Floyd Parker, and Costenia Patrick?
14 BY MR. TURNER: Judge, we will excuse No. 12, Hollis, and No.
15 2, Patrick.
16 BY THE COURT: Lofton and Townsend?
17 BY MR. TURNER: We will excuse them.
18 BY THE COURT: Both of them?
19 BY MR. TURNER: Yes, sir.
20 BY THE COURT: Massey and Hayes?
21 BY MR. TURNER: We will excuse Hayes.
22 BY THE COURT: Terry Doyle Watkins?
23 BY MR. TURNER: We will accept.
24 BY THE COURT: All right. Back to you, Firnist. What do you
25 say to Floyd Parker?
26 BY MR. ALEXANDER: Take Parker.
27 BY THE COURT: Carl Massey?
28 BY MR. ALEXANDER: That will be D-9; is that correct?
29 BY THE COURT: That's right. Terry Doyle Watkins?

12

1 BY MR. ALEXANDER: Watkins is going to be D-10.

2 BY THE COURT: D.A., that brings up Ealy and Marlett.

3 BY MR. TURNER: We will excuse Ealy.

4 BY THE COURT: Stacy Weger?

5 BY MR. TURNER: We accept him.

6 BY THE COURT: All right. What does the Defendant say to
7 Dennis Marlett?

8 BY MR. ALEXANDER: Judge, Marlett is going to be D-11.

9 BY THE COURT: What do you say to Stacy Weger?

10 BY MR. ALEXANDER: That's Juror No. 12; right?

11 BY THE COURT: No, no. Juror No. 11. You have used 11
12 challenges, and we have selected 10 jurors.

13 BY MR. ALEXANDER: Accept him.

14 BY THE COURT: That's the eleventh juror. All right. D.A.
15 what do you say to Frances Banks and Patricia Woods?

16 BY MR. TURNER: Excuse Banks, Your Honor.

17 BY THE COURT: Defendant, what do you say to Patricia Woods?

18 BY MR. ALEXANDER: Is Woods the twelfth juror?

19 BY THE COURT: Right.

20 BY MR. ALEXANDER: We will accept Woods.

21 BY THE COURT: All right. I am going to select two alternate
22 jurors. You each will have two challenges each on the selection of
23 the alternate jurors. What do you say to Elzy Huff, D.A.?

24 BY MR. TURNER: We accept.

25 BY THE COURT: What do you say to George Moore?

26 BY MR. TURNER: Accept.

27 BY THE COURT: Firnist, what do you say to Elzy Huff?

28 BY MR. ALEXANDER: Strike Huff.

29 BY THE COURT: What do you say to George Moore?

1 BY MR. ALEXANDER: We accept Moore.

2 BY THE COURT: That's the thirteenth juror. What does tr
3 D.A. say to Ethal Anderson?

4 BY MR. TURNER: We will accept her.

5 BY THE COURT: What does Firnist say?

6 BY MR. ALEXANDER: We accept her, Your Honor.

7 BY THE COURT: All right. That's fourteen jurors. Anything
8 before going in and seating these jurors?

9 BY MR. ALEXANDER: Your Honor, we would like to make a record
10 on the Batson.

11 BY THE COURT: Why didn't you announce that to me at the
12 beginning?

13 BY MR. ALEXANDER: Judge, because they had to exercise all
14 their strikes. I didn't know what procedure you wanted me to
15 follow. I'm sorry.

16 BY THE COURT: All right. D.A., you struck Peggy Hobbs, a
17 Black lady. Why did you strike her?

18 BY MR. TURNER: Judge, that was the lady that had some
19 hesitancy to my question about whether or not, in any particular
20 case, not just this one, they could return a guilty verdict. She
21 eventually said she could, but she was fairly hesitant about it,
22 and that's the reason we struck her.

23 BY THE COURT: Before I go any further, let me note the racial
24 makeup of the jury. Of the twelve trial jurors, there's been
25 passed upon and accepted by both the State and the Defendant five
26 Black jurors and seven White jurors. Of the two alternate jurors
27 that have been selected, the State and the Defendant have selected
28 one White juror as the thirteenth juror, and one Black juror as th
29 fourteenth juror.

14

1 All right. You struck Howard Stingley, a Black juror. Why did
2 you strike him?

3 BY MR. TURNER: Judge, through a misunderstanding of Mr.
4 Alexander's question, he volunteered that he had been convicted of
5 a DUI, and on talking with the Deputies in Scott County, they
6 confirmed he did have a drinking problem. That's the reason we
7 struck him.

8 BY THE COURT: You struck Shantell Braggs, a Black juror.

9 BY MR. TURNER: Yes, sir. We struck her because she's
10 approximately the same age as one of the Defendants. Her place of
11 birth was not in Scott County, but in Chicago, Illinois, and we
12 thought she might be of more liberal leaning than a juror that was
13 born here in Scott County.

14 BY THE COURT: You struck Dorothy Hollis, a Black juror.

15 BY MR. TURNER: We struck her, because in talking with Joh
16 Ingram and Marvin Williams, who are two Deputies in Scott County
17 who are both Black, they knew most of these jurors, but had no
18 information whatsoever on her, and she's not married, and we just
19 didn't know enough about her from her jury form.

20 BY THE COURT: Revett Lofton.

21 BY MR. TURNER: Judge, I was informed by one of the Deputies
22 when we were selecting the jury that her husband has written
23 several bad checks around town he's in trouble for, and we thought
24 she might not have a good taste in her mouth, so to speak, towards
25 law enforcement because of that.

26 BY THE COURT: You struck Georgia Hayes.

27 BY MR. TURNER: Is that still on Jury No. 3?

28 BY THE COURT: Yes, No. 7 on 3.

29 BY MR. TURNER: Judge, we struck her simply because this case

1 ... long and complex. We noticed that she is fairly
2 elderly, and we wanted to make sure we had somebody that could
3 stand a long trial.

4 BY THE COURT: Roxanne Ealy.

5 BY MR. TURNER: Judge, this was the lady that testified she
6 knew the Defendants from working with them, and if I don't have her
7 mixed up with somebody else, they are friends because of that,
8 because of their working relationship.

9 BY THE COURT: Frances Banks.

10 BY MR. TURNER: Judge, we struck her, because she is not
11 working. She is either not married or not working. We couldn'
12 tell from the juror form. Said her occupation was "laid off."

13 BY THE COURT: Firnist, you offer anything in rebuttal to
14 these reasons given by the District Attorney?

15 BY MR. ALEXANDER: He gave no reason whatsoever as far as one
16 juror, Dorothy Hollis, no reason at all. He just didn't have
17 reason. She was Black, and he didn't want her on the jury.

18 BY THE COURT: In considering the manner of the strikes, and
19 the answers of the D.A., and reasons for his strikes, I find the
20 strikes were not racially motivated, and based upon attorney
21 discretion.

22 I note, particularly, that he accepted a Black juror, while at
23 the same time having peremptory strikes that he had not exercised.
24 That is with members of the regular jury, as well as the selectio
25 of the fourteenth juror. He had a strike remaining when he
26 accepted the Black juror, Ethal Ree Anderson, when he could have
27 struck that juror, and John Reeves, Jr., a White juror, would have
28 been seated.

29 Therefore, this Court is satisfied that the strikes were not

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1 based upon racial discrimination.

2 BY MR. ALEXANDER: Judge, I realize there is discretion there,
3 but as far as that one juror, he gave no reason.

4 BY THE COURT: I noticed how you struck Whites.

5 BY MR. ALEXANDER: I can give you reasons for every one I
6 struck.

7 BY THE COURT: I will let my ruling stand.

8 (CONCLUSION OF PROCEEDINGS IN CHAMBERS)

9 (COURT REPORTER'S NOTE: COURT REPORTER'S JURY LIST APPEARS IN THE
10 CLERK'S PORTION OF THE RECORD FOR REFERENCE.)

11 WHEREUPON, AT 1:55 P.M., THE JUDGE, COURT REPORTER,
12 DEFENDANTS, AND ALL ATTORNEYS RETURNED TO THE COURTROOM, AND THE
13 FOLLOWING JURY WAS CALLED AND SEATED TO TRY THE ISSUES: Virgie
14 Battle, Vallira Gilbert, Louvenia Hillis, Lois Thompson, Johnn
15 Breedlove, Billy W. Hines, Lilly Massey, Michael Gardner, Estella
16 Fountain, Floyd Parker, Stacy Weger, Patricia Woods, and Alternate
17 Jurors, George Moore, Jr. and Ethal Ree Anderson.

18 AFTER THE JURORS WERE SEATED, THE BAILIFFS WERE SWORN BY THE
19 CIRCUIT CLERK, AND THE JURY WAS SPECIALLY SWORN AS FOLLOWS:

20 BY THE COURT: Would, you please, rise and raise your right
21 hands?

22 Do you and each of you solemnly swear that you will well and
23 truly try the issue between the State of Mississippi and Gladys
24 Scott and Jamie Scott, and a true verdict give, according to the
25 evidence and the law, so help you God?

26 (ALL FOURTEEN JURORS ANSWER AFFIRMATIVELY)

27 BY THE COURT: Have a seat, please.

28 Let all witnesses come around to be sworn.

29 (WITNESSES COME TO THE RAIL)

2 and be sworn.

3 (WITNESSES ARE SWORN BY THE CIRCUIT CLERK)

4 BY THE COURT: Let the witnesses go through the door. All
5 witnesses, go through the door.

6 (WITNESSES ARE SHOWN TO WITNESS ROOMS)

7 BY THE COURT: Call your first witness.

8 BY MR. TURNER: Your Honor, the State calls Johnny Ray Hayes.

9 JOHNNY RAY HAYES

10 upon being called to testify as a witness on behalf of the State,
11 after first being duly sworn, did on his oath testify as follows
12 to-wit:

13 DIRECT EXAMINATION BY MR. TURNER:

14 Q. Would you state your name, please?

15 A. Johnny Ray Hayes.

16 Q. Mr. Hayes, let me adjust this microphone a little bit

17 (Pause) If you will, ease your chair forward just a little bit.

18 A. (Witness complies.)

19 Q. Mr. Hayes, where do you live?

20 A. Mount Olive.

21 Q. Where is that?

22 A. Down in Covington.

23 Q. Covington?

24 A. That's Covington.

25 Q. Where do you work?

26 A. McCarty.

27 Q. McCarty?

28 A. Yes, sir.

29 Q. Mr. Hayes, I direct your attention to December the 24th.

18

1 of last year, 1993, and ask if you were with Mitchell Duckworth?

2 A. Yes, sir.

3 Q. Are you and he related?

4 A. Yes, sir.

5 Q. How are y'all related?

6 A. Kin.

7 Q. Do you work together, or did you at the time?

8 A. Yes, sir.

9 Q. Is that where you first got with him that day?

10 A. He rides with me.

11 Q. He rides with you?

12 A. Yes, sir.

13 Q. When you left work that day, did he ride with you then?

14 A. Yes, sir.

15 Q. And, where did y'all go to?

16 A. Mini Mart.

17 Q. Where is the Mini Mart?

18 A. Out there on 35 by McCarty.

19 Q. Is that in Scott County?

20 A. Yes, sir.

21 Q. Now, when you got to the Mini Mart, did you see two

22 people there you knew or had seen before?

23 A. Yes, sir.

24 Q. And, who was that?

25 A. Gladys.

26 Q. Gladys who?

27 A. Scott.

28 Q. Did she have someone else there with her?

29 A. Yes, sir.

19

1 Q. Who was that?

2 A. Jamie.

3 Q. All right. Is that Jamie Scott?

4 A. Yes, sir.

5 Q. Now, tell us whether or not Gladys and Jamie Scott asked
6 you for a ride there at the Mini Mart?

7 BY MR. ALEXANDER: Object to leading, Your Honor.

8 BY THE COURT: I don't think that's a leading
9 question. Overruled.

10 Q. (Turner) The Judge says you can answer the question.

11 A. Ask it again.

12 Q. Tell us whether or not Gladys Scott and Jamie Scott asked
13 you for a ride there at the Mini Mart.

14 A. Well, they said they didn't have no way home.

15 Q. Beg your pardon?

16 A. Needed a ride home.

17 Q. Needed a ride home?

18 A. Yes, sir.

19 Q. All right. Did you agree to give them a ride?

20 A. Yes, sir.

21 Q. Whose car were you in?

22 A. Mine.

23 Q. And, when you gave them the ride, did Mitchell Duckworth
24 go with you?

25 A. Yes, sir.

26 BY MR. ALEXANDER: Object to leading, Your Honor.

27 BY THE COURT: I am going to sustain that objection.

28 It is leading.

29 Q. (Turner) Who all was in the car when you left the Mini

1 Mart?

2 A. Me and my cousin and Gladys and Jamie.

3 Q. Where did you first go?

4 A. Oakdale Apartments.

5 Q. Where?

6 A. Oakdale Apartments.

7 Q. Oakdale?

8 A. Yes, sir.

9 Q. Where is that?

10 A. It's right over the side of McCarty Feed Mill.

11 Q. All right. Now, after you left the Oakdale Apartments,
12 where did you go?

13 A. Toward Hillsboro.

14 Q. Toward Hillsboro?

15 A. Yes, sir.

16 Q. And, who was in the car at that time?

17 A. All four of us.

18 Q. All four. All right. Tell us what happened when you
19 went to Hillsboro.

20 A. Well, we stopped at a place down there in Hillsboro.
21 That was my first time over there.

22 Q. What was the name of the place?

23 A. They call it the Cow Pasture.

24 Q. Cow Pasture?

25 A. Yes, sir.

26 Q. All right. What happened at the Cow Pasture?

27 A. They just said they got to use the rest room.

28 Q. Who said they had to use the rest room?

29 A. Both of them.

21

1 Q. Both of who?
2 A. The girls.
3 Q. All right; and, what happened?
4 A. They got out and went around the building.
5 Q. Okay. Just go ahead and tell me what happened.
6 A. They come back to the car, and asked me would me and my
7 cousin come around with them. Said they was scared.
8 Q. When you say your cousin, are you referring to Mitchell
9 Duckworth?
10 A. Yes, sir.
11 Q. Did y'all get out?
12 A. Yes, sir.
13 Q. Tell us what happened.
14 A. They went on around on the other side of the building.
15 Q. Okay. Go ahead.
16 A. And, I come back and got in the car with my cousin.
17 Q. All right. Tell us whether or not Gladys and Jamie
18 eventually came back to the car, too. I couldn't hear you.
19 A. Me and Mitchell Duckworth, we made it back to the car
20 first.
21 Q. All right.
22 A. They come back later.
23 Q. All right. Did you see them go anywhere else?
24 A. No, sir.
25 Q. When Gladys and Jamie Scott came back to your car, what
26 happened?
27 A. Gladys wanted to drive my car.
28 Q. Did she say why she wanted to drive?
29 A. No, sir.

1 Q. All right. Did you let her drive?
2 A. Yes, sir.
3 Q. And, when Gladys drove the car, and y'all left the Cow
4 Pasture, who else was in the car besides Gladys?
5 A. Her sister.
6 Q. Were you and Mitchell in the car, also?
7 A. Yes, sir.
8 Q. Where did y'all go then?
9 A. Across the road from the Cow Pasture to a house over
10 there.
11 Q. To a house?
12 A. Yes, sir.
13 Q. And, what happened?
14 A. Well, Gladys got out talking to somebody in a blue
15 Oldsmobile.
16 Q. Talking to who?
17 A. Somebody in a blue Oldsmobile.
18 Q. All right. Did you know what she was talking about at
19 the time?
20 A. No, sir.
21 Q. All right. Did she get back in the car?
22 A. Yes, sir.
23 Q. And, did Jamie get out of the car?
24 A. Yes, sir.
25 Q. What did she do?
26 A. Said something about her brother called her and wanted to
27 use the car.
28 Q. Did she go talk to the people in the blue Oldsmobile?
29 A. Yes, sir, she got out.

1 Q. Now, when you all got back to your car, was Gladys still
2 driving, or did somebody else drive?
3 A. Gladys.
4 Q. All right; and, as she drove away, tell us what happened.
5 A. Well, we got on down the road away from the house there.
6 She acted like she got sick on her stomach, and I told her don't
7 throw up in my car, and told Gladys. She stopped.
8 Q. Did you say Jamie acted like she was sick on her stomach?
9 A. Yeah.
10 Q. What happened then?
11 A. Well, I told her not to throw up in my car and just
12 stopped the side of the road.
13 Q. Who stopped the car?
14 A. Gladys.
15 Q. All right. Now, when she stopped the car on the side of
16 the road, tell us what happened.
17 A. Well, another car behind us, I didn't know who it was,
18 you know. Another car was back there, and both sisters got out of
19 the car, and before I know it, a shotgun had come through the
20 passenger side.
21 Q. Were you still in the car when you saw the shotgun?
22 A. Yes, sir.
23 Q. All right. Tell us what happened. Could you see who was
24 holding the shotgun?
25 A. Well, it was dark. All I know is it was a guy.
26 Q. And, what happened?
27 A. They told us to get out of the car.
28 Q. Did you get out of the car?
29 A. Yes, sir.

2 A. Yes, sir.

3 Q. Tell us what happened after you and Mitchell got out of
4 the car.

5 A. We got out of the car, and they told us to lay on the
6 ground like that (demonstrating)..

7 Q. Told you what?

8 A. Told us to lay on the ground.

9 BY MR. ALEXANDER: Object to hearsay, Your Honor.

10 BY THE COURT: Overruled.

11 Q. (Turner) When you got out of the car, as you and
12 Mitchell got out of the car, could you tell us whether or not Jamie
13 and Gladys were still there?

14 A. Yes, sir, they was still there.

15 Q. The person holding the shotgun on you, did he have
16 someone else with him?

17 A. Yes, sir.

18 Q. All right. Who told you to lay on the ground?

19 A. The one that had the shotgun.

20 Q. All right; and, did you lay on the ground?

21 A. Yes, sir.

22 Q. What happened then?

23 A. Well, they hit us side of the head with the shotgun
24 barrel, and they took my wallet, you know.

25 Q. Took your wallet?

26 A. Yes, sir.

27 Q. How much money was in your wallet?

28 A. I had about two hundred something dollars in my wallet.
29 I had sixty dollars in the side, in one side, and the rest of it

1 was on the top.

2 Q. Tell me whether or not you were in fear for your life and
3 safety when this was going on.

4 A. Well, ain't nothing to do when a dude has a gun in your
5 face, you know.

6 Q. Were you in fear for your life?

7 A. Yes, sir.

8 BY MR. ALEXANDER: I object to leading the witness,
9 Your Honor.

10 BY THE COURT: Don't lead. Objection sustained.

11 Q. (Turner) Tell me whether or not you believed he would
12 use the gun if you didn't do what he said.

13 BY MR. ALEXANDER: Object to that, Your Honor. It
14 calls for speculation.

15 BY THE COURT: Overruled.

16 BY MR. ALEXANDER: It is also leading.

17 BY THE COURT: Overruled.

18 A. Well, he also said this. He said he ought to go ahead
19 and shoot one of them.

20 BY MR. ALEXANDER: If the Court, please, I object
21 and move for a mistrial. It is not responsive to the
22 question.

23 BY THE COURT: Overruled. Motion overruled.

24 Q. (Turner) Do you know whether or not Mitchell Duckworth
25 was also robbed?

26 A. Yes, sir. They took his wallet.

27 Q. All right.

28 BY MR. ALEXANDER: Object to that, Your Honor. It
29 calls for a legal conclusion.

26

26

- BY THE COURT: I sustain that objection. It's a
2 factual matter to be established by testimony.

3 Q. (Turner) Were you there?

4 A. Yes, sir.

5 Q. Did you see it happen?

6 A. Yes, sir.

7 Q. All right. Now, during all this time, were Jamie and
8 Gladys still there, or had they left?

9 A. They left together, and they left in the car.

10 Q. Okay. I'm talking about during the time of the robbery.
11 Were they still there in the area?

12 BY MR. ALEXANDER: Object to the term "robbery",
13 Your Honor.

14 A. ~~All right. At the time of the robbery, they were in my~~
15 ~~car getting stuff out.~~

16 BY THE COURT: Objection sustained to the use of the
17 term "robbery."

18 BY MR. ALEXANDER: I move for a mistrial.

19 Q. (Turner) During the time you had the gun held on you and
20 your money taken from you, were Gladys and Jamie still in that
21 area?

22 A. Yes, sir.

23 Q. All right. Now, after you had the gun held on you and
24 had your money taken from you, did the people that took your money
25 and hold the gun on you stay there, or did they leave?

26 A. Leave.

27 Q. And, did anyone leave with them?

28 A. Two sisters, Gladys and Jamie.

29 Q. Gladys and Jamie left with the people that held the gu

27

27

28

2 A. Yes, sir.

3 Q. And, how did they leave?

4 A. In the blue Oldsmobile.

5 Q. Blue Oldsmobile?

6 A. Yes, sir.

7 Q. All right. During the time -- I believe you said you and

8 Mr. Duckworth had a gun held on you and they told you to get on the

9 ground?

10 A. Yes, sir.

11 Q. Did they hold a gun on Gladys and Jamie Scott?

12 A. No, sir.

13 Q. Make them get on the ground?

14 A. No, sir.

15 Q. Did they threaten them in any way?

16 A. No, sir.

17 Q. All right. I believe you said one of them made a

18 statement about shooting someone?

19 A. Yes, sir.

20 Q. What was that statement?

21 BY MR. ALEXANDER: I object to that, Your Honor.

22 BY THE COURT: What is your objection?

23 BY MR. ALEXANDER: My objection is to the form of

24 the question and asking and calling for hearsay.

25 BY THE COURT: That's part of the res gestae as to

26 what happened. Overruled.

27 BY MR. ALEXANDER: Your Honor, if the Court, please,

28 it has not been established who said what.

29 BY THE COURT: Overruled.

28

1

2 snooting someone?

3 A. Well, the guy said he ought to go ahead and shoot one of
4 them mother-fuckers, is what he said.

5 Q. All right. Now, this place that this happened, Johnny
6 Ray, was this in Scott County Mississippi?

7 A. Well, I guess Hillsboro is Scott.

8 Q. Was it Hillsboro?

9 A. Yes, sir.

10 Q. If Hillsboro is in Scott County, Mississippi, would that
11 be where it was?

12 BY MR. ALEXANDER: I object to counsel leading the
13 witness.

14 BY THE COURT: Sustained.

15 Q. (Turner) Are you not from Scott County?

16 A. No, sir.

17 Q. How much money did you have taken from you at gunpoint?

18 BY MR. ALEXANDER: I object to the repetition, Your
19 Honor.

20 BY THE COURT: Overruled.

21 A. I was working two jobs at the time, McCarty and Choctaw
22 Maid, and I had two checks, but I had got them cashed. I had about
23 two hundred something dollars.

24 BY MR. TURNER: Indulge me just a moment, please,
25 Your Honor.

26 (PAUSE IN PROCEEDINGS)

27 Q. (Turner) Mr. Hayes, I want to show you a package, and if
28 it please the Court, I want to open it and see if you can identify
29 the contents. (Opening package) Do you recognize this?

29 29

1 A. (Examining) Yes, sir.

2 Q. What is this?

3 A. A billfold.

4 Q. Is it your billfold?

5 A. Yes, sir.

6 Q. I want you to look at the contents and see if you see
7 anything in there that you recognize as being yours.

8 A. (Examining)

9 Q. That card you are pulling out, does that have your name
10 on it?

11 A. That's my mama's card.

12 Q. Your mother's card?

13 A. Yes, sir.

14 Q. Just put that back in there, please.

15 A. (Witness complies)

16 Q. The wallet you testified to the Court and the jury about
17 that you had taken from you at gunpoint there that night, is this
18 that wallet?

19 A. It's been so long, I think it probably is.

20 BY MR. TURNER: Your Honor, we would ask this be
21 marked For Identification.

22 BY MR. ALEXANDER: Excuse me, Your Honor. I don't
23 believe he identified that item.

24 BY THE COURT: He just said it probably is. The
25 State is not offering it as an exhibit, but For
26 Identification.

27 A. It's still got my card in there.

28 BY MR. ALEXANDER: Excuse me, Your Honor. What was
29 the Court's ruling?

30

2 He is offering it For Identification only, which I am
3 permitting..

4 Q. (Turner) Mr. Hayes, the card you testified about, could
5 you tell me whether or not that card was in your wallet --

6 A. Yes, sir.

7 Q. -- the night it was stolen?

8 A. I got two of them. I got one right now.

9 BY MR. TURNER: We would ask that be marked For
10 Identification, Your Honor.

11 BY THE COURT: Let it be marked For Identification
12 only.

13 WALLET REFERRED TO BEING OFFERED FOR IDENTIFICATION PURPOSES
14 ONLY, WAS THEN AND THERE IDENTIFIED AND MARKED FOR IDENTIFICATION
15 NO. 1 AND MADE A PART OF THE RECORD HEREOF.

16 BY MR. TURNER: And, we have no further questions.

17 BY THE COURT: Cross-examination?

18 CROSS-EXAMINATION BY MR. ALEXANDER:

19 Q. Mr. Hayes, you and I have talked before; haven't we? You
20 and I have talked before; haven't we?

21 A. I've seen you before.

22 Q. What did you say?

23 A. Yes, sir.

24 Q. And, you and I have talked before; is that correct?

25 A. Yes, sir.

26 Q. Mr. Hayes, you told the District Attorney a moment ago
27 that after these persons pointed weapons at you, they got in the
28 same car and left with Gladys Scott and Jamie Scott?

