

XIII No 90
IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

AT SEVIERVILLE, TENNESSEE

STATE OF TENNESSEE,

Appellee,

-vs-

GARY WAYNE SUTTON and,
JAMES ANDERSON DELLINGER

Appellants.

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CASE # 5033, 5035

FILED

MAR 7 1994

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TRANSCRIPT OF THE EVIDENCE:

Trial

February 16-24, 1993

Volume 11 of 22 Volumes

BEFORE THE HONORABLE REX HENRY OGLE, PRESIDING JUDGE,
AND JURY

APPEARANCES:

FOR THE STATE

GEN. ALFRED C. SCHMUTZER, JR.,
GEN. G. SCOTT GREEN, A.D.A.
Fourth Judicial District
Sevier County Courthouse
Sevierville, Tennessee

FOR THE DEFENDANT SUTTON

MR. DAVID W. WEBB
Attorney at Law
140-A Court Avenue
Sevierville, Tennessee

MR. JEFFREY ZANE DANIEL
Attorney at Law
550 Main Avenue
Knoxville, Tennessee

FOR THE DEFENDANT DELLINGER

MR. EDWARD C. MILLER, P.D.
MRS. SUSANNA LAWS THOMAS, A.P.D.
P. O. Box 416
Dandridge, Tennessee

CIRCUIT COURT
FILED

HOUR 9:30 A. M

DATE: JAN 07 1994

D.A.

Helene H. Handley

CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

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1 Q. When this truck went by your house and somebody
2 jumped in it and drove away, and then you saw the fire, did you
3 suspect something?

4 A. I didn't see nobody jump in, sir.

5 Q. Okay. On that point, and referring again back to
6 the statement that you gave to Detective McCarter and Mr. Clabo
7 on March 3rd, 1992 at 2:03 p.m., you also gave a statement, I
8 believe, initially on 2/25/92 at 4:25 p.m.? I guess the first
9 time you told anybody about this -- do you remember making this
10 statement? This is somebody quoting you. "He then saw a
11 subject come from the direction of the trailer and get into the
12 truck passenger side. This truck went to the second driveway
13 on the left."

14 A. No, sir. I looked, and I seen the door went
15 closed, and it moved.

16 Q. I know that's what you're saying now, but you
17 didn't make that statement back on 2/25/92.

18 A. I didn't say that.

19 Q. You didn't make that?

20 A. I didn't say that.

21 Q. It says down here it's taken by Jeff McCarter. Do
22 you remember talking to him about...

23 A. I know Jeff McCarter, yeah.

24 Q. You talked to him on 2/25/92, and you didn't say
25 you saw somebody running from the trailer?

1 A. No, sir, I didn't.

2 Q. Now back to my original question. We got off the
3 topic there. You saw his truck drive away -- the door slam,
4 drive away, and the trailer catch on fire. Did that make you
5 suspicious?

6 A. No, I didn't see -- the truck went in up at Mr.
7 Dellinger's, and I just turned around and looked, and seen --
8 you know, the trailer on fire -- you know.

9 Q. My question is, did that make you suspicious about
10 that truck?

11 A. Well, yes.

12 Q. And did you tell the firemen down there about that?

13 A. When, that day -- that night? No, I didn't.

14 Q. That was on Friday night, the 21st?

15 A. Yes, sir.

16 Q. Did you tell the firemen or anybody about that on
17 the 22nd?

18 A. Well, the fire marshall -- you know, I told Jeff
19 at the jail when I went down there, and Mr. Clabo, the fire
20 marshall, and then they come up to my house.

21 Q. Okay. My question was did you tell anybody about
22 this on the 22nd, the day after the fire?

23 A. I believe Jeff. I went down there.

24 Q. Well, I'd asked you about your statement on 2/25/92
25 which I believe was a Monday afternoon. I take it that's the

1 first time you talked to anybody about this, is that right?

2 A. The first time I went down there I didn't really
3 want to go, but I thought I had to do it.

4 Q. So that we can clear things up, you -- this
5 happened on Friday night, and it was suspicious to you that this
6 truck was going away from this fire right before it was set, and
7 you didn't tell anybody about this until 2/25/92, is that
8 correct?