29 A. Yes, sir.

31

31

1 Q. Mr. Hayes, after this incident occurred, did you give a
2 statement to the Sheriff's Department?
3 A. The next day.
4 Q. And, that was within twenty-four hours of the time this
5 alleged incident occurred?
6 A. Yes, sir.
7 Q. Who did you talk to at the Sheriff's Department?
8 A. I think his name is Marvin..
9 Q. Have you talked to him since?
10 A. No, sir.
11 Q. You haven't talked to him but one time?
12 A. I called that night, you know, when it happened.
13 Q. Let me repeat my question, sir. You have only talked
14 with him one time?
15 A. Talking about when that happened?
16 Q. Okay. Let me back up and start again. You have
17 testified you talked to Mr. Marvin Williams with the Sheriff's
18 Department; is that right?
19 A. Yes, sir.
20 Q. My question to you is, how many times have you talked to
21 Mr. Williams?
22 A. One.
23 Q. One time?
24 A. Yes, sir.
25 Q. On that occasion, that was the time that you told Mr.
26 Williams what happened?
27 A. Yes, sir.
28 Q. Now, you were reporting what had happened to you; is that
29 not correct?

32

58

EXHIBIT CROSS
1 A. Yes, sir.

2 Q. And, you wanted Mr. Williams to know everything that
3 happened; correct?

4 A. Yes, sir.

5 Q. So, you told him everything that happened?

6 A. Yes, sir.

7 Q. And, when you told him everything that happened, he wrote
8 it all down; is that right?

9 A. (No answer)

10 Q. Mr. Hayes, do you understand what I am asking you?

11 A. I heard you ask me.

12 Q. Is that true?

13 A. Yes, sir.

14 Q. So, you told him what had happened to you that evening
15 the day before; is that right?

16 A. Yes, sir.

17 Q. Is it a fact, Mr. Hayes, that you did not tell Mr.
18 Williams that Miss Scott, either one of them, got in the car with
19 the people that robbed you? Isn't that a fact, that you didn't say
20 that?

21 A. I told him everything I seen, you know.

22 Q. Isn't it a fact that you didn't tell him that?

23 A. Yes, sir.

24 Q. So, you didn't tell him that the day after this alleged
25 incident occurred; but, now you are coming in here nearly a year
26 later and you are saying that is what happened?

27 A. I told him the first time I come in this Courtroom. I
28 told you that.

29 Q. Is this the statement --

1 BY MR. ALEXANDER: May I approach the witness, Yo
2 Honor?

3 BY THE COURT: Yes, sir.

4 Q. (Alexander) Is this the statement that you gave to Mr.
5 Williams?

6 A. (Examining) It probably is.

7 Q. I'm sorry?

8 A. It probably be.

9 Q. Is it the statement, or is it not the statement?

10 A. Yes, sir.

11 Q. That is the statement? That's the statement that you
12 gave him that night that you said contained all the information
13 concerning what happened to you; is that right?

14 A. (No answer)

15 Q. Is that right, Mr. Hayes?

16 A. Yes, sir.

17 Q. Nowhere on that statement does it say that they left with
18 the people who robbed you; does it?

19 A. (Examining) No, sir.

20 Q. It doesn't say that; does it?

21 A. No, sir.

22 Q. How much beer did you drink that night?

23 A. Well, I did have a can. I didn't get to drink it.

24 Q. Do you understand what I am asking you?

25 A. Yes, sir.

26 Q. What am I asking you?

27 A. How much beer I drunk that night.

28 Q. Okay. Can you answer that question?

29 A. Yes, sir.

1 Q. How much did you drink?
2 A. Really none, to tell you the truth.
3 Q. You didn't drink any beer?
4 A. I drunk some out of the can. I didn't get to drink all
5 of it.
6 Q. Did you drink any beer that night?
7 A. A taste.
8 Q. A what?
9 A. About half a can.
10 Q. About half a can. How big was the can?
11 A. Twenty-four.
12 Q. Twenty-four ounce can?
13 A. Yes, sir.
14 Q. You had drunk twelve ounces of beer that night; is that
15 right?
16 A. Yes, sir.
17 Q. Now, you didn't tell Mr. Williams about that either; did
18 you?
19 A. Well, beer don't matter.
20 Q. You didn't mention anything about drinking beer; did you?
21 A. I mentioned it. I don't know if he wrote it down or not.
22 Q. Wait a minute, now. Is it in the statement?
23 A. No, sir.
24 Q. You know it's not in the statement?
25 A. I can read.
26 Q. You know it's not in the statement; don't you?
27 A. What the beer got to do with it?

28 BY MR. TURNER: Your Honor, I am going to object to
29 him characterizing the Sheriff's Deputy's report as a

2 It is a report made by Mr. Williams.
3 BY THE COURT: Overruled.
4 Q. (Alexander) You know it's not in the report or the
5 statement; don't you?
6 A. What do the beer got to do with it?
7 Q. You are going to ask me the questions now; is that right?
8 BY MR. TURNER: Object to the form of the question.
9 BY THE COURT: Don't argue with the witness.
10 Q. (Alexander) Did you tell Deputy Williams how much beer
11 you had to drink that night?
12 A. What's beer got to do with it?
13 BY THE COURT: Answer the question. Did you tell
14 him?
15 A. No, sir.
16 Q. (Alexander) You left that out; didn't you?
17 A. I told him how much beer I bought.
18 Q. That's not in the statement either; is it?
19 A. No, sir.
20 Q. How much beer did you buy?
21 A. I bought a six pack and a twenty-four ounce Budweiser.
22 Q. How much beer did your cousin buy?
23 A. A twenty-four ounce.
24 Q. He was drinking beer, too; wasn't he?
25 A. Yeah. Yes, sir.
26 Q. How much beer did he drink?
27 A. He ain't bought but one can.
28 Q. He bought a can?
29 A. Yes, sir.

1 Q. Where did he drink that beer?

2 A. Where he drink it?

3 Q. Yes.

4 A. He drunk some in the car.

5 BY MR. ALEXANDER: Indulge me a moment, Your Honor.

6 (PAUSE IN PROCEEDINGS)

7 BY MR. ALEXANDER: Your Honor, has the rule been
8 invoked?

9 BY THE COURT: Yes, it's been invoked. Is there a
10 witness in the Courtroom?

11 BY MR. ALEXANDER: I just wanted to be certain about
12 that, Your Honor.

13 Q. (Alexander) Now, you did not see Gladys Scott or Jamie
14 Scott with any weapons that evening; did you?

15 A. No, sir.

16 Q. And, they did not point any weapons at you and take
17 anything from you; did they?

18 A. No, sir.

19 Q. Now, when is the last time that you talked to Gladys
20 Scott?

21 A. The last time?

22 Q. Yeah, when is the last time you talked to Gladys Scott?

23 A. I seen her about a couple of weeks ago at Oakdale
24 Apartments.

25 Q. Well, you say you saw her at the Oakdale Apartments. Did
26 you talk to her at the Oakdale Apartments?

27 A. Yes, sir.

28 Q. Was anyone present when you talked to her at the Oakdale
29 Apartments?

37

1 A. Yes, sir.

2 Q. What was your conversation about at the Oakdale
3 Apartments?

4 A. Well, she was telling me, she said a gal got twenty
5 years, and she lost her baby while she was in jail.

6 Q. Why were you at the Oakdale Apartments?

7 A. Why was I over there?

8 Q. Yeah.

9 A. I come over there to pick a lady up that stay over there.

10 Q. I'm sorry?

11 A. Come pick a lady up that work over there.

12 Q. You tried to pick a lady --

13 A. No, a lady work over there. She work at McCarty.

14 Q. Okay. You had a conversation with Gladys Scott; is that
15 right?

16 A. Yes, sir.

17 Q. And, you were trying to invite her out for the evening;
18 weren't you?

19 A. No, sir.

20 Q. You deny that you were?

21 A. I ain't going to lie and say I did.

22 Q. Do you deny that you talked to her about a social
23 engagement that evening?

24 A. No, sir. I talked with her. She was telling me stuff.

25 Q. Did you tell her that you had a pocketful of money?

26 A. No, sir.

27 Q. You deny that?

28 A. Yes, sir.

29 Q. Did she tell you she did not even want to speak with you,

1 because you were trying to send her to jail for something she
2 didn't do?

3 A. No, sir.

4 Q. You deny that?

5 A. Yes, sir.

6 Q. But, you don't deny that you were at the Oakdale
7 Apartments back two weeks ago?

8 A. Yes, sir.

9 Q. You don't deny that?

10 A. No, sir.

11 Q. And, you don't deny that you were attempting to have
12 conversation with Gladys Scott?

13 A. Tempt? I don't never tempt nobody.

14 Q. Beg your pardon?

15 A. I don't never tempt nobody.

16 Q. And, have you called Miss Scott's residence, Mr. Hayes?

17 A. The last couple of weeks?

18 Q. I mean have you called it at all since this incident
19 occurred?

20 A. I've talked with her daddy on the phone.

21 Q. Did you request money to drop this prosecution?

22 A. No, sir.

23 Q. You deny that you asked her father to pay you to drop
24 this prosecution? You deny that?

25 A. Yes, sir.

26 Q. But, you do admit that you called her house on the
27 telephone; is that right?

28 A. Yes, sir.

29 Q. You admit that? What did you call for?

1 A. Well, I called her and told her the only thing I want is
2 what mine, you know.

3 Q. You were asking for money?

4 A. I was asking for what's mine. That's all I wanted. I
5 didn't want it to come to Court myself.

6 Q. You wanted her father to pay you the money somebody else
7 robbed you of? Is that right, Mr. Hayes?

8 A. Well, he told me --

9 Q. Answer my question.

10 BY MR. TURNER: Your Honor, I object to him cutting
11 the witness off.

12 BY THE COURT: Restate your question, and I will let
13 him answer, and then I will let him explain.

14 Q. (Alexander) Were you calling her father to ask him to
15 pay you money that you say somebody else robbed you of?

16 A. I just wanted what's mine, you know.

17 Q. Were you asking him for any money?

18 A. No, sir.

19 Q. Well, what was it you wanted that was yours that you were
20 asking him about?

21 A. Well, if you give me the chance to say something, I'll
22 tell you, Jack.

23 Q. I'm sorry?

24 BY THE COURT: Go ahead and answer the question, and
25 I will give you time to answer it. Answer the question.

26 A. Well, the first time I come in the Courtroom in Forest,
27 Mississippi, they were outside the door there talking to my cousin.
28 He said, you know, he would be glad to give me my money back they
29 took from me, you know.

1 Q. (Alexander) Beg your pardon?

2 A. He said he would be glad to give me my money back wha
3 the girls, you know, got from me.

4 Q. Who said that?

5 A. I don't know his name. Gladys Scott's daddy.

6 Q. Her father said it?

7 A. Yes, sir.

8 Q. Who else was present?

9 A. Well, another guy I know. He's from Taylorsville, and my
10 cousin, Mitchell Duckworth, a dude Ken Duckworth. He's from
11 Taylorsville. He's a bounty hunter.

12 Q. Your testimony is you called his home asking for that
13 money?

14 A. Well, my mama told me to get my money back, you know, and
15 let it go.

16 Q. Do you understand my question?

17 A. I heard it.

18 Q. Did you call his home asking for that money?

19 A. No, sir.

20 Q. What did you call for?

21 A. I didn't call.

22 Q. You didn't sit here in this Courtroom and --

23 A. I ain't called for --

24 Q. testify --

25 A. -- no money.

26 Q. You didn't sit here in this Courtroom and testify you
27 called his house?

28 A. I called his house, but I ain't called about no money.

29 Q. What did you call for?

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1 A. I called to speak to their father. He had gone to
2 Jackson to see you.

3 Q. You called to speak to him about what?

4 A. You know, he said he was going to meet me over here at
5 Forest, at McCarty, and --

6 Q. For what?

7 BY THE COURT: Let him finish his answer.

8 A. He said he was going to meet with me at McCarty and talk
9 with me and my cousin. You know, I called to his home. His wife
10 told me he had gone to Jackson, just like that.

11 Q. (Alexander) Now, you didn't speak to him?

12 A. No, sir.

13 Q. So, you didn't ever talk to him?

14 A. Talked to him here.

15 Q. Okay. That's the only time you talked to him?

16 A. Yes, sir.

17 Q. But, you have called --

18 A. I called at home one time.

19 Q. -- his home in order to get back what you said was yours;
20 is that right?

21 A. I called there.

22 Q. Is that correct?

23 A. Yes, sir.

24 Q. And, it is a fact, is it not, that he has never paid you
25 a dime concerning this matter?

26 A. No, sir.

27 Q. Isn't that correct?

28 A. Yes, sir.

29 BY MR. ALEXANDER: Indulge me a moment, Your Honor.

- 1
- 2 Q. (Alexander) Mr. Hayes, what time did you get off work
- 3 that evening?
- 4 A. About something to 11:00.
- 5 Q. I'm sorry?
- 6 A. Something to 11:00.
- 7 Q. Ten thirty-five; is that right?
- 8 A. Something like that, yes, sir.
- 9 Q. Haven't you previously testified that's what time it was?
- 10 A. It probably was that time.
- 11 Q. You went straight to the Mini Mart?
- 12 A. Yes, sir.
- 13 Q. To buy yourself some beer?
- 14 A. I buy beer every day.
- 15 Q. While you were at the Mini Mart, you saw, according to
- 16 your testimony, Gladys Scott; is that correct?
- 17 A. Yes, sir.
- 18 Q. Was she riding or walking?
- 19 A. She was riding.
- 20 Q. What was she riding in?
- 21 A. A blue Oldsmobile.
- 22 Q. Okay. How do you know she was riding in a blue
- 23 Oldsmobile?
- 24 A. Well, she come there in it.
- 25 Q. So, you saw her arrive in a blue Oldsmobile?
- 26 A. Yes, sir.
- 27 Q. Is that right?
- 28 A. Yes, sir.
- 29 Q. So, you were there before she arrived?

2 Q. How long did you work at B. C. Rogers?

3 A. A year.

4 Q. And, before that?

5 A. McCarty. After that, McCarty.

6 Q. I'm sorry?

7 A. When I left B. C. Rogers, I went to McCarty.

8 Q. And, during that entire time you were working at McCarty

9 or B. C. Rogers, you never met Gladys Scott?

10 A. No, sir.

11 Q. Is that right?

12 A. That's right.

13 Q. You deny that she worked where you worked?

14 A. I ain't never seen her there.

15 Q. You never saw her there?

16 A. Right.

17 Q. You claim that you had never met her before, and she

18 didn't work with you?

19 A. No, sir.

20 Q. Is that right?

21 A. That's right.

22 Q. And, even though you didn't know her; right?

23 A. That's right.

24 Q. You allowed her to drive your car?

25 A. Well, she asked to drive.

26 Q. So, you let people drive your car, even though you don't

27 know them?

28 A. Well, as long as I'm in my own car, you know.

29 Q. Is that right?

52

2 Q. She was a stranger to you, but you let her drive your
3 car?
4 A. That was the second time I had seen her then.
5 Q. So, she wasn't a stranger?
6 A. She was strange to me, but she wanted to drive, and I let
7 her drive.
8 Q. She just asked to drive, and, therefore, you let her
9 drive?
10 A. Yes, sir.
11 Q. Well, correct me if I'm wrong, but haven't you just
12 testified that you had twelve ounces of beer to drink that sam.
13 night?
14 A. Yes, sir.
15 Q. And, then you had driven her from Forest to Hillsboro;
16 correct?
17 A. Right.
18 Q. And, so she saw how you were driving; didn't she?
19 A. What did driving have to do with that?
20 Q. She saw how you were driving; didn't she?
21 BY MR. TURNER: Your Honor, I object to what she
22 saw.
23 BY THE COURT: Sustained.
24 Q. (Alexander) And, she asked to drive herself; didn't she?
25 A. We was parked at the Cow Pasture. Then is when she
26 wanted to drive.
27 Q. Before she got back in the car with you driving, she
28 asked to drive; didn't she?
29 A. She wanted to drive my car.

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2 further?

3 A. Well, the possibility is they had stuff already set up -
4 didn't know.

5 Q. Well, is it possible she didn't want you to drive any
6 further?

7 A. That's probably what it was.

8 Q. That's probably what it was.

9 A. They already had it set.

10 Q. When you were driving in the car, who was in the front
11 seat with you?

12 A. Gladys.

13 Q. And, where was your cousin riding?

14 A. Back.

15 Q. Who was in the backseat with your cousin?

16 A. Jamie.

17 Q. Now, were you paying attention to what was going on in
18 the backseat?

19 A. Well, I heard them talking is all I know.

20 Q. I'm sorry?

21 A. They was talking is all I know.

22 Q. Were they arguing?

23 A. No, sir.

24 Q. You had had something to drink, your cousin had something
25 to drink, and there was beer in the car?

26 A. Yes, sir.

27 Q. Is that right?

28 A. Yes, sir.

29 Q. And, your testimony on direct examination is that Jam.

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2 A. Yes, sir.
3 Q. Correct?
4 A. That's right.
5 Q. And, your response was, "Well, don't throw up in my car."
6 A. Yes, sir.
7 Q. Is that right?
8 A. That's right.
9 Q. So, when you said that, her sister stopped the car; is
10 that right?
11 A. That's right.
12 Q. Now, did you not want her sister to stop the car?
13 A. Well, I meant for her to stop it if she was going to
14 throw up in my car.
15 Q. You wanted her to stop the car; is that right?
16 A. Yeah, if she was sick on her stomach.
17 Q. And, you could see she might be sick on her stomach; is
18 that right?
19 A. I felt she probably was.
20 Q. Now, do you know whether or not your cousin was getting
21 too friendly with Jamie Scott in the backseat?
22 A. Not as I know of.
23 Q. You don't know? You don't know one way or the other?
24 A. They were talking.
25 Q. They were talking?
26 A. Yeah.
27 Q. But, you don't know how friendly he was getting and
28 whether he was getting friendlier than she wanted him to get; do
29 you?

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2 BY MR. ALEXANDER: Your Honor, I think that is all.
3 May I be indulged a moment?

4 (PAUSE IN PROCEEDINGS)

5 BY MR. ALEXANDER: I have no further questions.

6 BY THE COURT: Ms. Pierson, do you have any
7 questions of this witness? I will not permit you to go
8 into anything Mr. Alexander went into. If there is
9 something in addition to that, you have that right.

10 BY MS. PIERSON: That's what we are trying to
11 establish, Your Honor. I believe he covered most of the
12 questions that I had.

13 BY THE COURT: All right. Anything on redirect, Mr.
14 Turner?

15 BY MR. TURNER: Yes, sir.

16 REDIRECT EXAMINATION BY MR. TURNER:

17 Q. Mr. Hayes, when Mr. Alexander was asking you about
18 whether or not Gladys and Jamie Scott got in the blue Oldsmobile
19 with the people who had stolen your money and left, did you say
20 that you had told him that before?

21 A. Yes, sir.

22 Q. When was that?

23 A. The first time was in the Courtroom.

24 Q. Do you remember about how long ago that would have been

25 A. Last year, I think.

26 Q. Sometime last year you told Mr. Alexander that?

27 A. Yes, sir.

28 Q. He also asked you about the statement, whether or not you
29 had anything in the statement about the car following you?

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2 Q. I want to show you this. Is this a copy of the same
3 statement?

4 BY MR. ALEXANDER: I object to that. I did not as.
5 that question, Your Honor.

6 BY THE COURT: Overruled.

7 Q. (Turner) Is this a copy of the same statement he showed
8 you?

9 A. (Examining) Yes, sir, looks like it.

10 Q. Read this -- begin reading right here for me, please.

11 A. Right here?

12 Q. Where I've got my thumb. Could you read that out loud
13 for me?

14 A. I can't pronounce that first name.

15 Q. "Advised"?

16 A. Yeah. "Mr. Hayes advised that -- that his cousin .
17 missed a note." I guess that's "note". "A blue custom two-tone
18 car following him. Mr. Hayes --

19 Q. Advised.

20 A. "Advised they looked --

21 Q. Let me read it for you.

22 A. "The vehicle at the club in Hillsboro and some car had
23 been --

24 BY MR. ALEXANDER: If the Court, please --

25 A. -- following --

26 BY THE COURT: Just a minute. What is your
27 objection?

28 BY MR. ALEXANDER: My objection is he is reading
29 into evidence matters that have not been admitted by th

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2 BY THE COURT: Let me see that.

3 (JUDGE EXAMINES STATEMENT)

4 BY THE COURT: Ask him the specific question, rather
5 than have him to read it.

6 BY MR. ALEXANDER: I didn't hear the Court, Your
7 Honor.

8 BY THE COURT: I instructed the D.A. to ask the
9 specific question, rather than have him read the
10 statement.

11 Q. (Turner) Could you tell me whether or not you reported
12 to Deputy Marvin Williams that the blue Oldsmobile followed y'all,
13 and you saw Gladys get out of your car and go over to the blue
14 Oldsmobile and talk to somebody there?

15 A. Yes, sir.

16 Q. All right; and, did you then -- could you tell me whether
17 or not you also told Deputy Williams that you saw Jamie Scott get
18 out and go over to the blue car that had been following y'all?

19 A. Yes, sir.

20 Q. Now, this business about whether or not you talked to
21 Jamie and Gladys Scott's father, you said you had talked to him up
22 here at the Courthouse?

23 A. Yes, sir.

24 Q. Who started that conversation? Did he come to you and
25 talk, or did you go to him and talk?

26 A. He come to me.

27 Q. And, what did he want to talk about?

28 A. Well, he come, you know --

29 BY MR. ALEXANDER: Object to hearsay, if the Court

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2 BY THE COURT: You developed it on cross-
3 examination.

4 BY MR. ALEXANDER: I asked him about what he said
5 and what he did.

6 BY THE COURT: Yes, but you went into it.
7 Overruled.

8 Q. (Turner) What did their father want to talk to you
9 about?

10 A. He said he know something about the money, you know, help
11 me get my money, something like that.

12 Q. What money?

13 A. The money they got, took from me.

14 Q. Now, did you ask him for it, or did he come to you about
15 it?

16 A. He come to me.

17 BY MR. ALEXANDER: I object to leading, Your Honor.

18 BY THE COURT: Overruled.

19 Q. (Turner) You said that you had seen Gladys and Jamie
20 Scott one time prior to the time you told us about your money being
21 taken?

22 A. Yes, sir.

23 Q. About how long prior to the time your money was taken was
24 that that you saw them?

25 A. Couple of months, I believe.

26 Q. All right. I believe you said you gave them a lift then?

27 A. Right.

28 Q. Is that correct?

29 A. Yes, sir.

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2 A. Yes, sir.

3 Q. Now, Mr. Alexander asked you about Jamie getting you to
4 stop the car, because she said she was sick at her stomach.

5 A. Yes, sir.

6 Q. Did she ever throw up?

7 A. No, sir.

8 Q. The blue Oldsmobile that you told Mr. Alexander about
9 seeing Jamie and Gladys Scott in at the Mini Mart, could you tell
10 me whether or not that's the same blue Oldsmobile you saw following
11 you around the Cow Pasture area?

12 A. Yes, sir.

13 Q. Could you tell me whether or not that was the same blue
14 Oldsmobile you saw Jamie and Gladys Scott get in with the people
15 that had stolen your money and drive off?

16 A. Yes, sir.

17 BY MR. TURNER: That's all, Your Honor.

18 BY THE COURT: All right. You can go back to the
19 witness room.

20 (WITNESS EXCUSED)

21 BY MR. TURNER: Call Mitchell Duckworth.

22 BY MR. ALEXANDER: Your Honor, if the Court, please,
23 may I approach?

24 (OFF RECORD CONVERSATION AT THE BENCH)

25 BY THE COURT: Ladies and gentlemen, there's a
26 matter I am going to permit the attorneys to work out.
27 We are going to take a ten minute stretch break. You may
28 move around for ten minutes.

29 WHEREUPON, A TEN MINUTE RECESS WAS TAKEN, AT THE CONCLUSION

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2 COURTROOM, THE JURY WAS RETURNED TO THE JURY BOX, AND THE FOLLOWING
3 PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

4 BY THE COURT: All right, Mr. Turner.

5 MITCHELL DUCKWORTH

6 upon being called to testify as a witness on behalf of the State,
7 after first being duly sworn, did on his oath testify as follows,
8 to-wit:

9 DIRECT EXAMINATION BY MR. TURNER:

10 Q. Would you state your name, please?

11 A. Mitchell Duckworth.

12 BY THE COURT: Pull up to that chair there.

13 A. Mitchell Charles Duckworth.

14 Q. (Turner) And, Mr. Duckworth, where do you live?

15 A. Magee, Mississippi.

16 Q. Are you related to Johnny Ray Hayes?

17 A. Yes, sir, my cousin.

18 Q. Do y'all work together?

19 A. At the time, we was working at McCarty.

20 Q. Back in December of 1993, were you working at McCarty?

21 A. Right.

22 Q. Mr. Duckworth, have you ever been convicted of a crime
23 before?

24 A. Yes, sir.

25 Q. And, what was that?

26 A. I had a grand larceny charge in '89 and a DUI charge.

27 Q. Okay. Now, I want to direct your attention to Christmas
28 Eve of last year, December the 24th, 1993, and ask if you went to
29 work that day?

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1 A. Y , sir, I did.

2 Q. And, who did you leave work with?

3 A. Johnny Ray Hayes.

4 Q. About what time of day was it?

5 A. About -- exactly about 10:30 or 11:00 o'clock.

6 Q. At night?

7 A. At night.

8 Q. Where did y'all go when you left work?

9 A. The Mini Mart.

10 Q. And, how did you travel?

11 A. In his car.

12 Q. Mr. Hayes' car?

13 A. Right.

14 Q. When you got to the Mini Mart, did you see anybody there?

15 A. Yes, sir, we saw two girls.

16 Q. Who were they?

17 A. Jamie and Gladys.

18 Q. Now, did you see how they got to the Mini Mart?

19 A. Yes, sir, they was traveling in a blue Oldsmobile.

20 Q. All right. Did you see whether or not anybody else was

21 in the car with them?

22 A. Yeah, there was somebody else in the car.

23 Q. All right. Do you know who it was?

24 A. No.

25 Q. Now, tell us what happened at the Mini Mart concerning

26 Jamie and Gladys Scott.

27 A. Gladys was talking to Johnny Ray.

28 Q. I need you to lean up a little bit and talk into that

29 microphone.

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1 A. Gladys was talking to my cousin, Johnny, and then I guess
2 they got in the car. They wanted to go for a ride.

3 Q. Who all got in the car and went for a ride?

4 A. Gladys and Jamie.

5 Q. And, who else?

6 A. That's all.

7 Q. I mean who else was in the car besides Gladys and Jamie?

8 A. Me and Johnny.

9 Q. Okay. When you first got in the car, where did y'all go?

10 A. Over to the apartments.

11 Q. All right. After you left the apartments, where did you
12 go?

13 A. Towards Hillsboro.

14 Q. Did you notice whether or not anybody was behind you in
15 another car during any of this time?

16 A. Well, I spoke to Johnny about it. About ten minutes
17 after we got into Hillsboro, I told him we was being followed.

18 Q. Did you know what kind of car was following you at the
19 time?

20 A. The same car, the car the girls had just got out of.

21 Q. The blue Oldsmobile?

22 A. The blue Oldsmobile.

23 Q. All right. Where did y'all go in Hillsboro?

24 A. We went to a club called the Cow Pasture.

25 Q. Now, did you get out of the car at the Cow Pasture?

26 A. At first, we stayed in the car. Then Jamie came back and
27 said she wanted us to go with her, you know, behind the building
28 while she used the bathroom.

29 Q. Did you get out?

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1 A. V got out.

2 Q. Now, when you got back in the car to leave, who was
3 driving then?

4 A. Gladys.

5 Q. How did that come about?

6 A. She asked my cousin could she drive. She wanted to.
7 drive.

8 Q. During any time that y'all were stopped, could you tell
9 us whether or not you ever saw Gladys or Jamie leave your vehicle
10 and go over to the blue Oldsmobile that was following you?

11 A. When we left the club, the Cow Pasture, they pulled back
12 across the road, and they was leaning over in the car.

13 Q. In what car?

14 A. The blue Oldsmobile.

15 Q. All right. Now, after Gladys and Jamie came back to the
16 car you were in, what happened?

17 A. Right.

18 Q. After they leaned over in the blue Oldsmobile and came
19 back to your car, did y'all drive off?

20 A. Right, we drove off.

21 Q. Who was driving?

22 A. Gladys.

23 Q. All right. Now, tell us what happened after that.

24 A. Jamie was in the back, and as we drove down the road, she
25 said she was sick, and Gladys stopped the car in the hollow, dar.
26 hollow, and by the time Jamie got out, a twelve gauge shotgun come
27 in in the back of the car.

28 Q. And, what happened?

29 A. And, the dude said, "Get out."

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1 Q. Did you get out of the car?

2 A. Yeah.

3 Q. And, did Johnny Ray get out?

4 A. Yeah, he got out.

5 Q. What happened after you and Johnny Ray got out of the

6 car?

7 A. He said, "Lay on the ground and give us your money."

8 BY MR. ALEXANDER: Judge, I can't hear the witness.

9 BY THE COURT: You can move around.

10 Q. (Turner) If you would, tell us again what happened after

11 you and Johnny Ray got out of the car.

12 A. The dude said, "Lay down on the ground and give us your

13 money."

14 Q. All right. Now, what dude was this?

15 A. I don't know his name.

16 Q. Was it a male person?

17 A. Yeah.

18 Q. Was it a Black person?

19 A. Yes, sir.

20 Q. How many Black males were there at that scene that night?

21 A. Well, at the time, I had saw two.

22 Q. Saw two?

23 A. Right.

24 Q. Were Jamie and Gladys still there?

25 A. They had got -- when they had got out of the car, they

26 left. They got in another car.

27 Q. Got in another car?

28 A. Right. They was sitting in the blue Oldsmobile.

29 Q. Did they make Jamie and Gladys lay down on the ground?

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1 A. "

2 Q. Did they ask Jamie and Gladys for their money?

3 A. No.

4 Q. All right. You and Johnny Ray were the only two laying

5 on the ground?

6 A. Right.

7 Q. What, if anything, was taken from you at gunpoint?

8 A. First, they started hitting Johnny, asked for his money.

9 Q. Did you see them get Johnny's money?

10 A. Yes.

11 Q. All right. What happened next?

12 A. Then they come over to me and hit me upside the head with

13 the gun barrel, you know. I didn't have much money in my wallet.

14 Really, nothing, probably.

15 Q. Did you give them your wallet?

16 A. Yeah, I gave them my wallet. They wasn't satisfied with

17 it.

18 Q. Could you tell me whether or not you were in fear for

19 your life at this point?

20 A. I was.

21 Q. And, can you tell me whether or not this happened in

22 Scott County, Mississippi?

23 A. Scott County.

24 Q. Now, after these people took your billfold and took

25 Johnny Ray's money at gunpoint, where did they go?

26 A. I don't know. We didn't see them no more.

27 Q. Did you see how they left, is what I'm asking you.

28 A. Yeah, they left in the blue Oldsmobile.

29 Q. Who was in that blue Oldsmobile with them?

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1 A. Jamie --

2 BY MR. ALEXANDER: Object to leading.

3 A. -- and Gladys.

4 BY THE COURT: That is not a leading question.

5 Overruled.

6 Q. (Turner) Who was in the blue Oldsmobile with the people
7 that had taken your money?

8 A. Jamie and Gladys.

9 Q. Jamie and Gladys Scott?

10 A. Right.

11 BY MR. TURNER: Indulge me just one moment, please.

12 (PAUSE IN PROCEEDINGS)

13 BY MR. TURNER: That's all.

14 BY THE COURT: Cross-examine?

15 CROSS-EXAMINATION BY MR. ALEXANDER:

16 Q. Mr. Duckworth, did you give a statement to the Sheriff
17 Department?

18 A. Yes, sir, I did.

19 Q. Who did you talk with at the Sheriff's Department?

20 A. Marvin.

21 Q. Marvin Williams?

22 A. Right.

23 Q. How many times did you talk to Marvin?

24 A. Probably twice. I don't know.

25 Q. I'm sorry?

26 A. Probably twice. I don't know.

27 Q. About twice?

28 A. Yes.

29 Q. The same day?

1 A. Probably so. 68
2 Q. Well, did you talk to him after the week that this
3 happened?
4 A. Yes, sir, I did.
5 Q. When did you talk to him again?
6 A. About a week.
7 Q. I'm sorry?
8 A. About a week after this happened.
9 Q. About a week after it happened, you talked to him again?
10 A. Right.
11 Q. Was your cousin around, too?
12 A. Yes, he was.
13 Q. He talked to him, too?
14 A. Yes.
15 Q. Now, when you talked to Mr. Williams, did you tell him
16 everything that happened?
17 A. Yes, sir.
18 Q. Did he write down what you told him?
19 A. Yes, sir.
20 Q. Did he type it up?
21 A. I don't know. All I know, they got it down.
22 Q. He wrote it down as you told him?
23 A. Right.
24 Q. Is that right? Excuse me?
25 A. That's right.
26 Q. Now, when you talked to Mr. Williams, you didn't tell him
27 that Jamie Scott and Gladys Scott were riding in a blue Oldsmobile
28 when you saw them at the Mini Mart; did you?
29 A. I was supposed to. I told him a blue Cutlass. That's a

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1 Oldsmobile.

2 Q. Did you tell him that they got in a blue Oldsmobile after
3 you were robbed?

4 A. Sure did.

5 Q. But, he didn't write that down; did he?

6 A. I don't know.

7 Q. Well, let me show you his statement.

8 BY MR. TURNER: Object to the form of the question,
9 show me your statement, Your Honor. This is a report by
10 Deputy Williams.

11 BY THE COURT: Well, he is on cross-examination.
12 Overruled.

13 Q. (Alexander) Just take a moment and look at that, and
14 tell me anywhere on there it says they left with the robbers, Jamie
15 Scott and Gladys Scott.

16 A. (Examining) I don't see it on there anywhere.

17 Q. I'm sorry?

18 A. I don't see it on there nowhere.

19 Q. It's not on there; is it?

20 A. No, it's not on there.

21 Q. Now, let me make sure I'm clear. This is a statement
22 that you gave right after it happened; isn't it?

23 A. Yes, sir.

24 Q. When everything was the freshest in your mind; correct?

25 A. Correct.

26 Q. When you were trying to make sure you gave the law
27 enforcement officers all the details you could; correct?

28 A. Correct.

29 Q. Don't you think that's a fairly significant fact, if i

69

1 happened, at you would want him to know about?

2 A. Correct.

3 Q. Well, do you know of any reason that you would tell him
4 that and he wouldn't write it down?

5 BY MR. DUNCAN: Objection, Your Honor. He couldn't
6 say what Marvin Williams --

7 BY THE COURT: Sustained.

8 BY MR. ALEXANDER: I will move on, Your Honor.

9 Q. (Alexander) How much beer did you have to drink that
10 night?

11 A. None at the time.

12 Q. Did you buy any beer?

13 A. Yes, sir.

14 Q. But, your testimony is that you did not drink any beer
15 that night before this incident occurred?

16 A. No beer.

17 Q. No beer?

18 A. I hadn't drunk any, but I had bought one.

19 Q. Do you remember testifying at the preliminary hearing in
20 this matter?

21 A. No, sir, I don't.

22 Q. Do you remember talking with me before?

23 A. Yes, sir, I do.

24 Q. Do you remember telling me at the preliminary hearing
25 that you drank some beer at Hillsboro?

26 A. Yes, sir, I do.

27 Q. Remember telling me that?

28 A. Yes, sir, I do.

29 Q. Was that true?

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1 A. That was true, and I can remember,

2 Q. I'm sorry?

3 A. I can remember I bought one can, twenty-four ounce
4 Budweiser.

5 Q. Do you remember whether or not you drank any beer at the
6 Mini Mart?

7 A. I didn't drink none at the Mini Mart. That's where I
8 bought it from.

9 Q. Bought it at the Mini Mart; is that right?

10 A. That's right.

11 Q. Was your cousin drinking beer at the Mini Mart?

12 A. No, sir.

13 Q. He didn't drink any beer at the Mini Mart either?

14 A. No, sir.

15 Q. Is that right?

16 A. That's right, as far as I know.

17 Q. Did he drink any beer at all that night before this
18 incident?

19 A. No, sir, he didn't.

20 Q. He did not?

21 A. Not as I know.

22 Q. Didn't drink anything; is that right? Is that right?

23 A. That's right.

24 Q. Neither you or he had anything to drink before you got
25 out to the Cow Pasture at Hillsboro; is that right?

26 A. I had just opened a can of beer when we got on the road,
27 coming down the road.

28 Q. How much beer did he buy?

29 A. A six pack.

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1 Q. What else?
2 A. He bought a six pack.
3 Q. Did he buy anything else?
4 A. Cigarettes.
5 Q. What about you? How many did you buy?
6 A. One twenty-four ounce can of Budweiser, and I had just
7 opened it when we turned down off the road.
8 Q. Isn't it a fact that you didn't mention the beer to the
9 Sheriff when you talked to him?
10 A. I'm pretty sure I did.
11 Q. You are pretty sure you did? Well, I'm sorry. Maybe
12 missed it. Want to show me?
13 A. (Examining)
14 Q. When you find it, let me know.
15 A. I thought I saw it. (Examining) No, sir, I don't see
16 it.
17 Q. I can't hear you.
18 A. I don't see it.
19 Q. You don't see it?
20 A. No, sir.
21 Q. You don't see that in there either; is that right? Is
22 that right?
23 A. That's right.
24 Q. Kind of left that out?
25 A. I guess so.
26 Q. Now, as I recall, in response to the District Attorney's
27 questions, you testified that Jamie Scott said that she was getting
28 sick on her stomach.
29 A. Yes, sir.

1 Q. Okay. When she said that, did your cousin say anything?

2 A. Yeah. When she said she was getting sick, Gladys was
3 driving, so she stopped side of the road and let her out of the
4 car.

5 Q. What I'm asking you, though, when Jamie Scott said that
6 she was getting sick on her stomach, did your cousin, you know who
7 I'm talking about when I say your cousin?

8 A. Yeah.

9 Q. Mr. Johnny Hayes?

10 A. That's right.

11 Q. Did he say anything?

12 A. I think he said something like, "Don't bumble in my car."

13 Q. In other words, if you are getting sick on your stomach,
14 don't throw up in my car?

15 A. Right.

16 Q. Now, what did you interpret him to mean by that?

17 A. For her to get out.

18 Q. Okay. In other words, he was telling her to get out of
19 the car; is that right?

20 A. That's right.

21 Q. Now, how could she get out of the car while the car was
22 moving?

23 A. Well, she would have had -- we had to stop.

24 Q. So, he told Gladys to stop the car; didn't he?

25 A. That's right.

26 Q. Now, did Gladys Scott point any weapon at you that
27 evening?

28 A. Say it again.

29 Q. Did Gladys Scott point any weapon at you that evening?

COPY

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1 A. No.

2 Q. Did you see her with any weapon?

3 A. No.

4 Q. Did Jamie Scott point any weapon at you that evening?

5 A. No.

6 Q. Did you see her with any weapon?

7 A. No.

8 Q. How many people robbed you?

9 A. About four or five.

10 Q. Four or five?

11 A. Right. I would say five.

12 Q. How many males?

13 A. Three.

14 Q. Three?

15 A. Right.

16 Q. How many males did you tell the Sheriff about?

17 A. Two.

18 Q. You left out one?

19 A. Because that's all I saw at the time was two.

20 Q. Well, how do you know it was three?

21 A. Because one had to be driving the car.

22 Q. How do you know that? How do you know one of the ones

23 that you saw wasn't driving the car?

24 A. Because one was standing beside the road.

25 Q. You told him about two persons; didn't you?

26 A. Yes, I did.

27 Q. You never mentioned three; isn't that correct?

28 A. That's correct.

29 Q. Now, the reason you are talking about three people, even

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1 though you didn't tell the Sheriff three, is because you found out
2 that the Sheriff went and picked up three males; isn't that true?

3 A. No. Later I found out one was driving the car.

4 Q. I'm sorry?

5 A. Had to be one driving the car.

6 Q. So, you assumed there was one was driving the car?

7 A. Right, because --

8 Q. You didn't see --

9 BY MR. TURNER: Your Honor, may the witness finish
10 his answer?

11 BY THE COURT: Let the witness finish his answer.

12 BY MR. ALEXANDER: I'm sorry. I didn't know he
13 wasn't finished.

14 BY THE COURT: Finish your answer.

15 A. Right. Because the car ain't going to move by itself.

16 Q. (Alexander) Well, today you feel like that car couldn't
17 move by itself and there must have been a third person; right?

18 A. Right.

19 Q. Why didn't you feel that way when you were talking to the
20 Sheriff?

21 A. Because I wasn't thinking at the time.

22 Q. You weren't thinking?

23 A. Right.

24 Q. And, you also didn't see but two people; isn't that true?

25 A. That's right.

26 Q. So, that's all you know about; isn't it?

27 A. That's right.

28 Q. And, that's why you told him two, because you only knew
29 about two, and you still only know about two; isn't that true?

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1 A. No, it was three.

2 Q. Okay. Tell me where you saw the third one.

3 A. Driving the car.

4 Q. You saw him driving the car now?

5 A. Well, I didn't get his identity on it, but I know it was

6 one driving the car.

7 Q. You saw a person behind the wheel?

8 A. Right.

9 Q. Well, why didn't you tell the Sheriff you saw a person

10 behind the wheel, in addition to the other two, since you wanted

11 your statement to be so complete?

12 BY MR. TURNER: Object to his sarcasm, Your Honor.

13 BY THE COURT: Sustained.

14 BY MR. ALEXANDER: It is not sarcasm, Your Honor.

15 BY THE COURT: Sustained.

16 BY MR. ALEXANDER: Just a moment.

17 BY THE COURT: Objection sustained.

18 BY MR. ALEXANDER: Yes, sir.

19 Q. (Alexander) Why didn't you tell the Sheriff about the

20 one you saw behind the wheel, if you saw one behind the wheel?

21 A. Well, I figured it wasn't important.

22 Q. It wasn't important how many robbers there were; is that

23 right?

24 A. (No answer)

25 Q. That wasn't important? Is that your testimony?

26 A. That's it.

27 Q. Excuse me?

28 A. That's it.

29 Q. It wasn't important how many robbers there were. Now,

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1 how many times have you been convicted of driving under the
2 influence?

3 BY MR. TURNER: Objection, Your Honor.

4 BY THE COURT: Overruled.

5 A. Three.

6 Q. (Alexander) Beg your pardon?

7 A. Three.

8 Q. Three?

9 A. Right.

10 Q. What else have you been convicted of?

11 A. A grand larceny charge.

12 Q. And, what else?

13 A. That's all.

14 Q. Well, have you not been convicted of driving with a
15 suspended license?

16 BY MR. DUNCAN: Objection, Your Honor.

17 BY THE COURT: Overruled.

18 Q. (Alexander) Did you understand the question, sir?

19 A. Yes, I have, I guess.

20 Q. I beg your pardon?

21 A. I guess I have.

22 Q. You guess you have?

23 A. All I know, I got a DUI. That's all I know I got.

24 Q. You mean you don't know?

25 A. Yes, I know.

26 Q. You know what?

27 A. I have a third DUI.

28 Q. And, what about driving while your license was suspended?

29 A. Yes, sir, I guess so.

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- 1 Q. I'm sorry?
- 2 A. I guess so.
- 3 Q. Why didn't you tell the D.A. that when he asked you how
4 many times and what you have been convicted of?
- 5 A. I figured it all come together.
- 6 Q. I'm sorry?
- 7 A. I figured it all go together. You got a DUI, you got to
8 be driving.
- 9 Q. Okay. How many times have you been convicted of driving
10 with your license suspended?
- 11 A. Three.
- 12 Q. Three? Okay.
- 13 A. Correct.
- 14 Q. Beg your pardon?
- 15 A. I said right.
- 16 Q. I'm sorry?
- 17 A. Yeah, three.
- 18 Q. Three. Why were Gladys Scott and Jamie Scott riding with
19 you and Johnny Ray Hayes?
- 20 A. She asked Johnny to take her over to the apartments, over
21 to the apartments, which is in Forest.
- 22 Q. All right. She was asking for a ride?
- 23 A. Right. She was asking for a ride.
- 24 Q. Well, Mr. Duckworth, didn't you testify that when you saw
25 them, they were riding in her car?
- 26 A. Right.
- 27 Q. Didn't you also testify that that car was following you?
- 28 A. Right.
- 29 Q. Did you think that was strange?

1 A. Yes, sir, I did.

2 Q. Well, what did you do about it?

3 A. I mentioned to Johnny, I told him we was being followed.

4 Q. Uh-huh. What else did you do?

5 A. What do you mean?

6 Q. Well, what else did you do besides mention it to Johnny.

7 you thought you were being followed?

8 A. Wasn't nothing I could do. I was in the backseat. It

9 was his car. You know what I'm saying?

10 Q. Well, did you try to get out of the car?

11 A. Nope.

12 Q. Why not?

13 A. Because I'm a long way from home. That's why.

14 Q. Well, what did Johnny say when you said you thought you

15 were being followed?

16 A. He looked back, and the girls stated that car just backed

17 up behind us.

18 Q. Beg your pardon?

19 A. I said Johnny, he mentioned, he asked where the car --

20 where the car come from, or something like that, and then the girls

21 said we wasn't being followed.

22 Q. They said you weren't being followed?

23 A. Right.

24 Q. And, you thought you were?

25 A. Right.

26 Q. Did you take their word for it?

27 A. That's the words I said. I told Johnny we was being

28 followed.

29 Q. Okay. Now, you thought you were being followed before.

1 you got to the Cow Pasture; didn't you?

2 A. Right.

3 Q. Okay. You got out of the car at the Cow Pasture; right?

4 A. Right.

5 Q. You saw the car you thought was following you; right?

6 A. Right.

7 Q. You got back in the car; correct?

8 A. Correct.

9 Q. Why did you get back in the car when you thought you were
10 being followed?

11 A. (No answer)

12 Q. Did you understand the question?

13 A. Yeah, I understand.

14 Q. I'm sorry?

15 A. I understand.

16 Q. Do you have an answer?

17 BY THE COURT: Answer the question.

18 A. I don't know. Well, one reason why we got back in the
19 car, that's the only way we had to travel.

20 Q. (Alexander) Did you know where you were?

21 A. No, I didn't.

22 Q. Did you see which way you had come from?

23 A. Yeah.

24 Q. Did you go back the way you came from when you got back
25 in the car?

26 A. No.

27 Q. Well, why not, if you thought you were being followed?

28 A. Because Gladys had got up under the steering wheel. She
29 had asked my cousin could she drive.

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1 Q. Did you object to that?
2 A. Wasn't nothing I could say.
3 Q. Did you object?
4 A. No, I didn't object.
5 Q. And, instead of going the way you knew, you were going in
6 a different direction, and you didn't find any problem with that?
7 Is that right?
8 A. That's right.
9 Q. Now, did you say you started drinking a beer at
10 Hillsboro?
11 A. Right.
12 Q. And, your testimony is that before you got to Hillsboro,
13 Johnny hadn't had anything to drink; isn't that true? Isn't that
14 your testimony?
15 A. That's right. Yes, sir.
16 Q. You weren't allowed to drive at that time; were you?
17 A. No, sir, not by law.
18 Q. Not by law?
19 A. Right.
20 Q. If you had driven, you would be violating the law?
21 A. Right.
22 Q. And, if Johnny was too drunk to drive, somebody else
23 would have to drive; wouldn't they?
24 A. Yeah, but Johnny wasn't drunk. He just got off of work.
25 Q. And, he hadn't had anything to drink; right?
26 A. Nope, not before we left the Mini Mart.
27 Q. I'm sorry?
28 A. Not before he got off from work.
29 Q. Did he have anything to drink after he got off from work?

1 A. I d. t know if he opened a can : beer or not. 82

2 Q. You don't know now?

3 A. Right.

4 Q. Is that right?

5 A. That's right.

6 BY MR. ALEXANDER: Indulge me a moment, Your Honor..

7 (PAUSE IN PROCEEDINGS)

8 BY MR. ALEXANDER: I have no further questions of
9 this witness. Your Honor.

10 BY THE COURT: Do you have any questions, Ms.
11 Pierson?

12 BY MS. PIERSON: No, Your Honor.

13 BY THE COURT: Redirect?

14 REDIRECT EXAMINATION BY MR. TURNER:

15 Q. Mr. Duckworth, regardless of whether or not Marvin
16 Williams put it in his report, did you tell him that Jamie ar
17 Gladys Scott got in the blue Oldsmobile with the people that robbed
18 you?

19 BY MR. ALEXANDER: Object to leading, Your Honor.

20 A. Yes, sir.

21 BY MR. ALEXANDER: Repetition.

22 BY THE COURT: Overruled.

23 Q. (Turner) All right. Now, y'all pulled over because
24 Jamie said she was sick at her stomach?

25 A. Right.

26 Q. Did she ever throw up?

27 A. No, sir.

28 BY MR. ALEXANDER: Object to repetition, Your Honor.

29 BY THE COURT: Overruled.

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1 Q. (Turner) You testified, I believe, the reason you
2 stopped was to let Jamie out of the car?

3 A. Right.

4 Q. Now, could you tell me whether or not you could have been
5 robbed if you hadn't stopped?

6 BY MR. ALEXANDER: Object to that, Your Honor, the
7 form of the question, asking what could have happened.

8 BY THE COURT: Sustained.

9 Q. (Turner) He asked you about whether or not Gladys or
10 Jamie Scott pointed a weapon at you. Could you tell me whether or
11 not one of the people that got out of the blue Olds that Jamie and
12 Gladys Scott eventually drove off with, pointed a weapon at you?

13 BY MR. ALEXANDER: Object to the form, Your Honor.
14 Counsel is testifying.

15 BY THE COURT: I will let him answer that question.

16 A. Yes, sir.

17 BY MR. ALEXANDER: Object to repetition, Your Honor.

18 BY THE COURT: Overruled.

19 Q. (Turner) And, regardless of how many males were out
20 there robbing you, could you tell me whether or not however many
21 there were, those are the people that Jamie and Gladys Scott left
22 with?

23 A. Yes, sir.

24 BY MR. ALEXANDER: Object, Your Honor. It's
25 repetitious.

26 BY THE COURT: Overruled.

27 Q. (Turner) What was your answer?

28 A. Yes, sir, those were the ones.

29 BY MR. TURNER: I believe that's all, Your Honor.

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1 BY THE COURT: All right. You can go back to the
2 witness room.