9 A. Yeah.

10 Q. Can you tell me why you didn't tell anybody?

11 A. That night?

12 Q. That night or the next day or the next day.

13 A. Well, I was scared to death.

14 Q. You were scared to death?

15 A. Yeah.

16 Q. And you knew there were discussions going on about
17 the cause of this fire, and these firemen couldn't tell what
18 caused the fire, and you never once told them about it?

19 GENERAL SCHMUTZER: Object, Your Honor, this is
20 repetitious. He's been over it three times.

21 BY MR. MILLER:

22 Q. Did you hear the people down there talking about
23 what caused the fire?

24 GENERAL SCHMUTZER: We object, Your Honor. He's
25 asked him that, and he's been through every person

1 about it. He said he didn't hear it.

2 THE COURT: I don't believe he asked him if he
3 heard other firemen talking about it. I'll let you
4 ask that.

5 GENERAL SCHMUTZER: I thought maybe he had.

6 THE COURT: He may have, but I don't recall it.

7 GENERAL SCHMUTZER: I apologize. I withdraw my
8 objection.

9 BY MR. MILLER:

10 Q. Did you hear any firemen talk about...

11 A. No, sir.

12 Q. ...how the fire was started?

13 A. No, sir.

14 Q. Now, on 2/25/92 at 4:25 p.m., by that time Tommy
15 Griffin's body had been found over in Blount County, is that
16 correct? You knew at the time that this statement was made that
17 he had been found?

18 A. Yes, sir.

19 Q. Found dead?

20 A. Yes, sir.

21 Q. On 2/25/92 when you gave this statement to
22 Detective McCarter you never mentioned a word to him about this
23 being James Dellinger's truck, is that correct?

24 A. No, sir, I didn't.

25 Q. Okay. And then going back to your interview with

1 Detective McCarter and Mr. Clabo on March the 3rd, 1992, Mr.
2 Clabo asked you, "What kind of vehicle?" And your answer, "It
3 looked like a truck to me." Do you remember that?

4 A. Yeah.

5 Q. Mr. Clabo asked you, "Okay. Do you know what color
6 it was? Did you see a color on it?" And your answer, "But --
7 well, it was dark, and it looked to me it was -- it was kind of
8 a light colored truck -- vehicle, some kind of a short..." and
9 then it's cut off. What -- do you remember what you were saying
10 there?

11 A. Yeah, I remember it was light truck.

12 Q. Okay. What were you going to say, a short bed or
13 what?

14 A. Yeah, I guess a short bed.

15 Q. Short bed. And there's another part of the
16 statement I'm having trouble understanding, and maybe your can
17 clear it up. Detective McCarter asked you, "And you see this
18 vehicle in and out of here," and you answer, "Ah, yeah, all the
19 time -- you know, Dodge truck, I believe, and Eddie -- I believe
20 it was Eddie."

21 A. No, sir, I don't know Eddie, but I have seen the
22 truck up and down there all the time.

23 Q. You didn't tell Detective McCarter anything about
24 an Eddie?

25 A. No, sir.

1 Q. You don't know whether there -- you couldn't
2 identify anybody in the truck, don't know whether it was a man
3 or a woman?

4 A. No, I couldn't see nobody in the truck.

5 Q. You don't know whether was one or two or three or
6 four people?

7 A. Well, I assume since that door was open there was
8 probably two in there. It drove off too fast.

9 Q. You're not saying the truck drove off real fast
10 from there, are you?

11 A. Not real fast, but as soon as the door closed, they
12 moved.

13 Q. But they didn't drive off real fast?

14 A. Yeah.

15 Q. They did drive off fast?

16 A. No -- they didn't burn rubber or nothing like that,
17 but went at a normal speed.

18 Q. I want to ask you something about the fire itself,
19 Mr. Henry. You were down there shortly -- a couple of minutes
20 after you saw the blaze, is that correct?

21 A. Yeah.

22 Q. Did you smell anything like gas or anything like...

23 A. No, sir, I didn't smell nothing.

24 Q. And Mr. Schmutzer asked you a question, and I
25 didn't quite answer your answer. He asked you where the fire

1 was located, and you said about mid-ways up?

2 A. No, when I got up there and the door was open, and
3 you stand in front of the trailer, there's a hallway there in
4 the back like, back behind the wall -- the petition of the wall,
5 and it was up -- it was sort of on the floor like, burned up
6 about half way up.

7 THE COURT: Was the door open when you got there?
8 I'm sorry if I missed...

9 THE WITNESS: Yes, sir, it was.

10 THE COURT: Okay.

11 BY MR. MILLER:

12 Q. How long have you know Boyd Branum?

13 A. Since I moved up there, about 10 years.

14 Q. Is he a very good friend of yours?

15 A. He's a good friend.

16 Q. As a matter of fact, I believe sometime around this
17 time you and he were riding in his car or his truck going out
18 of the hollow, and you saw James Dellinger, and Boyd made the
19 comment, "There goes James. He's on his way home?"

20 A. No, sir.

21 Q. You don't remember that?

22 A. It never did happen.

23 THE COURT: Are you talking about this same time...

24 MR. MILLER: The same time frame; not the same
25 night.

1 THE COURT: Okay.

2 MR. MILLER: A day or two after, and I may even
3 have the wrong person, Your Honor.

4 MR. MILLER: I believe that's all.

5 THE COURT: Mr. Daniel? Mr. Webb?

6 **

7 CROSS-EXAMINATION

8 BY MR. DANIEL:

9 Q. Mr. Henry, as I understand it, sir, you say that
10 you saw a vehicle down there where this fire was, and as I
11 understand it, it was approximately 25 feet, is that what you
12 said?

13 A. Yes, sir.

14 Q. And then you say that you couldn't tell who was in
15 the truck, and you never did identify anybody, did you, sir?

16 A. No, sir, I didn't see them, no.

17 Q. And so this all happened, and then you went down
18 there to the fire, is that correct?

19 A. Yes, sir.

20 Q. And at that time Connie Branum came down there, and
21 you saw her there?

22 A. Yeah.

23 Q. You saw Boyd Branum down there, didn't you?

24 A. Yes, sir.

25 Q. Boyd's one of your best friends?

1 A. He's one of my friends.

2 Q. You ride around with him and talk, and go places
3 with him, don't you? You all ride around together?

4 A. We don't never ride around together; I talk to him.

5 Q. You never have ridden around with him in the truck
6 or his vehicle?

7 A. I went -- one time me and him went over there to
8 cut wood together one time.

9 Q. Well, let me ask you specifically. The next day
10 on Saturday which would be the 22nd, did you and Boyd Branum go
11 riding in a vehicle together?

12 A. No, sir.

13 Q. You never did that?

14 A. No.

15 Q. Not sometime late that afternoon?

16 A. No.

17 Q. You weren't with him at all?

18 A. No, sir.

19 Q. Okay. Then you tell us now that you saw all of
20 this happen, and Boyd's one of your best friends, is that right?

21 GENERAL SCHMUTZER: This is repetitious, Your
22 Honor. He's already asked him this, and he's
23 already answered it.

24 THE COURT: Well, he's setting up a question here,
25 I believe.

BY MR. DANIEL:

Q. He's one of your best friends?

A. He's a friend.

Q. And you did not make a statement to anybody about this seeing somebody down there at the house as you say until the 25th, which would have been the following what, Monday?

A. I guess so.

Q. And that was after they had found Tommy Griffin's body over there, isn't that correct, sir?

A. Yeah.

Q. And at that time Jeff McCarter got in touch with you, and wanted you to give him a statement, didn't he?

A. Sure did.

Q. Wanted to show that you had seen or see if you could testify that you saw a truck down there -- or Dellinger's truck down there the night of this, is that correct -- the night of the fire?

A. Well, he called my wife -- you know, we called 9-1-1, and asked if we had seen anything, and my wife said no, but -- you know, I did.

Q. You went down there to the fire, and you never made a statement to anyone about you had seen a vehicle pull out, and then a fire start within just a minute or so later, did you?

A. No.

Q. And then you told him on the 25th this, and you had

1 talked to Boyd between the 21st and the 25th, hadn't you?