3 (WITNESS EXCUSED)

4 BY THE COURT: Call your next witness.

5 BY MR. TURNER: Call Howard Patrick.

6 HOWARD PATRICK

7 upon being called to testify as a witness on behalf of the State,
8 after first being duly sworn, did on his oath testify as follows,
9 to-wit:

10 DIRECT EXAMINATION BY MR. TURNER:

11 Q. If it please the Court. Would you tell me your name
12 please?

13 A. Howard Patrick.

14 Q. Howard, how old are you?

15 A. Fourteen years old.

16 Q. Fourteen. Do you know the Defendants in this case, Jami
17 and Gladys Scott?

18 A. Yes, sir.

19 Q. And, tell me who Gregory Patrick is.

20 A. He's my cousin.

21 Q. Cousin. What about Chris Patrick?

22 A. That's my brother.

23 Q. Brother. All right. Now, Howard, you are charged in
24 this same robbery of Johnny Ray Hayes and Mitchell Duckworth; is
25 that correct?

26 A. Yes, sir.

27 Q. You were indicted, along with Chris, Gregory, and the two
28 Defendants here, Jamie and Gladys Scott?

29 A. Yes, sir.

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1 Q. All ght. Now, did you take p ; in this robbery? 80
2 A. Yes, sir.
3 Q. And, are you guilty of robbing Mr. Hayes and Mr
4 Duckworth?
5 A. Yes, sir.
6 Q. And, could you tell me whether or not you had served
7 notice on the District Attorney that you wished to enter a guilty
8 plea?
9 A. Excuse me?
10 Q. Can you tell me whether or not you negotiated with us to
11 enter a plea-bargain in this case?
12 A. Yes, sir.
13 Q. And, what sentence are you to receive?
14 A. Eight years.
15 Q. All right. Now, I want to ask you, Howard, if Gladys
16 Scott participated in this robbery in any way?
17 A. Yes, sir.
18 Q. And, what about Jamie Scott?
19 A. Yes, sir.
20 Q. Now, who came up with the idea of robbing Mr. Duckworth
21 and Mr. Hayes?
22 A. Gladys Scott.
23 Q. All right; and, where did this take place? What I'm
24 asking you about, let me go back in time to, let's say,
25 approximately 11:00 o'clock at night on December the 24th of last
26 year. Could you tell me whether or not you arrived at the Mini
27 Mart at that time, sometime around there?
28 A. Yes.
29 Q. All right. Who did you get there with?

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1 A. Gladys Scott, Jamie Scott, Christopher Patrick, and
2 Gregory Patrick.

3 Q. All right.

4 BY MR. ALEXANDER: I can't hear the witness, Your
5 Honor.

6 BY THE COURT: Speak up.

7 A. Gladys Scott, Jamie Scott, Christopher Patrick, and
8 Gregory Patrick.

9 Q. (Turner) And, whose car were you in?

10 A. Jamie Scott's.

11 Q. What kind was it?

12 A. Oldsmobile.

13 Q. All right. Now, when you got to the Mini Mart, did y'all
14 see who you now know as Mitchell Duckworth and Johnny Ray Hayes
15 there?

16 A. Yes, sir.

17 Q. Did you know them at the time?

18 A. No, sir.

19 Q. All right. What, if anything, did Gladys and Jamie tell
20 y'all about Mr. Duckworth and Mr. Hayes?

21 A. They said they knew them, and they was going to try to
22 get some money from them.

23 Q. Now, what did she tell y'all to do?

24 A. Follow them.

25 BY MR. ALEXANDER: I object to that, Your Honor.
26 It's leading.

27 BY THE COURT: Overruled.

28 Q. (Turner) Who told you to follow them?

29 A. Gladys Scott.

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1 Q. All right. Now, how did Gladys and Jamie Scott leave the
2 Mini Mart? How were they traveling?

3 A. Excuse me?

4 Q. How did Gladys and Jamie Scott leave the Mini Mart there?

5 A. With Michael Duckworth and -- with Mitchell Duckworth and
6 Johnny Ray Hayes.

7 Q. All right. How did you and Christopher and Gregory
8 follow them?

9 A. In Jamie Scott's car.

10 Q. All right. Now, tell us where y'all went.

11 A. First, we went to Oakdale.

12 Q. Oakdale Apartments?

13 A. Oakdale Apartments.

14 Q. All right.

15 A. Then we went to Hillsboro.

16 Q. All right. At some point in time at Hillsboro, did the
17 car stop?

18 A. Yes, sir.

19 Q. All right. Could you tell me whether or not Gladys Scott
20 came over to y'all's car?

21 A. Excuse me?

22 Q. Could you tell me whether or not Gladys Scott came to the
23 car?

24 BY MR. ALEXANDER: I object to counsel leading the
25 witness.

26 BY THE COURT: Sustained.

27 Q. (Turner) What happened when the car stopped in the
28 Hillsboro area?

29 A. What happened?

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1 Q. Uh- I.

2 A. They stopped at the Cow Pasture.

3 Q. All right.

4 A. And, we stopped across the road. It was a house. We
5 stopped across the road from the Cow Pasture.

6 BY MR. ALEXANDER: I can't hear the witness, Your
7 Honor.

8 BY THE COURT: Speak louder.

9 A. We stopped across the road from the Cow Pasture, and they
10 went down to the Cow Pasture, and the Cow Pasture, the club, was
11 closed. They got out of the car, walked around the building, came
12 back around, got back in the car, and pulled up right next to us.

13 Q. (Turner) All right. Now, when they pulled up next to
14 y'all, tell me if anybody got out of the car.

15 A. Yes, sir.

16 Q. Who was that?

17 A. Gladys Scott.

18 Q. And, what did she do?

19 A. She told us that we was going to go down that road, and
20 we was supposed to get out and come and get the dudes out of the
21 car.

22 Q. What were you supposed to do with them, according to her?

23 A. Rob them.

24 Q. All right. Now, did she say how she was going to get
25 them to stop?

26 A. They was going to play sick.

27 Q. All right; and, what were you and the other Patricks,
28 your brother and your cousin, to do when they got the car stopped?

29 A. Come get them out of the car and rob them.

1 Q. How were you supposed to rob them. Was there any kind of
2 weapon to be used?

3 A. Shotgun.

4 Q. Where did it come from?

5 A. I don't know. It was in the car when we got in the car.

6 Q. When you and Christopher and Gregory got in the car?

7 A. Yes, sir.

8 Q. Were Jamie and Gladys already in the car when y'all got
9 in it?

10 A. Yes, sir.

11 Q. In her car?

12 A. Yes, sir.

13 Q. And, the shotgun was already there?

14 A. Yes, sir.

15 Q. All right.

16 BY MR. ALEXANDER: Object to leading, Your Honor.

17 BY THE COURT: Sustained.

18 Q. (Turner) Now, after she said that, can you tell me
19 whether or not Jamie ever came up to the car?

20 A. Excuse me?

21 Q. After Gladys told you all this, can you tell me whether
22 or not Jamie came to the car?

23 A. Yes, Jamie came to the car.

24 Q. Tell me what happened then.

25 BY MR. ALEXANDER: Your Honor, he is leading the
26 witness, and the Court has told him not to do so. We
27 move for a mistrial.

28 BY THE COURT: Objection sustained. Motion
29 overruled.

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1 Q. (Turner) What happened after Ladys Scott got through
2 talking to y'all?

3 A. Jamie came to the car.

4 Q. And, what did she say?

5 A. She told us to follow them down the road.

6 BY MR. ALEXANDER: I couldn't hear him.

7 BY MR. TURNER: Your Honor, could Mr. Alexander have
8 a closer seat?

9 BY THE COURT: He's all right. Answer the question.

10 A. She told us to follow them down the road.

11 Q. (Turner) All right. Did she say anything else at that
12 point?

13 A. And, we would get out and rob them.

14 Q. All right. Now, did you follow them down the road?

15 A. Yes, sir.

16 Q. Tell us what happened.

17 A. We got out of the car, and we walked up to their car.

18 They got out, and me and Greg -- me and Chris had the gun.

19 Q. Chris had the gun?

20 A. Chris had the gun.

21 Q. What kind of gun was it?

22 A. Shotgun.

23 Q. All right.

24 A. Christopher Patrick -- I mean, me and Gregory Patrick
25 pushed Johnny Ray Hayes and Mitchell Duckworth into the ditch, and
26 Greg had came over with a wallet, took the money out, and threw it.
27 I came over --

28 Q. Took the money out and what now?

29 A. He took the money out of the wallet and threw the wallet.

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1 Q. All right.

2 A. I came over with the wallet, and before we had pushed
3 them in the ditch, Gladys told Chris to check the car. Chris gave
4 Gladys the gun, and Chris went and checked the car.

5 Q. What was Gladys doing with the gun while Chris went and
6 checked the car?

7 A. I wasn't paying no attention.

8 Q. But, she was holding the gun while he went to check the
9 car?

10 A. Yes, sir.

11 BY MR. ALEXANDER: I object to counsel leading the
12 witness, Your Honor.

13 BY THE COURT: Sustained.

14 BY MR. ALEXANDER: And, I move for a mistrial.

15 BY THE COURT: Overruled.

16 Q. (Turner) Who was holding the gun while Chris went and
17 checked the car?

18 A. Gladys Scott.

19 Q. All right. Now, you testified that one of you got the
20 money out of the wallet. I don't know which one it was. Who got
21 the money out?

22 A. Greg.

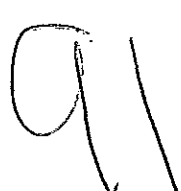
23 Q. All right. You said you got the wallet off another one
24 of them?

25 A. Yeah, I got one wallet.

26 Q. Was there any money in that wallet?

27 A. I didn't check. I turned around, and I seen Chris coming
28 back from the car. I gave him the wallet, and I turned around.

29 Q. All right.



1 A. I started patting him to see if he had anything else.

2 Q. Now, after the robbery, after the wallets were taken from
3 the men, and the money, how did y'all leave that area?

4 A. In Jamie Scott's car.

5 Q. Who all was in the car when you left?

6 A. Me, Christopher Patrick, Gregory Patrick, Jamie Scott,
7 and Gladys Scott.

8 Q. And, where did y'all go?

9 A. First, we went to Jamie's house in Hillsboro. Then we
10 went to Oakdale, Gladys' house.

11 Q. What was done with the money that was taken from the two
12 men that had been robbed?

13 A. It was split.

14 Q. Who split it up?

15 A. Jamie.

16 Q. And, who all got money from the robbery?

17 A. Everybody.

18 Q. When you say everybody, tell me by name who you are
19 talking about.

20 A. Me, Chris, Gregory, Jamie and Gladys.

21 Q. Okay. How much money did you yourself get from Jamie
22 Scott?

23 A. I don't quite remember. It was around nine, ten, eleven
24 dollars.

25 Q. All right. Can you tell me whether or not both Jamie
26 Scott and Gladys Scott received some of the money that was taken?

27 BY MR. ALEXANDER: Object to the leading.

28 A. Yes, sir.

29 BY THE COURT: I don't think that particular

92

1 question was a leading question. . Overruled.

2 BY MR. TURNER: Indulge me just one moment, please

3 (PAUSE IN PROCEEDINGS)

4 BY MR. TURNER: That's all.

5 BY THE COURT: Cross-examine?

6 CROSS-EXAMINATION BY MR. ALEXANDER:

7 Q. Your name is Howard Patrick?

8 A. Yes, sir.

9 Q. Is that right?

10 A. Yes, sir.

11 Q. How old is Chris Patrick?

12 A. Six -- seventeen now, sir.

13 Q. And, how old is --

14 A. Gregory?

15 Q. Gregory, yes.

16 A. Eighteen.

17 Q. He's eighteen?

18 A. Yes, sir.

19 Q. Now, you were charged with armed robbery in December of
20 1993; is that right?

21 A. Yes, sir.

22 Q. And, you entered a plea in front of the Judge of not
23 guilty?

24 A. Yes, sir.

25 Q. Is that correct?

26 A. Yes, sir.

27 Q. In this Courtroom?

28 A. Yes, sir.

29 Q. And, you hired an attorney?

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1 A. I sir.

2 Q. You did not? Didn't hire one?

3 A. (Witness nods "no.")

4 Q. You had an appointed attorney?

5 A. Yes, sir.

6 Q. And, Chris and Gregory also had appointed attorneys?

7 A. Yes, sir.

8 Q. Okay. You decided that you wanted to plead guilty to the

9 charge; is that right?

10 A. Yes, sir.

11 Q. And, you were informed that if you pled guilty, you would

12 not be charged with armed robbery any longer, you would be charge

13 with robbery?

14 A. No, strong armed robbery.

15 Q. Strong armed robbery, and strong armed robbery does not

16 carry a life sentence; does it?

17 A. I don't know.

18 Q. You don't know whether or not it carries a life sentence?

19 A. No, sir.

20 Q. But, you have agreed to plead guilty to strong armed

21 robbery, as opposed to armed robbery?

22 A. Yes, sir.

23 Q. Is that right?

24 A. Yes, sir.

25 Q. And, were you told that before you would be allowed to

26 plead guilty, you would have to testify against Jamie Scott and

27 Gladys Scott?

28 A. Yes, sir.

29 Q. When were you told that?

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1 A. My lawyer had been telling me. .
2 Q. I'm sorry?
3 A. My lawyer had been telling me for a while.
4 Q. Well, when did he first tell you you would have to
5 testify against them in order to get the deal that he was working
6 out for you?
7 A. It was when he first came.
8 Q. I'm sorry?
9 A. It was when he first came.
10 Q. When he first -- when he first came to talk to you,
11 that's what you talked about?
12 A. A plea-bargain.
13 Q. Plea-bargain?
14 A. Yeah.
15 Q. And, then he told you at that time that you would have to
16 testify against them, in order to get the deal he was trying to ge
17 for you?
18 A. Yes, sir.
19 Q. Now, when you were arrested, you gave a statement; didn't
20 you?
21 A. Yes, sir.
22 Q. Did you have the same lawyer present when you gave that
23 statement?
24 A. I had no lawyer present.
25 Q. You didn't have a lawyer present when you signed the
26 statement; is that right?
27 A. No, sir. Yes, sir.
28 Q. You've been in jail ever since this happened?
29 A. Ten months.

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1 Q. Ten months; and, you would like to get out of jail;
2 wouldn't you?

3 A. Yes, I would.

4 Q. And, you would also like to serve as little time as you
5 can; wouldn't you?

6 A. That's right.

7 Q. And, you were told that by pleading guilty and testifying
8 against Jamie Scott and Gladys Scott, you could get the best deal
9 that you could get, as far as your case was concerned. Weren't you
10 told that, this was the best deal you were going to get?

11 A. He didn't say nothing about no best deal. He told me
12 that that was, you know, I thought it would be right for me.

13 Q. I'm sorry?

14 A. I thought it would be right for me to take the deal.

15 Q. It would be right for you to take the plea?

16 A. Yes, sir.

17 Q. Well, was it right for you to deny you were guilty when
18 you came in Court before?

19 BY MR. DUNCAN: Your Honor, I am going to object to
20 that.

21 BY THE COURT: I sustain that objection.

22 Q. (Alexander) Well, you have not pled guilty yet; have
23 you? You have not entered a plea?

24 A. No, sir.

25 Q. And, you have been told that you won't be allowed to
26 enter a plea and get the deal that was negotiated for you until
27 after you testified in this case?

28 A. That's right.

29 Q. Isn't that true?

96

1 A. Yes, sir.

2 Q. So, depending upon how well you testify, you might get
3 that deal, and you might not?

4 A. No, it's depending on this.

5 Q. I'm sorry?

6 A. It's depending on this.

7 Q. Depending on what?

8 A. He wrote me a note.

9 Q. Oh, he wrote you a note. Okay; but, do you believe that
10 you will be allowed to take the deal, but you weren't allowed to
11 take the deal before you got on the stand; right?

12 A. No.

13 Q. You have to take the stand first, and you have to testify
14 against them, before you can get the deal?

15 A. Yes, sir.

16 Q. Right?

17 A. Yes.

18 Q. Now, you testified on direct examination that you were
19 told to follow the other car; is that right?

20 A. Yes, sir.

21 Q. Who was driving when you were told that?

22 A. Which car?

23 Q. Well, what car were you in?

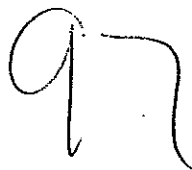
24 A. I was in Jamie's car.

25 Q. Who was driving that car?

26 A. Christopher Patrick.

27 Q. Christopher Patrick. Where was the first place you went
28 in that car?

29 A. Oakdale.



1 Q. Oakdale Apartments. Was it the Oakdale Apartments
2 that Gladys Scott started driving the other car?

3 A. No.

4 Q. Okay. Are you sure?

5 A. Gladys didn't start driving the car until we got to the
6 Cow Pasture.

7 Q. Okay. Well, when did she get into the other car?

8 A. At the Mini Mart.

9 Q. She got in the car at the Mini Mart?

10 A. Yes, sir.

11 Q. She didn't get into the car at the Oakdale Apartments?

12 A. No.

13 BY MR. ALEXANDER: May I approach the witness, Your
14 Honor?

15 BY THE COURT: Yes.

16 Q. (Alexander) Is this the statement that you gave +
17 Marvin Williams?

18 A. (Examining) Yes.

19 Q. It is?

20 A. Yes, sir.

21 Q. And, it's dated 12 and 30, '93?

22 A. '93.

23 Q. Did you write this statement?

24 A. I didn't write that. I signed it.

25 Q. You didn't write it out. Someone else wrote it out for
26 you?

27 A. Yes, sir.

28 Q. Okay. Did you read it?

29 A. No.

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1 Q. I didn't read it at the time.

2 A. No.

3 Q. So, was the statement written out after you talked with
4 Mr. Williams, or was it written out while you were talking to him?

5 A. It was written out before I talked to him.

6 Q. Oh, he had it written out before you talked to him; is
7 that right?

8 A. That's right.

9 Q. Okay; and, then you signed it without reading it?

10 A. That's right. They told me they was going to let me go
11 the next morning.

12 Q. Beg your pardon?

13 A. They told me they was going to let me go the next
14 morning.

15 Q. Who told you they were going to let you go the next
16 morning?

17 A. Marvin Williams and Jerry McNeece.

18 Q. And, that's why you signed the statement?

19 A. Yes, sir.

20 Q. Well, did they let you go the next morning?

21 A. No, sir.

22 Q. Okay. Well, can you read this part? You can read and
23 write; right?

24 A. Yes, sir.

25 Q. Okay. Can you read this part that I've got in blue here?

26 BY MR. TURNER: Judge, we don't object to him
27 reading the whole statement. We object to him taking
28 excerpts out of it.

29 BY MR. ALEXANDER: It's for impeachment, Your Honor.

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BY THE COURT: Overrule

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Q. (Alexander) See that part right there where it says, "Gladys"?

A. (Examining) Uh-huh.

Q. What does it say there? Read that part in blue, starting with "Gladys."

A. "Gladys got --

Q. You are going to have to speak a little louder.

BY THE COURT: Speak up so we can hear you.

A. "Gladys got in the car with the two men at the apartments."

Q. (Alexander) Okay. So, she got in the car with the two men at the apartments, not at the Mini Mart; right?

A. Let me see that statement. (Examining) When she first got in the car with the two guys, they were at the Mini Mart.

Q. Well, what does this say?

A. That says she got in the car with the two men at the apartments.

Q. All right. That's what you signed; right? Right?

A. I signed the statement, yes.

Q. Let me just make sure I'm clear. You signed this statement without reading it, because you wanted to get out of jail?

A. Yes, I wanted to get out of jail.

Q. And, you had been promised that if you signed the statement, you could get out of jail the next morning?

A. That, and they said if I didn't participate with them, they would send me to Parchman and make me out a female.

Q. I'm sorry?

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1 A. That they would let me out of jail the next morning, and
2 that if I didn't participate with them, that they would send me to
3 Parchman and make me out a female.

4 Q. In other words, they would send you to Parchman, and you
5 would get raped; right?

6 A. Yes, sir.

7 Q. You didn't want that either?

8 A. No, sir.

9 Q. So, you decided it was better to sign the statement, even
10 without reading it?

11 A. I didn't know what it was.

12 Q. Well, did you tell your lawyer that they had made these
13 promises to you?

14 A. Yes, sir.

15 Q. He said, "Never mind about that"?

16 A. He didn't say nothing else about it.

17 Q. Didn't mention that?

18 A. No, sir.

19 Q. So, you were the youngest one in jail; weren't you?

20 A. Yes, sir.

21 Q. Do you know if they told the other guys they were going
22 to let you out if they signed statements, too?

23 A. Excuse me?

24 Q. Do you know if the Sheriff's Deputies told the other
25 people they would let you out, if the other guys signed statements?

26 BY MR. DUNCAN: Object unless he was there, Your
27 Honor.

28 BY THE COURT: He can testify to what he knows. I
29 he heard it, he can testify to it. If he did not, he can

101

102

1 A. so.

2 Q. (Alexander) Do you know?

3 A. Say it again.

4 Q. Do you know why the other guys signed statements?

5 A. No, sir.

6 Q. You don't know about that?

7 A. No, sir.

8 Q. Were they questioned while you were being questioned?

9 A. My brother, Chris, was.

10 Q. He was in the same room?

11 A. Yes, sir.

12 Q. And, he signed his statement in your presence?

13 A. No. Chris didn't sign a statement on this case.

14 Q. He didn't?

15 A. No.

16 Q. How many conversations did you have with Gladys Scot

17 about this robbery before it happened, according to you?

18 A. Okay. At the Mini Mart, they only told us to follow

19 them. At Oakdale, they told us to follow them, and at the Cow

20 Pasture, they told us what was going to happen. So, that's three.

21 Q. So, you were following them without knowing why you were

22 following them?

23 A. Yes, sir.

24 Q. Is that right?

25 A. Yes, sir.

26 Q. You weren't driving. Chris was driving?

27 A. Chris was driving.

28 BY MR. ALEXANDER: Indulge me just a moment..

29 (PAUSE IN PROCEEDINGS)

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1 Q. (Alexander) Did you testify that Gladys Scott was
2 holding the gun on these men?

3 A. At one point in time, yes.

4 Q. At one point in time, she was holding a gun on them?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. And, where were they located?

9 A. Where was who?

10 Q. Where was Gladys Scott when she was holding the gun on
11 the men?

12 A. I didn't say she was holding it on the men. I said she
13 was holding it.

14 Q. She was holding the gun. I thought you said she was
15 holding the gun on the men.

16 A. I didn't say she was holding it on the men. I said she
17 was holding the gun.

18 Q. Well, where was she, and where were the men?

19 A. They was in the ditch, and she was standing on the bank
20 of the ditch.

21 Q. I'm sorry?

22 A. They was in the ditch, and she was standing on the bank
23 of the ditch.

24 Q. Okay. Was she pointing the gun at the men?

25 A. I wasn't paying no attention.

26 Q. Well, wait a minute. Didn't you testify she was pointing
27 the gun at the men?

28 A. I didn't say she was pointing the gun at the men.

29 Q. You didn't say that?

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1 A. I did not say that.

2 Q. You did not say she was holding the gun on the men?

3 A. I said she was holding the gun. I didn't say on the me

4 Q. Oh, she was just holding it?

5 A. That's right.

6 Q. Okay; and, were the men where they could see her holding
7 the gun?

8 A. I don't know if they could see her or not.

9 Q. Was there any reason they couldn't see her?

10 A. No.

11 Q. Okay.

12 A. It was dark, but I don't know.

13 Q. Let me ask you this question, too. After you left the
14 Cow Pasture, were you behind them still?

15 A. Behind?

16 Q. Behind the other car?

17 A. Yes.

18 Q. Okay; and, you testified that the car stopped?

19 A. Yes.

20 Q. Okay. Is that right?

21 A. Yes.

22 Q. What happened when the car that was in front of you
23 stopped?

24 A. We got out of the car.

25 Q. I'm sorry?

26 A. We got out of the car.

27 Q. Okay. Did you get out of the car before the people in
28 the other car got out?

29 A. No.

1 Q. They got out first?
2 A. Jamie and Gladys got out first.
3 Q. And, then who got out of the other car?
4 A. Me, Chris, and Greg.
5 Q. Okay; and, then what did you all do?
6 A. We went up to the car.
7 Q. So, all three of you went up to the car?
8 A. Yes, sir.
9 Q. Is that right?
10 A. Yes, sir.
11 Q. And, did what?
12 A. Got the two men out of the car.
13 Q. Got the two men out of the car?
14 A. Yes, sir.
15 Q. Okay. Now, two of you were holding guns?
16 A. One of us was holding the gun.
17 Q. One of you. Who was that?
18 A. Chris.
19 Q. Chris was holding the gun, and the other two were doing
20 what?
21 A. Getting them out of the car.
22 Q. How were you getting them out?
23 A. Telling them to get out.
24 Q. So, the other two were telling them to get out, while
25 Chris was holding the gun?
26 A. Yes, sir.
27 Q. Okay. Then when that happened, you grabbed the wallet.
28 Did you say that?
29 A. I grabbed one of the wallets, yes.

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1 Q. Okay. You grabbed whose wallet? . Whose wallet did you
2 grab?

3 A. I don't know which one is which.

4 Q. I'm sorry?

5 A. I do not know which one is which.

6 Q. You don't know which one is which. You grabbed
7 somebody's wallet, and somebody else grabbed somebody else's
8 wallet?

9 A. Yes, sir.

10 Q. Is that right?

11 A. Yes, sir.

12 Q. Okay. Now, when you say you grabbed the wallet, did you
13 take it out of his pants?

14 A. It was taken out of his jacket.

15 Q. You took it out of his jacket?

16 A. Uh-huh.

17 Q. He was wearing a jacket, and you just took the wallet out
18 of his jacket?

19 A. Yes, sir.

20 Q. Is that right?

21 A. Yes, sir.

22 Q. And, you don't know which one it was?

23 A. No.

24 Q. Then who took the other wallet?

25 A. Gregory.

26 Q. Gregory took the other wallet. Where did he take it
27 from?

28 A. I don't know where he took it from. He took it from on
29 of the men.

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1 Q. Take it from one of those men. Okay.

2 A. Yes, sir.

3 Q. And, all the time, Chris was holding the gun?

4 A. Yes.

5 Q. Okay.

6 A. He hit one of the men in the shoulder.

7 Q. Who did?

8 A. Chris.

9 (PAUSE IN PROCEEDINGS)

10 BY MR. ALEXANDER: Nothing further, Your Honor.

11 BY THE COURT: Redirect?

12 BY MR. TURNER: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION BY MR. TURNER:

14 Q. Howard, Mr. Alexander asked you about whether or not

15 there was any reason that the men couldn't see at the point in time

16 Gladys was holding the shotgun. I believe you said it was dark; is

17 that correct?

18 A. Yes, sir.

19 BY MR. ALEXANDER: I object to counsel leading the

20 witness, Your Honor.

21 BY THE COURT: He is laying a predicate to the

22 question he intends to ask. Overruled.

23 Q. (Turner) Where were the two men who were being robbed at

24 this time, when Gladys was holding the gun?

25 A. On the road at Hillsboro.

26 Q. Where?

27 A. On the road at Hillsboro.

28 Q. Were they standing up or lying down?

29 A. No.

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1 Q. Or what was the situation?

2 A. They was laying down.

3 Q. On their stomachs or backs?

4 A. On their backs.

5 Q. Okay. Now, Mr. Alexander had you to read a portion of
6 your statement you gave on December the 30th. I would like you to
7 read a portion, too. This part that I've got marked here --

8 BY MR. ALEXANDER: I object to hearsay.

9 BY MR. TURNER: Well, I objected too, Judge.

10 BY THE COURT: Overruled.

11 BY MR. ALEXANDER: Your Honor, I asked him to read
12 a portion for purposes of impeachment.

13 BY THE COURT: Overruled.

14 Q. (Turner) Would you read this part here, please?

15 A. "Jamie and Gladys got out of the car, came over, and told
16 Chris and Gregory and me to follow them. They was going to get --
17 they was going to act like they had to stop, and when they stopped,
18 for us to come and take the two men's money."

19 Q. Did you do that?

20 A. Yes, sir.

21 Q. All right. Now, this part here, what does it say?

22 BY MR. ALEXANDER: Your Honor, if the Court, please,
23 I object. May I be heard?

24 BY THE COURT: Overruled.

25 BY MR. ALEXANDER: I'm sorry?

26 BY THE COURT: What is your objection?

27 BY MR. ALEXANDER: My objection, Your Honor, is that
28 the witness had not adopted the statement. He said it
29 was written before he was even asked questions.

BY THE COURT: It's the statement he gave.
Overruled.

Q. (Turner) Read this part here.

A. "We took their money and pushed them in --" What's that?
"We pushed them into the ditch. Then Jamie and Gladys got into the car with Chris, Gregory, and me, and we went back to Forest to Gladys' apartment and split the money."

Q. And, did that happen?

A. Yes, sir.

Q. All right. So, this statement that was signed by you, that you read just then, that actually happened?

A. Yes, sir.

BY MR. ALEXANDER: I object to leading the witness, Your Honor.

BY THE COURT: Overruled.

Q. (Turner) Now, Howard, at any point in time during the plea-bargaining negotiations, did I or anyone else tell -- ask you to do anything other than give truthful testimony?

BY MR. ALEXANDER: Object to that, Your Honor.

BY THE COURT: Overruled.

A. No, sir.

BY MR. TURNER: That's all, Your Honor.

BY THE COURT: You can go back to the witness room.

(WITNESS EXCUSED)

BY THE COURT: Call your next witness.

BY MR. TURNER: Call Gregory Patrick.

GREGORY PATRICK

upon being called to testify as a witness on behalf of the State after first being duly sworn, did on his oath testify as follows,

1 to-wit:

2 DIRECT EXAMINATION BY MR. TURNER:

3 Q. Would you tell us your name, please?

4 A. Gregory Patrick.

5 Q. Gregory, could I get you to scoot a little closer to that
6 microphone, and speak into it, please.

7 A. Greg Patrick.

8 Q. And, Greg, do you know Howard Patrick and Christopher
9 Patrick?

10 A. Yes.

11 Q. How do you know them?

12 A. They are my cousins.

13 Q. Tell me whether or not those two are brothers?

14 A. Yes.

15 Q. Now, do you know Jamie and Gladys Scott?

16 A. Yes.

17 Q. All right; and, I believe you are charged in the armed
18 robbery of Johnny Ray Hayes and Mitchell Duckworth, along with
19 Christopher, and Howard, and Jamie and Gladys Scott; is that right?

20 A. Yes.

21 Q. All right. Gregory, did you take part in that robbery?

22 A. Yes.

23 Q. And, are you guilty of robbing Mr. Hayes and Mr.
24 Duckworth?

25 A. Yes, sir.

26 Q. And, could you tell me whether or not you have given us
27 notice you would like to plead guilty and testify in this case?

28 A. Yes, sir.

29 Q. All right; and, what sentence are you to receive?

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- 1 A. (No answer)
- 2 Q. What sentence are you to receive?
- 3 A. Eight years.
- 4 Q. All right. Have I, or anyone else, asked you to give
- 5 anything other than truthful testimony?
- 6 A. No.
- 7 Q. All right. Can you tell me whether or not Gladys Scott
- 8 also participated in these robberies?
- 9 A. Yes, sir.
- 10 Q. And, did Jamie Scott?
- 11 A. Yes, sir.
- 12 Q. Who came up with the idea to rob Mr. Hayes and Mr.
- 13 Duckworth?
- 14 A. They did.
- 15 Q. All right. Now, I want to direct your attention to last
- 16 Christmas Eve, that night, at the Mini Mart. Were you there?
- 17 A. Yes, I was.
- 18 Q. How did you get there?
- 19 A. In their car.
- 20 Q. Whose car?
- 21 A. Jamie's.
- 22 Q. All right. Who all came with you in that car?
- 23 A. Me, Jamie, Gladys, and Chris and Howard.
- 24 Q. All right. Now, when you got to the Mini Mart, can you
- 25 tell me what happened there?
- 26 A. They got out to go pay for their gas.
- 27 Q. All right. Who got out to pay for it?
- 28 A. Jamie and Gladys.
- 29 Q. When they got back in the car, what did they say to y'all
- 111

1 about anything?

2 A. They had seen some guys that they knew and wanted to go
3 talk to them, and I think it was Gladys, knew the guy, and came
4 back to the car and told Chris to park over to the side, that they
5 was going to talk to the guys. So, we did, and so, we parked over
6 there. She went and talked to the guys. So, they got in the car,
7 and they came over there where we was.

8 Q. All right. Now, how did y'all leave the Mini Mart?

9 A. In the car.

10 Q. All right. How did Jamie and Gladys leave the Mini Mart?

11 A. In the guys' car.

12 Q. All right. So, when you left the Mini Mart, who was
13 traveling in Jamie's car at that time?

14 A. We was.

15 Q. Who?

16 A. Me, Chris, and Howard.

17 Q. Who was driving?

18 A. Chris.

19 Q. All right. Where did y'all go to begin with?

20 A. We went to Oakdale, and then we went to the Cow Pasture.

21 Q. All right. During this whole time, can you tell me
22 whether or not Jamie and Gladys were in the other car with Johnny
23 Ray Hayes and Mitchell Duckworth?

24 A. Yeah, they was.

25 Q. Were y'all in front of them, or behind them?

26 A. Behind them.

27 Q. All right. Were y'all following them?

28 A. Yes.

29 Q. Who, if anyone, had told you to follow them?

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1 A. y did.

2 Q. Who?

3 A. Gladys.

4 Q. All right. Now, could you tell me whether or not at some

5 point in time, either Jamie or Gladys Scott said anything to you or

6 the others about robbing Hayes and Duckworth?

7 A. They told Chris.

8 Q. All right; and, what did they tell him?

9 A. Gladys whispered to Chris, but I didn't hear it.

10 Q. Okay. You didn't hear what was said then?

11 A. No.

12 Q. I want to direct your attention to out at the Cow

13 Pasture. Did you follow the car out there?

14 A. Yes.

15 Q. Tell us what happened out there.

16 A. We followed them to the Cow Pasture. They went to t

17 Cow Pasture. We went to this yard, and they went over there, and

18 they went behind the building, I guess to use the bathroom, and

19 they stayed over there about twenty minutes or so, and then they

20 came back, and they got in the car and came over there to where we

21 was, and she got -- she got out of the car.

22 Q. When you say "she," who got out of the car?

23 A. Gladys.

24 Q. All right. What did she do?

25 A. She got out first and talked to Chris.

26 Q. And, what did she say?

27 A. Evidently, she was saying that she was going to rob them.

28 BY MR. ALEXANDER: Excuse me, Your Honor. The

29 witness has not testified that he heard what was said.

113

1 BY THE COURT: Beg your pardon?

2 BY MR. ALEXANDER: The witness has not testified
3 that he heard what was said.

4 BY THE COURT: Sustained.

5 Q. (Turner) Could you hear what was said at that point?

6 A. Evidently, she was talking --

7 BY MR. ALEXANDER: Object, Your Honor.

8 BY THE COURT: Objection sustained.

9 Q. (Turner) What I'm asking you, though, Gregory, could you
10 actually hear it yourself?

11 A. No.

12 Q. Okay. Did Jamie ever come talk to y'all?

13 A. Yeah.

14 Q. Did you hear that?

15 A. Uh-huh.

16 Q. What did Jamie say?

17 A. Huh?

18 Q. What did Jamie say?

19 A. She said that we was going to rob them.

20 Q. All right. Now, when the Hayes car left that area then
21 who was driving?

22 A. Say it again.

23 Q. When the car that Hayes and Duckworth were in left the
24 Cow Pasture area after that conversation, who was driving?

25 A. Gladys.

26 Q. All right. Now, did y'all follow the car at that time?

27 A. Yeah.

28 Q. And, tell us what happened.

29 A. We went down the road, down the dark road, and we seen

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1 Jamie and the guy in the back was like fighting, or whatever,
2 struggling. We didn't know what was going on, and they stopped the
3 car.

4 Q. When the car stopped, did somebody get out?

5 A. Yeah.

6 Q. Who got out?

7 A. Jamie and Gladys and the guys.

8 Q. All right. Now, what did you and Chris and Howard do?

9 A. We got out. We got out of the car and went over there.

10 Q. Did someone have a gun?

11 A. Yes.

12 Q. Who had the gun?

13 A. Chris.

14 Q. All right. Go ahead and tell us what happened.

15 A. We went down there and pushed them, pushed them in a
16 little grass, and it seemed like the guy was reaching for a gun.

17 So, I grabbed his hand and grabbed the wallet.

18 Q. All right. You grabbed one of them's wallet?

19 A. Yes.

20 Q. Did it have any money in it?

21 A. Yeah.

22 Q. All right; and, what was done with that wallet?

23 A. The wallet was -- I took the money and threw the wallet
24 down.

25 Q. Okay; and, what about the other man? Did somebody check
26 his pockets?

27 A. Yes.

28 Q. Who was doing that?

29 A. Howard.

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1 Q. All right. Did he find anything?.

2 A. Yeah, he came up with a wallet.

3 Q. All right. Now, after y'all had taken the men's wallet
4 and the money, how did y'all leave the scene?

5 A. In the car.

6 Q. In whose car?

7 A. Gladys'. I mean Jamie's.

8 Q. All right; and, who all left in that car?

9 A. All of us.

10 Q. When you say "all of us," would you give me the names?

11 A. Jamie and Gladys, Chris, me and Howard.

12 Q. All right. Now, during the time you were there, was
13 there a point in time -- could you tell me whether or not there was
14 a point in time that Gladys told Chris to go check the men's car?
15 Do you remember that?

16 A. Yes.

17 BY MR. ALEXANDER: Your Honor, I object to counsel
18 leading the witness.

19 BY THE COURT: Sustained.

20 BY MR. ALEXANDER: Move for a mistrial.

21 BY THE COURT: Overruled.

22 Q. (Turner) Who, if anyone, did Chris hand the gun to to
23 hold while he went to check the car?

24 A. Gladys.

25 Q. All right. Now, after you and Chris and Howard and
26 Gladys and Jamie left that area, where did y'all go?

27 A. When we left?

28 Q. Uh-huh.

29 A. We went to Jamie's house.

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1 Q. All right. What was done with the money that was taken
2 from the men?

3 A. Split it.

4 Q. Who all shared in the money?

5 A. Everybody.

6 Q. Everybody? Would that include Jamie and Gladys Scott?

7 A. Yeah.

8 BY MR. ALEXANDER: Object to leading, Your Honor.

9 BY THE COURT: Overruled.

10 BY MR. TURNER: That's all, Your Honor.

11 BY THE COURT: Cross-examine?

12 BY MR. ALEXANDER: May we approach, Your Honor?

13 BY THE COURT: Yes.

14 (OFF RECORD CONVERSATION AT THE BENCH)

15 (PAUSE IN PROCEEDINGS)

16 CROSS-EXAMINATION BY MR. ALEXANDER:

17 Q. You are Gregory Patrick; is that right?

18 A. Yes.

19 Q. How old are you?

20 A. Eighteen.

21 Q. Before today -- well, have you entered a plea of guilty
22 to these charges?

23 A. No.

24 Q. Have you agreed to enter a plea of guilty to these
25 charges?

26 A. Uh-huh.

27 Q. Have you been told that before you can enter a plea of
28 guilty to these charges, you will have to testify against Gladys
29 Scott and Jamie Scott?

- 1 A. Uh-huh.
- 2 Q. I'm sorry?
- 3 A. Yes.
- 4 Q. Who told you that?
- 5 A. My lawyer.
- 6 Q. And, did you give a statement concerning this matter?
- 7 A. Yes.
- 8 Q. Did you write it out in your own handwriting?
- 9 A. Yes.
- 10 Q. You did?
- 11 A. Yes.
- 12 Q. Is this the statement that you gave?
- 13 A. (Examining) Yes.
- 14 Q. And, this is your handwriting?
- 15 A. Uh-huh.
- 16 Q. I'm sorry?
- 17 A. Yes.
- 18 Q. It is?
- 19 A. Yes.
- 20 Q. Okay. Who was present when you gave this statement?
- 21 A. Marvin Williams and Jerry McNeece.
- 22 Q. Did you have a lawyer present?
- 23 A. No, I did not.
- 24 Q. Why didn't you have a lawyer present?
- 25 A. I don't know.
- 26 Q. You don't know? Could you afford to have a lawyer
- 27 present?
- 28 A. No.
- 29 Q. You could not?
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1 A. N

2 Q. Did you ask to have anyone else present, besides these
3 law enforcement officers?

4 A. Say that again.

5 Q. Did you ask to have anyone else present besides them?

6 A. No.

7 Q. Why not?

8 A. I don't know.

9 BY MR. TURNER: Object to the relevancy, Your Honor.

10 BY THE COURT: Sustained.

11 Q. (Alexander) Mr. Patrick, you have testified that you
12 followed the car, you were in a car that followed another car?

13 A. Uh-huh.

14 Q. To Hillsboro?

15 A. Yes.

16 Q. And, that after you got to Hillsboro, you and you
17 brother --

18 A. My cousins.

19 Q. You and your two cousins?

20 A. Uh-huh.

21 Q. Got out of the car and robbed two men?

22 A. Yeah.

23 Q. Is that right?

24 A. Yeah.

25 Q. Okay; and, all three of you, all three of you,
26 participated in the robbery; is that right?

27 A. Yes.

28 Q. Now, so that means all three of you were out of the car?

29 A. Yes.

1 Q. ... that right?

2 A. Yes.

3 Q. Who was driving the car that was in front of you after
4 you left the Cow Pasture?

5 A. After we left the Cow Pasture?

6 Q. Yes.

7 A. Gladys.

8 Q. Well, did you write in your statement that Jamie was
9 driving the car?

10 A. I don't believe so.

11 BY MR. ALEXANDER: May I approach the witness, Your
12 Honor?

13 BY THE COURT: Yes.

14 Q. (Alexander) See that right there? "Jamie was driving
15 the car."

16 A. Uh-huh.

17 Q. "After we left the club."

18 A. Yeah.

19 Q. Well, who was driving the car?

20 A. Gladys.

21 Q. Well, why did you write "Jamie"?

22 A. That ain't my handwriting.

23 Q. Well, I thought you said it was your handwriting?

24 A. That's a different one.

25 Q. I'm sorry?

26 A. That's a different statement.

27 Q. This is a different statement than the one you gave?

28 A. That's not my handwriting right there.

29 Q. Okay. Do you remember a few minutes ago I asked you :

1 this was your handwriting?

2 A. Yeah. I know my handwriting, too.

3 Q. You remember I asked you that question?

4 A. Yeah.

5 Q. Do you remember telling me that it was your handwriting?

6 A. Yes.

7 Q. Okay; but, now you are telling me that it is not your
8 handwriting?

9 A. - It ain't.

10 Q. Okay. Then when did you tell me before that it was?

11 A. Because that's a different page.

12 Q. But, why did you tell me -- this is a different page? Is
13 that what you are saying?

14 A. Uh-huh.

15 Q. This is a different page from what I showed you before?

16 A. That's not my handwriting.

17 Q. Okay. Well, let me show you all of it. Which is your
18 handwriting, and which is not?

19 A. (Examining) That's my handwriting.

20 Q. This is your handwriting here?

21 A. Yeah.

22 Q. But, this is not?

23 A. No, it is not.

24 Q. Okay. Who wrote this?

25 A. I don't know.

26 Q. You don't know?

27 A. No, I don't.

28 Q. Was this written before you signed it?

29 BY MR. TURNER: Objection, Your Honor. He didn't

- 1 sign it.
- 2 Q. (Alexander) You didn't sign this?
- 3 A. Sign what?
- 4 Q. This page?
- 5 A. No.
- 6 Q. I'm sorry?
- 7 A. No, I didn't sign that page.
- 8 Q. You didn't sign this page, and what's on here is not what
- 9 you told the officers?
- 10 A. I might have told them, but I didn't sign that.
- 11 Q. Well, did you tell them that Jamie was driving the car?
- 12 A. No, I did not.
- 13 Q. Okay. So, whoever wrote this was writing it down wrong?
- 14 A. I guess they was.
- 15 Q. Well, who was writing it?
- 16 A. I don't know.
- 17 Q. Who was present when you talked to the officers?
- 18 A. Nobody.
- 19 Q. You didn't talk to the officers?
- 20 A. Yes, I did.
- 21 Q. Who were the officers who were present?
- 22 A. Jerry McNeece and Marvin Williams.
- 23 Q. So, you signed one page?
- 24 A. Yes, I did.
- 25 Q. Okay; and, that page that you signed is in your
- 26 handwriting?
- 27 A. Yes, it is.
- 28 (PAUSE IN PROCEEDINGS)
- 29 Q. (Alexander) The statement that you signed is this page?

1 A. Yes, it is.

2 Q. And, this is the statement that you wrote?

3 A. Yes, it is.

4 Q. Is that right?

5 A. Yes.

6 Q. This statement does not say that Jamie Scott and Gladys
7 Scott got in the car with you and Chris and Gregory. Who is the
8 other one? Howard. Is that right?

9 A. What?

10 Q. The statement that you wrote and you signed does not say
11 that Jamie Scott and Gladys Scott got in the car with you aft
12 these guys were robbed. Isn't that true?

13 A. I don't know.

14 Q. Well, read it.

15 A. I think it do.

16 Q. Read it.

17 A. (Examining) "I give this statement --

18 Q. I didn't ask you to read it aloud. Read it to yourself.

19 A. All right. (Reading)

20 Q. So, am I correct?

21 A. Yes.

22 Q. It doesn't say that; does it?

23 A. Unh-unh.

24 Q. Does it?

25 A. No.

26 Q. It doesn't say that they got in the car with you all and
27 left; does it? Does it?

28 BY MR. TURNER: Your Honor, I will object. It ha
29 been asked and answered.

1 BY MR. ALEXANDER: I just want to be sure it's
2 clear.

3 BY THE COURT: Go ahead and answer the question.

4 A. No.

5 Q. (Alexander) It doesn't say that; does it?

6 A. No.

7 Q. And, the other statement you didn't write?

8 A. Unh-unh.

9 Q. Didn't read?

10 A. Unh-unh.

11 Q. Is that right?

12 A. No, I didn't write it.

13 Q. And, you don't even know who wrote it? Right?

14 A. That's right.

15 Q. Okay.

16 BY MR. ALEXANDER: If you will indulge me, I'm jus
17 about to conclude, Your Honor.

18 (PAUSE IN PROCEEDINGS)

19 Q. (Alexander) Let me make sure I'm clear once more. This
20 page right here is the page that you wrote?

21 A. (Examining) Uh-huh.

22 Q. Correct?

23 A. Yes.

24 Q. Okay; and, that page is about three-quarters of a lega
25 size page long?

26 A. Yeah.

27 Q. Correct?

28 A. Yeah.

29 Q. Who was present while you were writing that?

1 A. J. & me and the officers.

2 Q. Those two officers?

3 A. (No answer).

4 Q. Did they tell you to write it out in your own
5 handwriting?

6 A. Yes.

7 Q. Okay. Were they asking you questions while you were
8 writing it?

9 A. Yes, they was.

10 Q. Now, I notice that throughout the first three-quarters of
11 the page that you wrote, you did not indicate in any respect that
12 Gladys Scott or Jamie Scott had anything to do with the robbery.
13 Isn't that true?

14 A. Uh-huh.

15 Q. Okay; but, at the very end you added something that was
16 out of sequence to the other information that you had written. I
17 you recall that?

18 A. Unh-unh.

19 Q. Something about what they had told you. Do you
20 understand what I am asking you?

21 A. Unh-unh.

22 Q. Now, in the statement that you wrote, in that statement,
23 it never said anything about Gladys holding any guns; did it?

24 A. No.

25 Q. Beg your pardon?

26 A. No.

27 Q. And, it didn't say anything about y'all driving of
28 together; did it?

29 A. No.

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1 Q. W. : it did say was that Chr. got out of the car to go
2 and talk to the guys in the other car about trying to touch Jamie.
3 Isn't that what it says?

4 A. Uh-huh.

5 Q. Well, was that true or not?

6 A. Yeah, it's true.

7 Q. That's why Chris got out of the car?

8 A. What you saying?

9 Q. Is that why Chris got out of the car?

10 A. No, we got out of the car to see what was going on.

11 Q. You got out of the car to see what was going on. When
12 you say you got out of the car, you are talking about out at
13 Hillsboro; is that right?

14 A. Out at Hillsboro? No, on the scene.

15 Q. I'm sorry?

16 A. On the scene.

17 Q. What scene?

18 A. The scene of the crime.

19 Q. The scene of the crime, is that what you are saying?

20 A. Yes.

21 Q. Okay. You got out at the scene of the crime to see what
22 was going on. Is that your testimony? Is that what you just said?

23 A. To see what was going on while they was fighting, or
24 whatever they was doing.

25 Q. While they were fighting? Who was fighting?

26 A. Her and the dude in the backseat.

27 Q. Who and the dude in the backseat?

28 A. Jamie.

29 Q. Jamie was fighting with a dude in the backseat; is tha

1 right?

2 A. Yes.

3 Q. And, you all stopped your car to see why they we,
4 fighting?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. Because you could see that they were fighting from where
9 you were?

10 A. Yeah.

11 (PAUSE IN PROCEEDINGS)

12 BY MR. ALEXANDER: No further questions, Your Honor.

13 BY THE COURT: Redirect?

14 REDIRECT EXAMINATION BY MR. TURNER:

15 Q. Gregory?

16 A. Yes, sir.

17 Q. So, I can clear this up, the first piece of paper that
18 Mr. Alexander showed you, is this the one he asked you if this was
19 in your handwriting?

20 A. (Examining) Yeah.

21 Q. And, is that your handwriting?

22 A. Yes, that's my handwriting.

23 Q. Now, the second one he showed you, this is not the same
24 one he showed you the first time; is that correct?

25 A. Yeah.

26 Q. Is this the same or different from this page?

27 A. Different.

28 Q. All right. Now, this is not your handwriting; is that

29 A. No, sir.

1 Q. -- correct? All right. In addition to writing this
2 statement down here, did you have occasion to talk to Jerry McNeece
3 and Marvin Williams about what happened?

4 A. Yes.

5 Q. And, do you know whether or not they were writing down
6 what you were saying?

7 A. No.

8 Q. You don't know?

9 A. They wasn't.

10 Q. Okay. Could you tell me whether or not you told them
11 that after the men were robbed, that Jamie and Gladys got in the
12 car with y'all?

13 A. Yes.

14 Q. Did you tell them that?

15 A. Yes, I did.

16 Q. All right. You weren't purporting to say that this page
17 here, whatever it may be, was something that you had signed or
18 anything; is that correct?

19 A. That's correct.

20 Q. All right. When we are talking about your statement,
21 this is the one you signed here?

22 A. That is correct.

23 Q. Okay. At any point in time, Gregory, did anyone tell you
24 in order for your plea-bargaining to go through, you had to do
25 anything other than tell the truth?

26 A. No.

27 Q. Did anyone try to put words in your mouth about what to
28 say about Jamie or Gladys?

29 A. No, they did not.

1 Q. A right.

2 BY MR. TURNER: I believe that's all, Your Honor.

3 BY THE COURT: You can go back to the witness room

4 (WITNESS EXCUSED)

5 BY THE COURT: Ladies and gentlemen, it's twenty
6 minutes until 5:00 o'clock. We are going to recess for
7 the remainder of the day. While you are in recess,
8 again, you will be instructed not to discuss this among
9 yourselves, or with anyone else. If anyone should
10 attempt to talk to you, give me that person's name and
11 tell me what that person had to say. Do not have a
12 conversation at all with the attorneys or the parties or
13 this case or any of the witnesses.

14 All persons will remain seated. I will let the jury
15 pass through this door here. You are recessed until 9:00
16 o'clock tomorrow morning.

17 WHEREUPON, AT 4:40 P.M., THESE PROCEEDINGS WERE CONCLUDED FOR
18 THE DAY. AT 9:15 A.M., TUESDAY, OCTOBER 4, 1994, THE JUDGE, COURT
19 REPORTER, AND ALL ATTORNEYS RETIRED TO CHAMBERS, THE PRESENCE OF
20 THE DEFENDANTS BEING WAIVED, AND THE FOLLOWING PROCEEDINGS WERE HAD
21 OUT OF THE PRESENCE OF THE JURY:

22 BY THE COURT: It is now fifteen minutes past 9:00 o'clock,
23 and the juror, Lilly Massey, has not appeared. I've been waiting
24 this time for her to show. I've had the Clerk to attempt to call
25 her, but she has no telephone, so we have no information as to why
26 she is not here.

27 I propose to continue with the trial of the case and to seat
28 the first alternate, George Moore, Jr., in her stead.

29 Are you all in opposition to that?

Alternate J or

1 BY MR. TURNER: No, sir.

2 BY THE COURT: Are you in opposition to it?

3 BY MR. ALEXANDER: Well, I would request the Court to give her
4 a little more time to arrive.

5 BY THE COURT: Well, I can't delay the trial much longer. I
6 am going to give her five more minutes, and I will proceed with the
7 case. All right.

8 (FIVE MINUTE PAUSE IN PROCEEDINGS)

9 BY THE COURT: It is now twenty-five minutes past 9:00
10 o'clock. I am going to seat the alternate.

11 (CONCLUSION OF PROCEEDINGS IN CHAMBERS)

12 WHEREUPON, AT 9:25 A.M., THE JUDGE, COURT REPORTER, AND ALL
13 ATTORNEYS RETURNED TO THE COURTROOM, IN THE PRESENCE OF THE
14 DEFENDANTS, AND THE FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE
15 OF THE JURY:

16 BY THE COURT: Mr. George Moore, Mrs. Lilly Massey,
17 a juror, has not appeared for some reason unknown to the
18 Court. So, I am going to seat you as the first
19 alternate. Would you take your seat in Seat No. 7.
20 please? You will participate in the deliberations and
21 proceed with the trial of this case.

22 (ALTERNATE JUROR IS SEATED)

23 BY THE COURT: Are you gentlemen ready to continue
24 with the trial of the case?

25 BY MR. TURNER: Yes, sir, Your Honor.

26 BY THE COURT: Who do you call next for the State?

27 BY MR. TURNER: Your Honor, we call Marvin Williams

28 MARVIN WILLIAMS

29 upon being called to testify as a witness on behalf of the State

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1 after first being duly sworn, did on his oath testify as follows
2 to-wit:

3 DIRECT EXAMINATION BY MR. TURNER:

4 Q. If it please the Court. Would you tell us your name,
5 please?

6 A. Marvin Williams.

7 Q. And, Mr. Williams, what is your occupation?

8 A. Deputy Sheriff.

9 Q. Is that Scott County Deputy Sheriff?

10 A. Scott County.

11 Q. I want to direct your attention to the latter part
12 December of last year, and ask if you investigated the alleged
13 armed robbery of Johnny Ray Hayes and Mitchell Duckworth?

14 A. Yes, I did.

15 Q. And, in the course of your investigation, did you have
16 occasion to take a report from Mr. Hayes and Mr. Duckworth about
17 what had happened to them?

18 A. Yes, I did.

19 Q. And, could you tell me whether or not you inquired of
20 them where this happened?

21 A. I did.

22 Q. And, were you able, taking that report, to go out in the
23 county and find the location where the robberies had allegedly
24 taken place?

25 BY MR. ALEXANDER: I object to that, Your Honor.
26 That is hearsay.

27 BY THE COURT: Overruled.

28 A. Yes, I did.

29 Q. (Turner) And, what, if anything, did you find at that

1 location?

2 A. I found a pocketbook belonging to Johnny Hayes.

3 BY MR. ALEXANDER: Object to who it belonged to,
4 the Court please.

5 BY THE COURT: Sustained.

6 Q. (Turner) I want to show you the contents of this sack,
7 and ask you if you can identify that, please?

8 A. (Examining) Yes, I can.

9 Q. And, what is that?

10 A. Pocketbook.

11 Q. The cards that are found in the pocketbook, were the
12 there when you found it?

13 A. Yes, they were.

14 BY MR. ALEXANDER: That is leading, if the Court
15 please.

16 BY THE COURT: Sustained.

17 BY MR. ALEXANDER: And, I object to it.

18 Q. (Turner) The cards that are in the pocketbook, were they
19 there, or were they not there when you found it?

20 BY MR. ALEXANDER: I thought Your Honor sustain...
21 the objection.

22 BY THE COURT: Just ask what was found in the
23 pocketbook. Objection sustained.

24 A. I found cards belonging to Johnny --

25 BY THE COURT: No, let the lawyer ask the question.

26 Q. (Turner) What, if anything, did you find in the wallet
27 there at the scene?

28 A. I found several cards with Johnny Hayes' name on it.

29 Q. All right.

Williams - R ect

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BY MR. ALEXANDER: Your Honor, I object to whose name was on it.

BY THE COURT: Overruled.

BY MR. ALEXANDER: It's hearsay.

BY THE COURT: Beg your pardon?

BY MR. TURNER: We would offer this as an exhibit at this time.

BY MR. ALEXANDER: Object to that, Your Honor. Materiality, relevancy, and chain of custody has not been established, and may we be heard at the Bench concerning that, Your Honor?

BY THE COURT: The Court, the Supreme Court has said that whenever the Trial Judge is satisfied as to the identity of a matter to be introduced into evidence, and is satisfied as to the chain of custody, then it may be admitted and received. Now, in this case, Johnny Hayes has testified previously that that was his billfold and had the cards in there identifying himself.

So, the objection is overruled. Let it be marked and received into evidence.

WALLET REFERRED TO BEING OFFERED INTO EVIDENCE, WAS THEN AND THERE IDENTIFIED AND MARKED AS STATE'S EXHIBIT NO. 1, THE SAME PREVIOUSLY HAVING BEEN MARKED FOR IDENTIFICATION NO. 1 AND MADE PART OF THE RECORD HEREOF.

Q. (Turner) Deputy Williams, in the course of your investigation of this alleged robbery, did you also have occasion to talk with Gregory Patrick and Howard Patrick?

A. Yes, I did.

Q. Can you tell me whether or not either or both of the

1 young men said anything about how Jamie Scott and Gladys Scott left
2 the scene of the alleged robbery?

3 BY MR. ALEXANDER: I object to that, Your Honor.

4 BY THE COURT: Is that in a conversation with the
5 Patricks?

6 BY MR. TURNER: Yes, sir, Your Honor, the one that
7 Mr. Alexander went into yesterday, and we are showing a
8 prior consistent statement to the testimony yesterday.

9 BY THE COURT: Objection overruled.

10 BY MR. ALEXANDER: May it please the Court, may we
11 be heard outside the presence of the jury?

12 BY THE COURT: I am going to hear this out of your
13 presence. I am going to let you step out in the hallway,
14 please, accompanied by the Bailiffs.

15 WHEREUPON, THE JURY WAS RETIRED FROM THE COURTROOM, AND THE
16 FOLLOWING PROCEEDINGS WERE HAD OUT OF THE PRESENCE OF THE JURY:

17 BY THE COURT: All right, Mr. D.A. You are offering this
18 testimony as a prior consistent statement, in opposition to an
19 inconsistent statement that has been developed through examination?

20 BY MR. TURNER: Yes, Your Honor. Yesterday, during the
21 testimony of both Gregory and Howard Patrick, Mr. Alexander sought
22 to establish that they had not told Mr. Williams that the
23 Defendants got in the car with them and left the scene of the
24 robbery with the Patrick brothers, and he proposed to show the two
25 witnesses yesterday police reports that were prepared that did not
26 have that in there, insinuating that they had not told the law
27 officers that.

28 We are offering Mr. Williams' testimony to show that bot
29 Gregory and Howard Patrick did, in fact, tell him that Jamie and

1 Gladys Scott left the scene of the crime with the Patrio
2 Defendants.

3 BY THE COURT: All right. Mr. Alexander?
4 BY MR. ALEXANDER: If the Court please, there was no testimony
5 yesterday by either of those witnesses that the Defendants had not
6 left the scene with them. There is no, therefore, prior
7 inconsistent statement for this witness to refute.

8 BY MR. TURNER: Prior consistent statement, Your Honor.

9 BY MR. ALEXANDER: Your Honor, I have listened to counsel.
10 May I be heard?

11 BY MR. TURNER: Excuse me.

12 BY MR. ALEXANDER: The attempt that is being made now is not
13 to show that this is rebuttal to a prior inconsistent statement.
14 This is an attempt to introduce hearsay testimony to buttress the
15 testimony of the witnesses who testified yesterday, in accordance
16 with what this witness is about to say, and it is wholly improper
17 for that reason.

18 BY THE COURT: I am going to require the Court Reporter to
19 research the testimony and tell me what was testified.

20 As I recall the testimony yesterday, there was cross-
21 examination as to whether or not they told this to Officer
22 Williams, which as I recall it, they testified that they did tell
23 him, Officer Williams, and, if so, I agree with Mr. Alexander, that
24 there is no prior inconsistent statement, prior consistent
25 statement.

26 BY MR. TURNER: Your Honor, our position is not that there is
27 a prior inconsistent statement at all. Our position is the
28 statements they testified to yesterday, which I agree, they did say
29 yesterday that they told Officer Williams that; but, Mr. Alexander

1 tried to impeach their testimony about that, and under Hostler --

2 BY THE COURT: Which he had the right to do; but, that does
3 mean that you can reconstruct the testimony of other witnesses,
4 because of a showing -- because there's a cross-examination.

5 He cross-examined the witnesses whether or not they told
6 Officer Williams, and they said that they did, as I recall the
7 testimony.

8 What you are now trying to do is to bolster their testimony,
9 and Firnist is objecting to it.

10 I am going to sustain the objection.

11 BY MR. TURNER: All right, sir, Your Honor. We were traveli
12 under Hostler vs. State and Rule 801.

13 BY THE COURT: Right. Bring in the jury.

14 WHEREUPON, THE JURY WAS RETURNED TO THE JURY BOX, AND THE
15 FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

16 BY THE COURT: All right. We are in the presence of
17 the jury. Mr. Turner, you may continue.

18 BY MR. TURNER: No further questions.

19 BY THE COURT: Cross-examine?

20 BY MR. ALEXANDER: May we be indulged a moment, Your
21 Honor? (Pause) We have no questions, Your Honor.

22 BY THE COURT: You are excused.

23 (WITNESS EXCUSED)

24 BY THE COURT: Who do you call next?

25 BY MR. TURNER: The State rests, Your Honor.

26 * * * * *

27 STATE RESTS

28 * * * * *

29 BY THE COURT: What do you have for the Defendant?

1 BY MR. ALEXANDER: Your Honor, we have a motion.

2 BY THE COURT: I am going to hear that motion out
3 the presence of the jury. I will retire to Chambers and
4 hear the motion. I will hear this motion out of your
5 presence, but rather than have you stand out in the
6 hallway, I am going to retire with the attorneys to my
7 office and hear this.

8 WHEREUPON, WITH THE JURY REMAINING IN THE JURY BOX, THE JUDGE,
9 COURT REPORTER, AND ALL ATTORNEYS RETIRED TO CHAMBERS, THE PRESENCE
10 OF THE DEFENDANTS BEING WAIVED, AND THE FOLLOWING PROCEEDINGS WERE
11 HAD OUT OF THE PRESENCE OF THE JURY:

12 BY THE COURT: You have a motion?

13 BY MR. ALEXANDER: Comes now the Defendant, Gladys Scott, and
14 Ms. Pierson may join in the motion after I have stated it, and
15 moves to exclude the evidence offered by the State of Mississippi
16 with regard to the charge made in the indictment, for the following
17 grounds and reasons:

18 The State has failed to prove by competent evidence the prima
19 facie elements of the offense charged. The two complaining
20 witnesses both testified that neither Gladys Scott, nor Jamie
21 Scott, robbed them.

22 No witness of the State testified that there was, or gave any
23 competent, believable, testimony, that there was a prior plan to
24 rob these persons, and certainly prior plan involving firearms.

25 One of the State's witnesses testified, I'm referring now to
26 Gregory Patrick, that at the time the individuals in the trailing
27 car got out, they got out for the purpose of investigating what was
28 going on in the front car. That testimony refutes clearly that
29 there was any plan to rob the persons in the front car.

1 Furthermore, there are glaring inconsistencies, such that no
2 reasonable jury could find beyond reasonable doubt, under the
3 appropriate Constitutional standard, that these two Defendants
4 excuse me, that Gladys Scott, and I believe counsel will agree with
5 Jamie Scott, engaged in armed robbery in this particular incident.

6 BY THE COURT: I feel the State has made out a case to
7 withstand the motion for directed verdict, so your motion is
8 overruled.

9 Do you join in that motion, Ms. Pierson?

10 BY MS. PIERSON: Yes, Your Honor, we join in the motion on
11 behalf of Jamie Scott.

12 BY THE COURT: Your motion, also, is overruled.

13 BY MR. ALEXANDER: Judge, we move to reduce the charge from
14 armed robbery to robbery.

15 BY THE COURT: To strong armed robbery?

16 BY MR. ALEXANDER: Yes, sir.

17 BY THE COURT: Motion overruled. There's evidence of the use
18 of a shotgun. Anything else?

19 BY MR. ALEXANDER: The Defendants renew their prior motions
20 for mistrial at this time.

21 BY THE COURT: Motion overruled. Are you ready to go forward?

22 BY MR. ALEXANDER: We would need a few minutes. We would be
23 ready to go forward in about ten minutes.

24 BY THE COURT: All right. I will give you ten minutes.

25 (CONCLUSION OF PROCEEDINGS IN CHAMBERS)

26 WHEREUPON, A TEN MINUTE RECESS WAS TAKEN. AT 9:50 A.M., THE
27 JUDGE, COURT REPORTER, AND ALL ATTORNEYS RETURNED TO THE COURTROOM,
28 IN THE PRESENCE OF THE DEFENDANTS. THE JURY WAS IN THE JURY BOX
29 AND THE FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

1 BY THE COURT: Who do you call for the Defendants?

2 BY MR. ALEXANDER: We call Miss Veronica Jones.

3 BY MR. TURNER: Your Honor, if it please the Court, we would
4 have an objection. Miss Jones' name, or for that matter, any other
5 witness's name, was not furnished to us in reciprocal discovery.

6 BY MR. ALEXANDER: Object to this in front of the jury, Your
7 Honor.

8 BY THE COURT: Did you file a motion?

9 BY MR. ALEXANDER: If Your Honor, please, this witness is
10 offered solely for rebuttal testimony.

11 BY MR. TURNER: Your Honor, we filed a notice with Mr.
12 Alexander.

13 BY MR. ALEXANDER: If Your Honor, please, we object to this
14 before the jury.

15 BY THE COURT: Y'all just let me look at this now.

16 (PAUSE IN PROCEEDINGS)

17 BY THE COURT: I am going to let this jury step out in the
18 hallway for a moment, please.

19 WHEREUPON, THE JURY WAS RETIRED FROM THE COURTROOM, AND THE
20 FOLLOWING PROCEEDINGS WERE HAD OUT OF THE PRESENCE OF THE JURY:

21 BY THE COURT: The defense has called a lady as a witness now
22 in its defense. The District Attorney has made an objection to the
23 calling of the witness, on the grounds that the Defendant has
24 failed to reciprocate discovery by the furnishing of the names of
25 witnesses.

26 Counselor for the defense states that this is a rebuttal
27 witness, and this witness is not called as a witness in chief.

28 What will be the testimony of this witness if permitted to
29 testify?

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1 BY MR. ALEXANDER: The witness will testify, Your Honor, that
2 Johnny Ray Hayes, in contradiction to his testimony yesterday, sa
3 to Gladys Scott in this witness's presence, that he had a pocketfu
4 of money, which he specifically denied making that statement
5 yesterday, and that it did occur at the Oakdale Apartment as was
6 asked.

7 BY THE COURT: Do you have an objection to that testimony?

8 BY MR. TURNER: Your Honor, if that's all she is testifying
9 to, I don't.

10 BY MR. ALEXANDER: She will further testify, in contradiction
11 to Mr. Hayes' testimony, that Mr. Hayes approached Miss Scott, ne
12 the other way around.

13 BY THE COURT: I am going to permit the testimony. Bring in
14 the witness.

15 BY MR. ALEXANDER: Your Honor, before that, we would move fo
16 a mistrial based upon counsel's statement that we provided no list
17 of witnesses and did not indicate that any witnesses would be
18 testifying.

19 BY MR. TURNER: Your Honor, we would offer proof as to that.

20 BY THE COURT: Well, there was considerable dialog -- beg
21 your pardon?

22 BY MR. TURNER: We would offer proof as a defense to that
23 objection.

24 BY MR. ALEXANDER: Your Honor, it was totally improper before
25 the jury. It was, in effect, a comment regarding the Defendants'
26 testimony, or lack thereof.

27 BY THE COURT: Well, there was unnecessary dialog between both
28 of you before the jury. So, your motion is overruled.

29 BY MR. ALEXANDER: And, I only requested that the Court not

1 hear this matter before this jury. That's all I asked.

2 BY THE COURT: Objection overruled. Bring in the jury.

3 WHEREUPON, THE JURY WAS RETURNED TO THE JURY BOX, AND THE

4 FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

5 BY THE COURT: All right. The jury is seated in the

6 jury box. You may continue.

7 VERONICA JONES

8 upon being called to testify as a witness on behalf of the

9 Defendant, after first being duly sworn, did on her oath testify as

10 follows, to-wit:

11 DIRECT EXAMINATION BY MR. ALEXANDER:

12 Q. Please, state your name for the Court.

13 A. Veronica Jones.

14 Q. Miss Jones, where do you reside?

15 A. At Oakdale Apartments.

16 Q. How long have you lived there?

17 A. Since July.

18 Q. Do you know Gladys Scott?

19 A. Yes, sir.

20 Q. Now, do you know an individual named Johnny Ray Hayes?

21 A. I'm familiar with him.

22 Q. Did you see him in the Courtroom yesterday?

23 A. Uh-huh.

24 Q. Would you describe generally what his appearance was, as
25 you recall?

26 A. He had on a print shirt and jeans, and his hair was
27 braided.

28 BY THE COURT: Speak louder.

29 A. He had on a print shirt and jeans. His hair was braided.

1 BY THE COURT: Move closer to the microphone.

2 Q. (Alexander) Prior to yesterday, had you seen Mr. Hay
3 before?

4 A. Yes, sir.

5 Q. When had you seen him before and where?

6 A. It's been about a month ago at Oakdale.

7 Q. Oakdale Apartments?

8 A. Uh-huh.

9 Q. Did you hear Mr. Hayes at that time say to Miss Scott,
10 Miss Gladys Scott, "I've got a pocket full --

11 BY MR. TURNER: Object to leading, Your Honor.

12 BY MR. ALEXANDER: Your Honor, it's the only way I
13 can deal with that.

14 BY THE COURT: Overruled.

15 Q. (Alexander) "I've got a pocketful of money," or words +
16 that effect?

17 A. Yes, sir.

18 Q. Did Mr. Hayes approach or invite Miss Scott to approach
19 him --

20 BY MR. TURNER: Object to leading, Your Honor.

21 BY MR. ALEXANDER: May I finish the question?

22 Q. (Alexander) Or did Miss Scott approach Mr. Hayes?

23 BY MR. TURNER: Object to leading.

24 BY THE COURT: Sustained.

25 Q. (Alexander) Tell me how the conversation, how it was he
26 began the conversation with her, or she began the conversation with
27 him.

28 A. Okay. He had parked in front of the building complex,
29 and he was motioning for her to come over there like this

1 (demonstrating), and, so, I told her that somebody wanted her over
2 there. She walked over there. She asked me to walk with her.

3 BY MR. TURNER: Object to what she told her.

4 BY THE COURT: Sustained.

5 Q. (Alexander) Did you walk over there, too?

6 A. Uh-huh. Yes, sir.

7 Q. So, he motioned for her to come to him?

8 A. Yes, sir.

9 Q. And, he began the conversation?

10 BY MR. TURNER: Object to leading.

11 BY THE COURT: Sustained.

12 Q. (Alexander) Who began the conversation?

13 A. Mr. Hayes.

14 BY MR. ALEXANDER: No further questions, Your Honor.

15 BY THE COURT: Cross-examine?

16 CROSS-EXAMINATION BY MR. TURNER:

17 Q. Miss Jones, you don't know anything about the robbery; do
18 you?

19 A. I'm not familiar with the case.

20 BY MR. TURNER: That's all.

21 BY THE COURT: Go back to the witness room.

22 (WITNESS EXCUSED)

23 BY THE COURT: Who do you call next?

24 BY MR. ALEXANDER: At this time, Your Honor, the
25 defense rests.

26 * * * * *

27 DEFENDANTS REST

28 * * * * *

29 BY THE COURT: Does the State have any rebuttal

1 testimony?

2 BY MR. TURNER: No, sir, Your Honor.

3 BY THE COURT: You have heard all of the evidence in
4 the case. There remains for me to instruct you on the
5 law. I am going to leave the Courtroom with the
6 attorneys, and I am going to pass on jury instructions.
7 I will return, and I will read those instructions to you.
8 You will hear the closing arguments of the attorneys, and
9 then you will be retired to deliberate upon the facts of
10 the case. Hopefully, I can do this in about fifteen
11 minutes. I am going to let you stand up and move around;
12 but, do not leave the area of the Courtroom.

13 All right. Gentlemen, I will see you in Chambers.
14 WHEREUPON, THE JUDGE, COURT REPORTER, ALL ATTORNEYS, AND BOTH
15 DEFENDANTS RETIRED TO CHAMBERS, AND THE FOLLOWING PROCEEDINGS WERE
16 HAD OUT OF THE PRESENCE OF THE JURY:

17 BY THE COURT: What do you say to S-1 offered by the State?

18 BY MR. ALEXANDER: Object to S-1, Your Honor, for the reason
19 that it does not contain the elements of the offense of armed
20 robbery. It does not contain the use of a deadly weapon, which is
21 an essential element of the charge. It's an instruction for strong
22 armed robbery.

23 BY THE COURT: I sustain the objection. Amend this
24 instruction, "by the exhibition of a deadly weapon." I will let
25 you amend it.

26 S-2?

27 BY MR. ALEXANDER: Same objection.

28 BY THE COURT: S-2 is given.

29 BY MR. ALEXANDER: S-1-A is the one I was concerned with.

1 BY THE COURT: I will permit you to amend it. S-2?

2 BY MR. ALEXANDER: We object to S-2, Your Honor, because the
3 is insufficient evidence to support the granting of this
4 instruction.

5 BY THE COURT: It is given. S-4 and S-4-A are identical
6 instructions, but pertaining to the two Defendants.

7 BY MR. ALEXANDER: I'm sorry?

8 BY THE COURT: S-4 and S-4-A are identical instructions, but
9 one pertains to Count I, and the other one pertains to Count II.
10 The form of the verdict.

11 BY MR. ALEXANDER: Your Honor, for the record, we object to
12 the Court granting instructions as to each count of the indictment.
13 The evidence is that it was one transaction, and it was not, in
14 fact, two separate events.

15 BY THE COURT: I disagree. There's two separate victims. O:
16 was Hayes. The other was Duckworth. One had his money removed,
17 and another had his billfold removed. So, it is given.

18 D-1 is given. Do you have an objection?

19 BY MR. TURNER: No, sir.

20 BY THE COURT: D-2 is given. Do you have an objection? I
21 have amended it to make it apply to both Defendants.

22 BY MR. TURNER: No objection.

23 BY THE COURT: D-3?

24 BY MR. TURNER: No objection.

25 BY THE COURT: D-3 is given. D-4?

26 BY MR. TURNER: No objection. Judge, the amendments you have
27 made on these, are they just the pronouns from singular to plural?

28 BY THE COURT: That's right.

29 BY MR. TURNER: No objection.

Objections to Instructions (Jury Out)

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1 BY THE COURT: D-5?

2 BY MR. TURNER: No objection.

3 BY THE COURT: I have changed this to say, "The State and the
4 Defendants are entitled to a verdict of twelve jurors." If one's
5 entitled to it, both of them are. Given with that amendment.

6 D-6?

7 BY MR. TURNER: We object to D-6. It's repetitious to D-8.

8 BY THE COURT: Yes. I have amended D-8 to apply to both
9 Defendants, and I am going to refuse D-6 as being repetitious.

10 BY MR. ALEXANDER: Your Honor, we prefer D-6 to D-8.

11 BY THE COURT: All right. You change the pronouns then.

12 BY MR. ALEXANDER: On D-6?

13 BY THE COURT: Right. D-7?

14 BY MR. TURNER: No objection.

15 BY THE COURT: Given. D-9?

16 BY MR. TURNER: No objection.

17 BY THE COURT: Given. D-10?

18 BY MR. TURNER: No objection.

19 BY THE COURT: Given. D-11 is refused. It's the form of the
20 verdict, repetitious.

21 D-12?

22 BY MR. TURNER: Judge, we object to D-12. It's just an
23 abstract instruction, and it doesn't give any direction.

24 BY THE COURT: It's given, considering all of the instructions
25 together.

26 D-13?

27 BY MR. TURNER: We object to D-13 in that it's incomplete. It
28 is not necessary that she be present and assisting, if she
29 counseled, procured, or encouraged the robbery. She doesn't have

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1 to assist in it.

2 BY MR. ALEXANDER: It says, "plan to rob."

3 BY THE COURT: I am going to give it and make it apply to bot
4 Defendants..

5 D-14?

6 BY MR. TURNER: Judge, I don't object to that, if my
7 instruction is withdrawn. I just don't think we need both of them.

8 BY THE COURT: I think S-5 is more informative than D-14. So,
9 I am going to give S-5 and refuse D-14.

10 BY MR. TURNER: Judge, would you look at those and see if that
11 is acceptable?

12 BY THE COURT: Given as amended. How much time y'all want to
13 argue?

14 BY MR. ALEXANDER: Judge, I have a real problem with S-5, and
15 that problem is it is contradictory. In the first page, the Cour
16 is telling the jury to view the accomplice testimony with great
17 care and caution and suspicion, and then it says give it such
18 weight as you deem it to be. That, in effect, cancels out the
19 first part of it.

20 BY THE COURT: It is a proper instruction. It is given. How
21 much time do you want to argue?

22 BY MR. TURNER: Fifteen minutes.

23 BY MR. ALEXANDER: Forty minutes, Your Honor.

24 BY THE COURT: How much?

25 BY MR. ALEXANDER: Forty.

26 BY THE COURT: I won't give you forty minutes. I will give
27 you a reasonable amount of time.

28 BY MR. ALEXANDER: Thirty minutes.

29 BY THE COURT: The facts of this case are very simple. I will

1 give you forty minutes if you promise you won't argue forty
2 minutes.

3 (OFF RECORD CONVERSATION)

4 BY THE COURT: All right. I am going to give it to you, only
5 because this is a capital case.

6 (CONCLUSION OF PROCEEDINGS IN CHAMBERS)

7 WHEREUPON, AT 10:30 A.M., THE JUDGE, COURT REPORTER, ALL
8 ATTORNEYS, AND BOTH DEFENDANTS RETURNED TO THE COURTROOM. THE JURY
9 WAS RETURNED TO THE JURY BOX, AND THE FOLLOWING PROCEEDINGS WERE
10 HAD IN THE PRESENCE OF THE JURY:

11 BY THE COURT: I am going to read to you the jury
12 instructions. You will carry these instructions with you to the
13 jury room, and do not single out one instruction as being the only
14 one applicable to the facts of the case.

15 WHEREUPON, THE JUDGE READ THE INSTRUCTIONS TO THE JURY, AT TH
16 CONCLUSION OF WHICH THE FOLLOWING PROCEEDINGS WERE HAD IN THE
17 PRESENCE OF THE JURY:

18 BY THE COURT: At the request of the attorneys, I am
19 permitting both sides to have thirty minutes for closing arguments.
20 The State will have the right to open and close. You may proceed
21 with the argument for the State.

22 CLOSING ARGUMENT FOR THE STATE BY MR. DUNCAN

23 If it please the Court. Members of the jury, you have heard
24 all of the evidence in this case, and it is time now for the
25 arguments of the attorneys. I will have a few minutes to speak to
26 you, and the defense lawyers and Mr. Turner will have closing
27 remarks for you. After that is over with, you will be able to go
28 to the jury room and deliberate upon your verdict.

29 The Court has read to you the jury instructions in the case,

1 and I want to go through a few of them. I won't go through all of
2 them, because you will be able to take them to the jury room with
3 you and read them for yourself; but, I think there are a few
4 them that need to be explained to you.

5 The first thing I think we should remember in this case is we
6 have two Defendants, and they are charged with two crimes, the
7 armed robbery of Mr. Duckworth, and also the armed robbery of Mr.
8 Hayes.

9 You will see in the instructions there's an instruction
10 numbered S-1. It tells you both Defendants are charged with armed
11 robbery of Johnny Ray Hayes. This instruction sets out the things
12 that we had to prove in order for you to find the two Defendants
13 guilty of the armed robbery of Johnny Ray Hayes.

14 If you think we have met the burden of proof in proving the
15 things in this instruction, you should find them guilty as charged
16 in this count, which is Count I, of the indictment.

17 Another instruction, S-1-A, which is basically the same
18 instruction, but, it applies to the armed robbery of Mitchell
19 Duckworth. It sets out the same elements as to the charge against
20 him. You will note it is referred to as Count II of the
21 indictment.

22 As you will note, there are two charges of armed robbery in
23 this case.

24 You will also notice there are also two different sentencing
25 instructions. There's one for each one of these Defendants, which
26 apply to the two different counts in the indictment.

27 Instruction S-4 refers to Count I. Count I, you will
28 remember, is the armed robbery of Mr. Hayes, and, basically, what
29 you have in each count, Count I and II, is the decision to return

1 one of five possible verdicts, and they are each written out in the
2 numbered paragraphs in this instruction.

3 In Paragraph 1, there's a form of the verdict for guilty
4 charged, both Defendants guilty, and both sentenced to life in
5 prison.

6 In Paragraph 2, you will see both guilty as charged, but no
7 recommendation as to their sentence.

8 In Paragraph 3, there's a form of the verdict they are both
9 guilty, but one sentenced to life and the other one, no
10 recommendation on the sentence.

11 In Paragraph 4, one guilty, one not guilty, and in Paragraph
12 5, both Defendants not guilty.

13 The thing to remember about these instructions is there are
14 two forms of the verdict that you are going to have to reach, one
15 for each count, one for Mr. Duckworth, and one for Mr. Hayes, and
16 you will have to write out two different verdicts, one for each
17 count on a sheet of paper and return it back in the Courtroom.

18 Remember that whatever your verdicts are, guilty, not guilty,
19 life, or not life, all twelve of you have to agree to whatever the
20 verdict is.

21 Another instruction that I want to point out to you is
22 Instruction S-2. You will recall yesterday Mr. Turner talked to
23 you on voir-dire about following the law on what he said was an
24 accomplice or accessory, and that's what this instruction tells
25 you, is what the law recognizes as a person as an accomplice or an
26 accessory.

27 It basically says that a person who aids, counsels, or
28 encourages another person or persons in the commission of a crime
29 is an aider and an abettor and is equally as guilty as the persons

1 who actually carried out the crime.

2 I want to talk to you just a few minutes about the evidence
3 that you heard yesterday and today. You will recall that back on
4 December the 24th, Christmas Eve of last year, Johnny Hayes and
5 Mitchell Duckworth got off work late in the evening here in Forest,
6 and after getting off work, they went to the Mini Mart in Forest.
7 When they went to the Mini Mart, they were approached, maybe, first
8 by Gladys Scott, who requested a ride somewhere.

9 She was later joined by Jamie Scott, and they got into the car
10 with Mr. Hayes and Mr. Duckworth. They left the Mini Mart, and
11 they went to the Oakdale Apartments. From the Oakdale Apartments,
12 they went out to Hillsboro to a place called the Cow Pasture, which
13 was some kind of club out in the county, and I believe that the
14 witnesses said the club was closed, and that they went behind the
15 club to use the rest room.

16 They were followed all the way from the Mini Mart to Hillsbor
17 by the blue Oldsmobile from which the Defendants had arrived at the
18 Mini Mart in.

19 After they had gone behind the Cow Pasture to use the rest
20 room, Gladys Scott and Jamie Scott, they came back and got in th
21 car with Hayes and Duckworth, and Gladys Scott wanted to drive.

22 She drove across the street, and got out of the car, and went
23 to the blue Oldsmobile that was parked across the street from the
24 Cow Pasture. Went out and talked to them. Of course, Mr. Hayes
25 and Mr. Duckworth could not hear what was said; but, you heard the
26 Patricks testify what that conversation was about was the planning
27 of the robbery of Mr. Hayes and Mr. Duckworth. That one of them
28 would pretend to be sick, and they would pull the car off the road
29 and then the Patricks would get out and rob them.

1 You heard Mr. Hayes and Mr. Duckworth testify exactly about
2 how that happened, how they left from that place up at the Cow
3 Pasture, and went down the road. Jamie Scott's in the backseat
4 with Mr. Duckworth. She says she is about to throw up and be sick,
5 and Mr. Hayes says, "Well, don't throw up in my car," and Gladys
6 Scott pulled the car off to the side of the road.

7 When that happened, the Patricks came to the car with a
8 shotgun, ordered them out of the car, ordered them down in the
9 ditch, where both Mr. Hayes' and Mr. Duckworth's wallets were taken
10 from them, after, I believe, being struck on the head or about the
11 head with the barrel of the shotgun.

12 After their wallets were taken and the money removed from
13 them, all of the persons involved, including the two Defendants,
14 got in the blue Oldsmobile with the Patricks and left the scene of
15 the crime.

16 Ladies and gentlemen, in the trial of a case, in this case an
17 any other case, basically what we, as prosecutors, ask the jury to
18 do is really just to do one thing, and that's for you to decide the
19 case on what you have heard come from that witness stand and not
20 anything else, not something that you have heard somewhere else
21 not on something that you didn't hear come from the witness stand,
22 and not to set aside the things that you heard from the witness
23 stand, and ignore them, and reach a verdict contrary to that
24 evidence.

25 What I would like for you to do now when you go into the jury
26 room, is just simply ask yourself this: What did the evidence from
27 that witness stand tell me in this case, what did I hear said from
28 that witness stand, and how does it apply to the law that the Cour
29 has given to you?

1 What that evidence from that stand says is this: The
2 Patricks, who testified, say that these two Defendants were th
3 ones who planned the robbery. Mr. Hayes and Mr. Duckworth told yo
4 how they carried out that plan, and all of those witnesses that
5 testified, Mr. Hayes and Mr. Duckworth and both of the Patricks,
6 each of them told you that these Defendants, after the robbery was
7 carried out, got in that same car with the Patricks, the blue
8 Oldsmobile, and they left the scene of the crime.

9 Ask yourself what kind of innocent bystanders get in the car
10 and leave the scene of an armed robbery with the people who had
11 just carried out that armed robbery, and if you answer those
12 questions truthfully, according to the evidence, I think that you
13 will agree with me that the things that you heard from that witness
14 stand say one thing, that these two Defendants are guilty of the
15 crime of armed robbery of Mr. Hayes and Mr. Duckworth, and that'
16 the verdict that the State of Mississippi asks you to return i
17 this case.

18 Based upon what the truth was from the stand, based upon what
19 the evidence from the witness stand said, it said they are guilty,
20 and that's what we want you to do, to act upon what you heard, ac
21 upon what you told us you would do, and return a verdict of guilty
22 as charged.

23 That's all, Your Honor.

24 BY THE COURT: Make the argument for the Defendants.

25 CLOSING ARGUMENT FOR THE DEFENDANTS BY MR. ALEXANDER

26 May it please the Court. Would you advise me as to when I
27 have five minutes left? Thank you.

28 Ladies and gentlemen, this is my last opportunity to addres
29 you on behalf of the Defendants, Gladys Scott and Jamie Scott.

1 After I finish talking with you, Mr. Turner will have a chance to
2 get up and try to explain away what I have said. We have a limited
3 amount of time to argue this case to you, and although I will
4 probably talk a long time, the Judge has only given me thirty
5 minutes.

6 Because we have a limited amount of time, Ms. Pierson has
7 asked that I do the argument for both Defendants, so that we will
8 be able to present our point of view in a coherent fashion, and I
9 won't sit down and then she gets up and so forth.

10 We are in agreement on what the evidence shows, and the
11 evidence does not show that the State of Mississippi has met its
12 burden of proof in this case. The State of Mississippi has failed
13 to prove guilt beyond a reasonable doubt.

14 I want to discuss with you, first of all, what did come from
15 the witness stand, and I want to comment on one remark that was
16 made by the argument that was just concluded.

17 You were asked to think about what you heard come from the
18 witness stand, and just base your verdict on what you heard come
19 from the witness stand. Well, I think you should go a little bit
20 further.

21 I think you should listen and think about what you heard from
22 the witness stand, and then decide whether you believe it, because
23 we all know that people can get up here and swear to all kinds of
24 things; but, a jury's job is to decide what you believe.

25 So, yes, you should base your verdict on what you heard from
26 the witness stand, but you should also base it on how much of it
27 you believe, and if you don't believe enough for the State to have
28 met its burden of proof, then your obligation is to find both
29 Defendants not guilty.

1 I want to talk to you about what you heard from the witness
2 stand. The State produced five witnesses in this case, five
3 witnesses.

4 The first witness was Johnny Ray Hayes, and it is true that
5 Mr. Hayes said that -- on the witness stand, he said that Miss
6 Scott, Miss Gladys Scott and Miss Jamie Scott, arrived at the Mini
7 Mart in a blue Oldsmobile. What he also admitted was that he
8 didn't tell the Sheriff that when he talked to him.

9 So, yes, you have to think about what he didn't say. He
10 didn't say that. He also testified from the witness stand Miss
11 Scott came over and asked for a ride. He said that. He also said
12 that although she was asking for a ride, he saw that she was
13 driving a car, riding in a car. Both of them were riding in a car,
14 but he testified that she asked for a ride.

15 Now, he didn't say he asked her, "Why do you need a ride if
16 you are riding in a car?" He didn't say that. The question is
17 whether or not he is telling you the truth when he says that she
18 came over and asked him for a ride, or did he approach her.

19 You heard one witness, the last witness who testified in the
20 case, said Mr. Hayes went to her apartment and wanted to talk to
21 her. Now, doesn't that cast some doubt on whether or not she
22 actually approached him, or he approached her, especially since
23 what he had said does not make sense?

24 You don't have to disregard common sense when you go into the
25 jury room.

26 Well, the next thing he said is that the car followed them all
27 night. Well, that doesn't make sense either. If he knows that a
28 car is following them, a car that she was riding in, and he says
29 she was driving, and he saw no one else in that car, but the car

1 was following them all night, does that make sense? Does it make
2 sense that he wouldn't ask, "Why is this car following me?" if you
3 need a ride? Mr. Hayes did not explain that to you.

4 He said that he and Mr. Duckworth were both drinking that
5 evening, told you how much he had to drink. Said he had twelve
6 ounces of beer. Well, if he says he had twelve ounces of beer, do
7 you think that is all he had? He says he had twelve ounces.

8 Now, he didn't tell the Sheriff that he had any beer to drink.
9 That wasn't part of what he told the Sheriff. He left that part
10 out, but he said he had twelve ounces of beer, and Mr. Duckworth
11 had some beer, too.

12 He said that Jamie Scott and Duckworth were talking in the
13 backseat, but he couldn't tell whether they were arguing, and he
14 wasn't able to say whether or not Duckworth was getting friendlier
15 in the backseat than Jamie Scott wanted him to. That's what he
16 said. He didn't deny that they were arguing, or that there was
17 some problem going on in the backseat. He didn't deny that. He
18 just said he couldn't tell.

19 He said when Jamie said she felt sick, he said, "Don't throw
20 up in my car." Now, what does that mean but stop my car? What
21 does that mean but stop the car?

22 He said that neither Jamie Scott, nor Gladys Scott, had a
23 weapon. That's what he said. He said that they didn't do anything
24 during the robbery. That's what he said.

25 He said he called their father to ask for some money. Why?
26 Why was he trying to extort money from their father? Now, this is
27 his testimony. This is the State's witness. He testified that he
28 called their father and asked for some money. "I wanted what
29 belonged to me," he said. "Well, what was it that belonged to

1 you?" "Well, money." "You were calling the father to ask for some
2 money that you say someone else took from you?"

3 Well, like I say, you don't have to disregard your common
4 sense. Mr. Hayes is just trying to get some money here. Now, I
5 will get back to that in a few minutes.

6 He also testified that he talked to Gladys Scott at the
7 apartment complex here in Forest, denied that he told her that he
8 had a pocket full of money; but, he was impeached, ladies and
9 gentlemen, by the last witness who testified, who said he did say
10 that. Now, that proof shows several things.

11 The first thing it shows is that Johnny Ray Hayes doesn't tel
12 the truth; but, that shouldn't come as a surprise to you. In any
13 event, it also shows that he didn't treat Gladys Scott like a
14 person who had robbed him. People don't usually go and seek out
15 other individuals they say have robbed them. That does not make
16 sense.

17 How can you believe beyond a reasonable doubt that Gladys
18 Scott and Jamie Scott were involved in a robbery of Hayes, and
19 Hayes believed it, but, yet, Hayes is the one seeking her out? That
20 makes absolutely no sense.

21 Now, the District Attorney didn't discuss that. Maybe, Mr.
22 Turner will have something to say about that; but, that eliminates
23 the possibility that they established the guilt of these Defendants
24 beyond a reasonable doubt, based upon Johnny Hayes' own testimony

25 But, after Johnny Hayes testified, you heard the testimony of
26 Mr. Duckworth.

27 One other point I want to make is Mr. Hayes and Mr. Duckworth
28 are on the witness stand, Mr. Hayes said that Jamie Scott and
29 Gladys Scott got into the car with the people who had robbed them.

1 Well, that would seem to be a very important fact; but, he couldn't
2 explain why it was that he didn't tell the Sheriff that the day
3 after it happened. Now, that doesn't make any sense. He couldn't
4 explain that. Why didn't he tell the Sheriff that? Is that
5 something that the Sheriff suggested, or why was it he didn't tell
6 the Sheriff that, if it happened?

7 I submit to you, ladies and gentlemen, it just didn't happen.

8 I will get back to that in a minute.

9 But, then we have the testimony of Mr. Duckworth. Mr.
10 Duckworth is an individual who has been convicted of grand larceny.
11 He admitted that he had been convicted of DUI three times. He was
12 reluctant to admit that he had been convicted of driving under a
13 suspended license three times. You know, he sat there and had to
14 figure about that a while, but that's Mr. Duckworth.

15 What does that say about a person when they have beer
16 convicted of DUI three times? After the first time, he continued
17 to drive drunk. The second time he continued to drive drunk. The
18 third time he continued to drive drunk. That person has got a
19 serious drinking problem, a serious drinking problem.

20 But, when he got on the witness stand here today, yesterday,
21 despite the fact that Johnny Ray Hayes had said both of them had
22 been drinking, he told you neither one had.

23 Now, ladies and gentlemen, that couldn't be true. Johnny Ray
24 Hayes told you he drank beer every day. Mitchell Duckworth has
25 been convicted of DUI three times. They both go in and buy beer,
26 and neither one of them drinks it, according to Mr. Duckworth.

27 That's the kind of proof the State of Mississippi has
28 presented to you to get you to send these young women to jail for
29 the rest of their lives, to deprive them of their liberty. That's

1 the kind of proof they are offering to you and asking you to say,
2 "Yes, I believe these people beyond a reasonable doubt." That's
3 the kind of evidence that you heard. That's the evidence that th
4 presented from the witness stand. They can't both be telling the
5 truth about whether they were drinking. Neither one of them told
6 the Sheriff anything about drinking, about even having any beer.

7 Now, when he talked to the Sheriff, Duckworth told the Sheriff
8 that they were robbed by two men. I asked him about that on the
9 stand. You may remember I asked him about that. He said, "Yeah,
10 I told the Sheriff it was two men, but it had to be three, because
11 one had to have been driving the car. The car couldn't drive b
12 itself." "Well, how many men did you see?" "Well, I saw two."

13 Well, ladies and gentlemen, the State's theory in this case is
14 that there were three robbers. Are we talking about the same
15 event?

16 Mr. Duckworth doesn't feel like it is even significant ho
17 many robbers there were. He says he is being robbed by two people,
18 but the State says there were three there. Here again, that's the
19 evidence that the State is offering to you.

20 He said that when Jamie Scott said she was feeling sick, he
21 thought the only reasonable thing to do was to stop the car, and he
22 thought that's what Johnny Ray Hayes was saying. If he didn't want
23 her to throw up in the car, the only thing that could be done was
24 stop the car.

25 Now, the District Attorney said, "Well, did she throw up?"
26 "No, she didn't throw up." Well, I guess that's supposed to mean
27 that she wasn't feeling sick, if she didn't throw up right then.
28 I guess he wants to ignore the fact that the whole purpose ir
29 stopping the car was so she wouldn't throw up.

1 He also has a very strange lapse when he talks to the Sheriff
2 about this particular event. The very next day he talked to the
3 Sheriff, too, and he doesn't tell the Sheriff that the girls, the
4 young women, left in the car with the robbers. He doesn't say that
5 either.

6 Now, ladies and gentlemen, maybe one of them -- you might
7 possibly slip one by, but both of them? Well, it doesn't make
8 sense. How is it if they left with the robbers, neither one of
9 these men could remember that, or don't mention it to the Sheriff?
10 Neither one of them.

11 The logical conclusion to draw from that is it didn't happen
12 that way. They didn't leave with the robbers. If they had left
13 with the robbers, at least one of them would have said so,
14 Duckworth or Hayes. Neither one of them said so, so it just didn't
15 happen.

16 Now, we are not dealing here with Hayes and Duckworth and
17 persons who always tell the truth, because you saw that they don't
18 always tell the truth. They lie. You saw the lies in Court, and
19 their evidence is not good enough to deprive anyone of their
20 liberty for one day, much less a lifetime. It's just not good
21 enough.

22 Well, the State knew that. The State knew that it's two
23 witnesses just weren't good enough, and that's why they brought in
24 these two young boys that they've been holding in jail for ten
25 months, threatened, promised them. Why? Why did they hold them in
26 jail for ten months after those boys said, "Well, I'll confess. I
27 did it. I did it."

28 The first one, Howard Patrick, testified he signed a statement
29 without reading it. Fourteen years old. Signed a statement

1 without reading it. Why did he sign a statement without reading
2 it? He said he was told if he signed that statement, he would be
3 allowed out of jail the next day.

4 This is the State's witness who said that, voluntarily... He
5 didn't prompt him to say that, but that's what he said. He said he
6 signed a statement, because he was promised he would be released
7 from jail the next day, and he wasn't.

8 He also said he was told if he didn't, quote, participate, and
9 I interpret that to mean cooperate, that he would be sent to
10 Parchman, and he would be made into a female. That's what he said.
11 That's what their witness said, and they want you to believe wh
12 that fourteen year old, who has been in jail for ten months, said
13 after he had been threatened, lied to by the State.

14 They want you to believe what he had to say beyond a
15 reasonable doubt, and he also said, "Well, I won't be allowed to
16 plead guilty, I won't be able to get in front of the Judge and
17 plead guilty, and get a chance to go to the penitentiary, if I
18 don't testify against Jamie Scott and Gladys Scott." That's what
19 he said. "If I don't testify against them, I can't plead guilty,
20 and get the deal that my lawyer got for me." That's what he said.
21 This is their witness.

22 He also said that he wanted to plead guilty to a lesser
23 charge, because he wanted to spend as little time in jail as
24 possible, just like he signed the statement without reading it,
25 because he wanted to get out of jail.

26 Does he have a motivation to lie? Well, I can't think of a
27 greater motivation to lie than what he testified to. Yet, the
28 State wants you to believe that evidence beyond a reasonable doubt.
29 "Well, why didn't you have a lawyer there when you were talking to

1 because we saw some fighting going on in that backseat."

2 Now, this is their witness. This is their witness. They
3 offered him. Ladies and gentlemen, to stop for that, they didn't
4 stop to rob these people. That means there couldn't have been a
5 plan to rob them.

6 Now, why would Gregory say that if it wasn't true? You know,
7 he is saying everything else he is saying to convince the State to
8 let him take the plea, but this is himself. You finally hear what
9 actually happened, according to him.

10 Now, that's not what the State is trying to convince you of.

11 I want to talk with you now. You have heard now what the
12 evidence of the State was. You have heard all four of their
13 witnesses.

14 Marvin Williams got on the stand and got right back off.
15 Okay? But, he is the one who coerced these boys. He's the one
16 that decided that everybody was going to say that Gladys Scott and
17 Jamie Scott got in the car with the robbers and left. He's the one
18 who did all the dirty work behind the scene and had the least to
19 say on the stand.

20 He didn't deny that he coerced those boys and promised to let
21 them out of jail, threatened that fourteen year old. He didn't
22 deny it. Didn't have a chance to.

23 I want to talk to you now very briefly about these
24 instructions.

25 One instruction says it is your duty to read the instructions.
26 Another instruction tells you that it is also --

27 BY THE CIRCUIT CLERK: You have five minutes remaining.

28 BY MR. ALEXANDER: Thank you. Another instruction also tells
29 you it is your duty to decide this case after talking with

1 everybody else on the jury, decide it for yourself, and as long as
2 you feel like there's a reasonable doubt here, I submit to you
3 there's more than a reasonable doubt.

4 As long as you feel like there's a reasonable doubt here, you
5 have the duty to vote not guilty on every ballot. All of you told
6 me that you have enough integrity and strength to sit there as long
7 as you had to, and vote not guilty, as long as you were convinced
8 that the State hadn't met its burden of proof.

9 Ladies and gentlemen, they presented to you four people, none
10 of whom were believable, several of whom were caught in lies right
11 in your face. That's not the kind of evidence that you punish
12 people based upon.

13 There's a real doubt here as to whether there's a robbery at
14 all. Johnny Ray Hayes going to visit Gladys Scott does not seem
15 like he was robbed; but, in any event, there is no proof, no
16 credible, no believable proof, that these people, these Defendants,
17 robbed anybody.

18 The Court has told you in the instructions that to the extent
19 Howard Patrick and Gregory Patrick are considered accomplices. You
20 are instructed under the law to view their testimony with caution
21 and suspicion. They told you they have a reason to lie. They told
22 you unless they convince the State, unless they persuade the State
23 that they are cooperating, they won't be allowed to go to jail, to
24 get a deal that was negotiated for them.

25 Yes, their testimony should be viewed with suspicion; but, I
26 submit the testimony of Hayes and Duckworth should also be viewed
27 with great suspicion and caution.

28 When you get back there, and you decide that the evidence just
29 doesn't support this case for the State, they haven't met their

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1 burden of proof, the likelihood is someone will say, "Well, let's
2 vote guilty and just don't sentence them to life in prison."

3 "Don't compromise. They are not guilty. Don't vote them
4 guilty on anything."

5 "There is one instruction here that tells you how to decide
6 this case. The instruction says, "In the event you find both
7 Defendants not guilty, the form of your verdict should be as
8 follows: We, the jury, find the Defendants Gladys Scott and Jamie
9 Scott, not guilty." There's one of these for each count.

10 "You are the only protection. A jury is the only protection a
11 citizen has from an oppressive, unreasonable, government. You are
12 the only protection that Gregory Patrick and Howard Patrick could
13 have had. They didn't get the benefit of a jury."

14 Gladys Scott and Jamie Scott are entitled to be found not
15 guilty by you. Why? Because the State of Mississippi has not met
16 its burden of proof.

17 Thank you, Your Honor.

18 BY THE COURT: Continue the argument for the State.

19 CLOSING ARGUMENT FOR THE STATE BY MR. TURNER

20 If it please the Court. Ladies and gentlemen, I have some
21 comments I want to make to you, but before I get to my comments, I
22 would like to address some of the ones made by the defense counsel,
23 and as I am doing this, keep in mind and ask yourself how much of
24 this really has anything to do with whether these Defendants are
25 guilty of robbery.

26 The first thing he said was that the Defendants, Gladys and
27 Jamie Scott, asked Mr. Hayes for a ride, or did he approach them?
28 Then he said, "Well, one witness said Mr. Hayes came to the
29 apartments and approached her," but if you will remember, that

1 witness was talking about something that happened six or eight
2 months down the road, not the night of the robbery.

3 And, then whether or not the car followed Mr. Hayes. Well,
4 Mr. Duckworth said the car was behind them, and that the Defendants
5 said, when they brought that up, "No, that car's not following us.
6 It just happens to be behind us." The Defendants had tried to talk
7 him out of thinking someone was following the car.

8 Whether or not Mr. Hayes told the Sheriff, when he was telling
9 him about the robbery, whether or not he had had any beer. Think
10 about it. You know, if you are out there in the middle of nowhere,
11 and you are robbed with a shotgun, are you going to be telling the
12 Sheriff about the robbery, or are you going to be telling him about
13 what all is in your car? It's immaterial, and I believe that's
14 what Mr. Hayes said. It didn't have anything to do with whether or
15 not he got robbed.

16 That's just a smoke screen laid down by the defense lawyer,
17 because they don't have anything better to talk about, because they
18 know these Defendants are guilty, just like the two victims and the
19 two Co-Defendants said they are.

20 Mr. Alexander said, "Well, neither Defendant had a weapon.
21 Neither Gladys or Jamie Scott had a weapon." That doesn't matter,
22 because the instructions tell you if they encourage someone else or
23 counsel them or aid them in any way in committing this robbery.
24 they are equally guilty. Everybody there that was involved in it
25 doesn't have to have a weapon in their hand to be guilty of armed
26 robbery, as long as one of them does, and that was the testimony,
27 that Christopher Patrick did.

28 Mr. Alexander said, "Well, Mr. Hayes called the Defendants'
29 father sometime after this happened." As I recall Mr. Hayes'

ger
1 testimony, he said the Defendants' father approached him up here
2 the Courthouse when he was up here for this case prior to
3 coming to trial, and asked him would he take some money to drop t
4 charges, and then later on, Mr. Hayes called him, because he said
5 "I wanted to get my money back." That doesn't make these tw
6 Defendants any less guilty of the crime of armed robbery.

7 He talked about Mr. Duckworth being convicted of grand larceny
8 and DUI and driving with a suspended license. I guess what he is
9 saying is, as long as you rob somebody that has a criminal record,
10 it's okay and you shouldn't be punished. Somebody like Mr.
11 Duckworth doesn't deserve to be protected by the law from arm
12 robbery, but as long you can find somebody that's driving with a
13 suspended license and rob them, no harm, but I don't think that's
14 what you want in Scott County, and I don't think that's what the
15 law provides for in Scott County.

16 He said Mr. Duckworth said that he saw two men out there, and
17 he said, "If there were three men, it must not have been the same
18 robbery," according to Mr. Alexander; but, if you think about it,
19 you are out on a country road between 11:00 and 12:00 o'clock at
20 night, you know, there's no streetlights out there or anything,
21 you've got a shotgun shoved in your face, you are made to lie down
22 in a ditch, and you are robbed. So what if you only saw two men?
23 You know from the testimony there was three out there. There's no
24 dispute about that. That's just another smoke screen laid down by
25 the defense lawyer to get your mind off the fact the Defendants are
26 guilty.

27 BY MR. ALEXANDER: Object to that, Your Honor, as to what
28 there is a dispute about.

29 BY THE COURT: Beg your pardon?

1 BY MR. ALEXANDER: Object to counsel talking about what there
2 is not a dispute about.

3 BY THE COURT: Overruled.

4 BY MR. TURNER: He said Mr. Duckworth didn't tell the Sheriff
5 that the Defendants, Jamie and Gladys Scott, left with the Patrick
6 boys after the robbery. Well, that's just not true. I went back
7 and looked at my notes when he said that, and that's one of the
8 first things the defense lawyer asked Mitchell Duckworth on cross-
9 examination about, and Mitchell Duckworth said he talked to Marvin
10 Williams, Deputy Sheriff, two times, and both times told him that
11 the Defendants got in the Oldsmobile with the Patricks after the
12 robbery and left.

13 That's why lawyer talk is not to be considered as evidence,
14 but only the testimony from the witness stand.

15 Then he talked about Howard and Gregory Patrick, and I guess
16 more than inferred they were up here lying so they could take the
17 plea-bargaining; but, both of them testified that the only thing
18 they had ever been asked to do, in connection with their plea-
19 bargain, is to give truthful testimony, not to shade it one way or
20 the other, but just to tell what happened.

21 Then he jumps on Marvin Williams, the Deputy Sheriff. He says
22 Marvin Williams is the one who coerced the Patrick boys into
23 testifying like they did, and that Marvin Williams decided what
24 everybody was going to say and did the dirty work.

25 Well, I guess it's popular these days to jump on law
26 enforcement officers that protect us, and when it is convenient to
27 do so, jump on the victims of crime and trash them; but, let me
28 tell you something. That's lawyer talk, too. That's not evidence
29 from the witness stand. That's the defense lawyer blowing another

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1 smoke screen out to you.

2 There's no evidence to suggest that Marvin Williams did
3 anything illegal or immoral or improper in this case.

4 BY MR. ALEXANDER: Object to that.

5 BY THE COURT: What is your objection?

6 BY MR. ALEXANDER: My objection is counsel commenting on the
7 lack of evidence.

8 BY THE COURT: Objection overruled.

9 BY MR. TURNER: It's absurd, as Mr. Alexander said during the
10 latter part of his closing argument, to say there's a real doubt if
11 any robbery at all occurred. That would be to totally go to sleep
12 yesterday and to ignore every witness who got on the stand.

13 You will remember today that Marvin Williams said that after
14 he took the information from Johnny Ray Hayes and Mitchell
15 Duckworth about the robbery and where it occurred, he went out to
16 the scene and found this wallet there with Mr. Hayes' cards in it,
17 but no money. No money, because the Defendants and the Patrick
18 boys had robbed that money from Mr. Hayes.

19 Then finally Mr. Alexander says, "The jury is the only
20 protection a citizen has." But, now, that cuts both ways. You are
21 the only protection that innocent victims of robberies have, too,
22 because the only way that the people that are responsible for the
23 robbery can be punished, can be held responsible for their actions,
24 is if you hold them responsible.

25 The law enforcement has done their job in this case. The
26 victims have done their job. They have come to Court and
27 testified. Even some of the people involved in the robbery have
28 testified; but, now, we are going to have to pass the ball to you,
29 and tell you if anything is going to be done about this robbery and

1 the Defendants involved in it, you are going to have to be the one
2 to do it.

3 Again, we want you to not go by what we say, but go by the
4 evidence from the witness stand, as you said you would do in voir-
5 dire yesterday.

6 Johnny Ray Hayes and Mitchell Duckworth testified that both
7 Defendants, Gladys and Jamie Scott, got in the car with them at the
8 Mini Mart, and that the blue Oldsmobile that they got out of
9 followed them all the way out to the Cow Pasture. That the girls
10 said they wanted to get out at the Cow Pasture and use the
11 bathroom. So, they got out. When they got back in, Gladys Scott
12 wanted to drive. That was, apparently, part of the plan.

13 But, she drives over across the road, gets out and goes over
14 to the people in the blue Oldsmobile, and you heard the two Patrick
15 boys say what they were talking about, planning the robbery. Jamie
16 is going to act like she is sick, and when we stop the car, y'all
17 come up and rob them.

18 So, when they get back in the car, Gladys does just that.
19 She's driving. Jamie acts sick. They stop the car, and these
20 Patrick boys approach the vehicle of Mr. Hayes and Mr. Duckworth,
21 ram a shotgun in their face, get them out of the car, lay them down
22 in a ditch, steal Mr. Duckworth's wallet, and steal Mr. Hayes'
23 wallet and money.

24 These are facts that were testified to before you yesterday,
25 and they were corroborated by both of the Patrick boys, Howard and
26 Gregory Patrick. They testified to the same facts that Mitchell
27 Duckworth and Johnny Ray Hayes testified to.

28 Plus, they testified, too, it was Gladys' and Jamie's idea to
29 commit the robbery. They are the ones that came up with the plan.

1 They are the ones that came over to the car and said, "This is what
2 we are going to do." Gladys, "I'm going to be driving. Jamie is
3 going to act sick. When we stop the car, y'all come up and rob
4 them." Jamie came up to the car and talked to them about it, too,
5 if you will recall the testimony.

6 You will recall, also, that both the Patrick boys, Howard and
7 Gregory, testified that at one point in time, Gladys gave the
8 command to Christopher, who was the one holding the shotgun, to go
9 check the victims' car to see if there was any money in there, and
10 while he did that, he handed her the shotgun. Gladys was the one
11 holding the shotgun at that point, and that's how she wasn't
12 involved in the robbery to you?

13 Then, as Mr. Hayes and Mr. Duckworth both testified, and so
14 did Gregory and Howard Patrick, that both of the Defendants, Gladys
15 and Jamie Scott, got in the blue Oldsmobile with all three Patrick
16 boys after the robbery and drove away from the scene of the crime
17 with them. They went back to one of the girls' house and split the
18 money. Gladys and Jamie got their share of the money in the
19 robbery, just like the three Patrick boys did.

20 Now, Instruction S-2 tells you about how to treat someone who
21 is in the situation that Jamie and Gladys Scott are in this case.
22 They are called aiders and abettors. We talked about that some
23 yesterday. Instruction S-2 says that an aider and abettor is any
24 person who is present, which they were, during the commission of a
25 criminal offense and aids, counsels, or encourages, which they did,
26 another person or persons in the commission of that offense, and an
27 aider and abettor is equally guilty with the principal Defendants,
28 which they are.

29 You know, if not for these two Defendants, Gladys Scott and

1 Jamie Scott, the robberies of Johnny Ray Hayes and Mitchell
2 Duckworth would never have happened. They thought it up. They
3 came up with the plan. They duped three young teenage boys into
4 going along and doing something stupid that is going to cost them
5 the next eight years of their lives in the penitentiary.

6 That probably makes me, at least, as mad about this case,
7 simply at least as much, as the fact two people got robbed. That
8 three young boys are the ones that got duped into doing the dirty
9 work.

10 Howard Patrick is fourteen years old, but Jamie and Gladys
11 Scott talked Howard and Gregory and Chris Patrick into doing
12 something stupid, and now all three of those teenagers are bound
13 for Parchman.

14 BY MR. ALEXANDER: Your Honor, if the Court, please, counsel
15 has exceeded his time.

16 BY THE COURT: Beg your pardon?

17 BY MR. ALEXANDER: Counsel has exceeded his time.

18 BY THE COURT: Overruled.

19 BY MR. TURNER: Are we going to let the adults who planned the
20 robbery, who talked the teenage boys into doing the dirty work, who
21 drove off with the boys after the robbery, who split the money with
22 them, just get away scot-free?

23 Howard, Gregory, and Christopher Patrick may all be young, but
24 at least they are willing to accept the responsibility for what
25 they did and admit their guilt and face the music.

26 You know, it would be a shame, and in my opinion, it would be
27 an affront to justice if we made those three boys pay for their
28 crime, but let the two Defendants here go free from their
29 responsibility for their part in the crime.

1 There are two instructions with the forms of the verdict on
2 it, Instruction S-4 and S-4-A.

3 As Mr. Duncan told you, S-4 deals with Count I, and S-4
4 deals with Count II, and the first paragraph of each, you can find
5 both Defendants guilty and fix their punishment at life
6 imprisonment, and in the second, you can find them guilty as
7 charged, and the Judge will fix their penalty.

8 There's are two reasons I see to justify a life sentence, if
9 that's what you choose to give them.

10 Number one is there were two people that got robbed. This is
11 not just one armed robbery we are talking about. This is two
12 people, two innocent victims that were robbed.

13 Number two, and, perhaps, again at least as important, these
14 two Defendants are the ones that talked these three teenage boys
15 into helping them rob Mr. Hayes and Mr. Duckworth.

16 Howard Patrick ought to be in junior high school today.
17 That's where he ought to be sitting instead of in jail.

18 Christopher and Gregory ought to be in high school; but,
19 instead, they are going to prison, and the only reason they are is
20 because these two ladies over here talked them into helping them do
21 their dirty work in robbing Mr. Hayes and Mr. Duckworth.

22 Whatever you do, don't let them escape responsibility for
23 their actions, and if you choose, you have the authority to punish
24 them with a life sentence.

25 Thank you.

26 BY THE CIRCUIT CLERK: You have one minute remaining.

27 BY THE COURT: Ethal Ree Anderson, no juror has vacated their
28 seat, so I am going to let you find your seat in the Courtroom.

29 (ALTERNATE JUROR IS EXCUSED)

Verdict

1 BY THE COURT: Mr. Stacy Weger, the Court has a need for
2 someone to conduct the conversations of the jury and serve as the
3 spokesman between the jury and the Court.

4 Whenever you go to the jury room, from among yourselves you
5 select that person.

6 Now, the Clerk will furnish you the matters that have been
7 introduced into evidence as exhibits, the jury instructions, and
8 clean sheets of paper.

9 There's two instructions that has the forms of the verdicts
10 that can be returned in this case. All twelve of you must agree to
11 the verdict that is returned.

12 You must return separate verdicts for these two Defendants, a
13 verdict for each Defendant. In the event all twelve of you do
14 agree, you write your verdict on a separate sheet of paper, with no
15 writing on that separate sheet of paper, other than the verdict
16 the jury.

17 Announce to the Bailiffs that you have arrived at a verdict,
18 remain there in the jury room, and I will send for you.

19 Would you please, Mr. Weger, come around and receive these
20 matters from the Clerk?

21 I am going to let the jury, please, be retired with the
22 Bailiffs.

23 WHEREUPON, AT 11:35 A.M., THE JURY WAS RETIRED TO THE JURY
24 ROOM TO DELIBERATE ITS VERDICTS. AT 12:11 P.M., WITH THE
25 DEFENDANTS AND ALL ATTORNEYS PRESENT IN THE COURTROOM, THE JURY WAS
26 RETURNED TO THE COURTROOM, IN FRONT OF THE BENCH, AND THE FOLLOWING
27 PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:

28 BY THE COURT: Let the record show all twelve jurors are in
29 the Courtroom in the presence of the Defendants and the attorneys

1 on this, a regular day of this term.

2 It was announced to me that the jury had reached a verdict.
3 Mr. Weger, is my information correct? Are you the spokesman for
4 the jury?

5 BY JUROR WEGER: Yes, sir.

6 BY THE COURT: Is my information correct, the jury has reached
7 a verdict?

8 BY JUROR WEGER: Yes, sir.

9 BY THE COURT: Have you reached a verdict regarding both
10 Defendants?

11 BY JUROR WEGER: Yes, sir.

12 BY THE COURT: And, is the verdict regarding both Defendants
13 a unanimous verdict?

14 BY JUROR WEGER: Yes, sir.

15 BY THE COURT: May I see the verdicts, please?

16 (JUDGE EXAMINES VERDICTS)

17 BY THE COURT: The two verdicts that were handed me, did you
18 agree to both of them?

19 BY JUROR WEGER: Yes, sir.

20 (JURY IS POLLED)

21 BY THE COURT: Do not file the verdicts, but read both
22 verdicts.

23 BY THE CIRCUIT CLERK: "We, the jury, find the Defendants,
24 Gladys Scott and Jamie Scott, guilty as charged in Count I and
25 unanimously agree to fix their punishment at imprisonment for
26 life."

27 "We, the jury, find the Defendants, Gladys Scott and Jamie
28 Scott, guilty as charged in Count II and unanimously agree to fix
29 their punishment at imprisonment for life."

Sentencing

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1 BY THE COURT: Mr. Alexander, would you like the jury again to
2 be polled?

3 BY MR. ALEXANDER: Yes, sir.

4 BY THE COURT: The verdicts that were read by the Clerk, did
5 you agree to both of those verdicts?

6 BY JUROR WEGER: Yes, sir.

7 (JURY IS POLLED)

8 BY THE COURT: Upon again being polled, all twelve jurors
9 indicated that they agreed to both verdicts as read by the Clerk.

10 Ladies and gentlemen, I am going to let you be recessed for
11 the remainder of the day. You call in after 5:00 o'clock this
12 afternoon for instructions when to return.

13 You may pass through this door.

14 (JURORS ARE EXCUSED AND EXIT THE COURTROOM)

15 BY THE COURT: Let both Defendants please stand. Do you have
16 any reason, anything to say, why sentence should not be pronounced
17 at this time?

18 BY MR. ALEXANDER: No, Your Honor.

19 BY THE COURT: Do you, Ms. Pierson?

20 BY MS. PIERSON: No, Your Honor.

21 BY THE COURT: Gladys Scott, Jamie Scott, you both have been
22 found guilty as charged. The jury had the option of sentencing you
23 to life imprisonment for the crime of armed robbery. They have
24 elected to sentence you to life imprisonment.

25 Therefore, Gladys Scott, it is the sentence of this Court that
26 you serve life imprisonment in Count I of the indictment. In Count
27 II of the indictment, it's the sentence of this Court that you
28 serve life imprisonment, with this sentence to run consecutive to
29 the sentence pronounced upon you in Count I.

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1 Jamie Scott, it is the sentence of this Court in Count I of
2 the indictment that you serve life imprisonment, and in Count II of
3 the indictment, it is the sentence of this Court that you serve
4 life imprisonment, with this sentence to run consecutive to the
5 sentence pronounced upon you in Count I.

6 Both of you are committed to the custody of the Sheriff of
7 this county.

8 Court is in recess until 1:00 o'clock.

9 WHEREUPON, THESE PROCEEDINGS WERE CONCLUDED FOR THE DAY. ON
10 THURSDAY, OCTOBER 13, 1994, THE JUDGE, COURT REPORTER, MR. TURNER,
11 MR. DUNCAN, MR. ALEXANDER, AND MS. PIERSON RETIRED TO CHAMBERS, THE
12 PRESENCE OF THE DEFENDANTS BEING WAIVED, AND THE FOLLOWING
13 PROCEEDINGS WERE HAD:

14 BY THE COURT: For the record, Mr. Alexander has requested the
15 District Attorney to acknowledge his failure to provide a written
16 statement that he has no criminal record of the witness.

17 BY MR. ALEXANDER: Your Honor, it was several witnesses they
18 never provided us any documentation for. The District Attorney,
19 despite the motion submitted by the defense, never provided any
20 written documentation of any criminal histories of any of the
21 witnesses who testified on behalf of the State or listed as
22 possible witnesses on behalf of the State.

23 In the trial, one of the complaining witnesses was currently
24 incarcerated in the Simpson County Jail, and his appearance had
25 been procured by the District Attorney, but that fact was not made
26 known to the defense prior to the morning of the trial, and the
27 defense was left with only the testimony and claims of the witness
28 as to his criminal history, and to this date, defense counsel is
29 unaware of the actual criminal histories of the witnesses offered

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1 by the State.

2 BY THE COURT: Mr. Turner, do you care to make a response?

3 BY MR. TURNER: First of all, the Defendants' motion was nev.
4 brought on for hearing before the Court, and no request, other than
5 the filing of a written motion. No motion was made, or request for
6 a criminal history, other than prior to the trial, on Thursday, Mr.
7 Alexander called my office and said it was his understanding one of
8 the witnesses, Mitchell Duckworth, was possibly incarcerated, at
9 which time I had the Scott County Sheriff's Office inquire of that,
10 and they were told by Simpson County they had a Duckworth there,
11 but it was not a Mitchell Duckworth.

12 Then on the morning of the trial, Mitchell Duckworth was here.
13 I inquired of him, and he said he had a third offense DUI and a
14 grand larceny charge, which was made known to Mr. Alexander prior
15 to his testimony, and it was testified to by the witness.

16 The only other witnesses were Johnny Ray Hayes and the two
17 minors, whose plea-bargaining had been made known to the defense.

18 BY THE COURT: If you have something in addition to say on the
19 motion, I will hear it.

20 BY MR. ALEXANDER: Your Honor, with regard to the plea-
21 bargains that had been entered into or alleged by the District
22 Attorney, that was never given to us by written disclosure either.
23 We were informed they might testify, but we were never informed of
24 the actual inducements to testify, and when those inducements were
25 accepted prior to the morning of the trial, we were not aware that
26 severances had been granted.

27 BY MR. TURNER: Your Honor, although, there was no written
28 information concerning the plea-bargains, I was requested by th
29 defense counsel why their clients could not get the same deal.

1 (PAUSE IN PROCEEDINGS)

2 BY THE COURT: Now, Mr. Turner, do you have any additional
3 statement for the record?

4 BY MR. TURNER: No, sir.

5 BY THE COURT: All right. Mr. Alexander?

6 BY MR. ALEXANDER: Yes, sir. As Mr. Turner stated, the
7 District Attorney never provided us the specifics of any plea-
8 bargaining arrangements with any of the State's witnesses.

9 The information we obtained concerning that was from other
10 defense counsel, and we asked Mr. Turner what his proposal was as
11 far as our clients were concerned. Mr. Turner did not in writing
12 or specifically tell us what he offered, when he offered it, and
13 what the response was.

14 He indicated he expected those individuals to testify, but our
15 only information came from other defense counsel, and we were
16 entitled to a statement from the State concerning that, and we were
17 entitled to know about it definitely before the morning of the
18 trial, and whether a severance would be granted pursuant to our
19 motion.

20 BY THE COURT: Anything else?

21 BY MR. ALEXANDER: No, sir.

22 BY THE COURT: As I recall, you were present in Chambers here,
23 along with all the other attorneys who represented the Defendants,
24 when I inquired of what was the plea-bargaining regarding the
25 witnesses who later testified, and I was informed at that time,
26 that the two minor Patrick witnesses who testified were to plead
27 guilty and agreed to testify, plead guilty to the crime of strong
28 armed robbery with a recommendation of the State to be sentenced to
29 serve eight years in the penitentiary.

Motion

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1 I declined to accept that recommendation regarding Christoph
2 Patrick, until it was later made known to me his eight year
3 sentence was to run consecutively, at which time I did agree
4 accept it.

5 I think you were present at that time; were you not?

6 BY MR. ALEXANDER: Yes, sir.

7 BY THE COURT: I don't know whether this is a matter of a
8 motion or what it is, but it is a matter that certainly should have
9 been raised during the trial of the case or before the trial of the
10 case, if there was any problem or misunderstanding.

11 Whenever we get into a situation like this, both of you
12 contradicting the other regarding what was disclosed and what was
13 not, and the manner of disclosure, it creates a problem for the
14 Court.

15 But, if it is a motion for a new trial or whatever it is, it
16 is overruled.

17 BY MR. ALEXANDER: It is contained in our motion for a new
18 trial.

19 BY THE COURT: All right. Anything else?

20 BY MR. ALEXANDER: Would you indulge us for just one moment.

21 (PAUSE IN PROCEEDINGS)

22 BY THE COURT: Certainly, I want the record to show that prior
23 to the testimony of the witness Duckworth, you were given an
24 opportunity to have a full conference with him regarding any
25 criminal activity he had been involved in. I allowed that.

26 BY MR. ALEXANDER: That is correct, Your Honor, but our motion
27 was not directed to getting that information from the witness, and
28 we felt like we were entitled to get it from the State of
29 Mississippi, and to this date, we don't know whether what he told

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1 us is the truth or whether he was lying. To this date, we have
2 been furnished any written information as to Mr. Duckworth's
3 criminal history.

4 BY THE COURT: All right.

5 BY MR. ALEXANDER: Nothing further, Your Honor.

6 BY THE COURT: All right.

7

8

(CONCLUSION)