2 A. I talked to him that night down there.

3 Q. You talked to him down there at the fire, didn't
4 you?

5 A. I talked to him, yeah.

6 Q. Talked to him the next day on Saturday?

7 A. Probably did.

8 Q. What about Sunday, the next day. Did you talk to
9 him the following Sunday?

10 A. I don't remember if I talked to him Sunday or not.

11 Q. So Friday was the 21st, Saturday the 22nd, and
12 Sunday would have been the 23rd, is that right? Am I correct?

13 A. Yes, sir.

14 Q. And the 24th would have been a Monday?

15 A. Uh-huh (affirmative.)

16 Q. And you didn't say anything to anybody about it
17 on Monday, did you?

18 A. No.

19 Q. The first thing you said to anybody about it or
20 gave a statement was Tuesday afternoon which was February the
21 25th, if I'm correct on my dates -- it was Tuesday the -- was
22 the 25th on a Tuesday?

23 A. I believe, I don't know.

24 Q. And that was late in the afternoon about 4:30 in
25 the afternoon?

1 A. Yeah, I was working that day when I went down.

2 Q. And you knew at that time that Tommy's -- Tommy
3 Griffin's body had been found?

4 A. Yeah.

5 Q. And you...

6 GENERAL SCHMUTZER: Your Honor, this is
7 repetitious. He's been over this...

8 THE COURT: He's already answered that.

9 BY MR. DANIEL:

10 Q. And you knew there was an investigation going on
11 into his death? You knew that?

12 A. Uh-huh (affirmative.)

13 Q. And then after that on the -- on March the 3rd,
14 Jeff McCarter and Gary Clabo got you down, and took a tape
15 recorded statement, is that correct?

16 A. Yes, that's true.

17 Q. And in that statement to Gary Clabo -- you
18 understand he was an arson investigator, isn't that right?

19 A. Yes, sir.

20 Q. But when you first gave them a statement you said
21 that you saw a vehicle down there, and Gary Clabo said -- you
22 said it was a vehicle. That's what you first told him, wasn't
23 it?

24 A. Yes, sir. I was afraid to testify then.

25 Q. Okay. And then you said it looked like a truck,

1 isn't that what you told them?

2 A. Uh-huh (affirmative.)

3 Q. Did you say that?

4 A. Yes.

5 Q. You said that the door -- that the headlights were
6 on. Were the headlights shining in your direction?

7 A. Yes, sir.

8 Q. So the headlights -- you were looking into a set
9 of headlights when you were looking off down there, is that
10 right?

11 A. Well, you can look up -- straight down off the
12 hill.

13 Q. Okay, sir. And you said that the door was open -
14 - there was a door open on the truck?

15 A. Yes, sir.

16 Q. And that would mean the interior light was on?

17 A. It didn't have no interior light.

18 Q. It didn't have any interior -- the truck -- the
19 vehicle you saw did not have an interior light, did it?

20 A. No, sir.

21 Q. Cause there was no interior light on?

22 A. No.

23 Q. You could have seen it had it been on?

24 A. Yeah.

25 Q. And you know up there around the Dellinger's house,

1 and around Boyd's house and all they shot a lot of shotguns and
2 rifles, didn't they, from time to time?

3 A. Well, I heard some shooting going on from time to
4 time.

5 Q. Well, they would practice shoot or just shoot
6 around there a lot?

7 A. The first time I heard shooting around up there was
8 at Mr. Dellinger's.

9 Q. Beg your pardon?

10 A. Mr. Dellinger was shooting around up there all the
11 time.

12 Q. Well, different people would come over there and
13 shoot, didn't they?

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

15 Q. Did you see -- were there shells and hulls around
16 Tommy Griffin's yard the same as there was up in Mr. Dellinger's
17 yard?

18 A. The only thing -- I went down there that next day
19 with Mr. Clabo, and I seen one shell laying down there that was
20 a shotgun shell.

21 Q. And that's in whose yard?

22 A. Tommy's.

23 Q. Tommy's yard?

24 A. Yeah.

25 Q. So you went down the next day -- would that be

1 after the fire occurred -- the day after the fire?

2 A. And when Jeff and them come up there to take my
3 statement.

4 Q. When they came up there you went down there with
5 them?

6 A. Yeah.

7 Q. And before Mr. Clabo ever got down there to the
8 fire, it had been like a whole week since the fire before he
9 went down there to investigate it, hadn't it?

10 A. Yes, sir.

11 Q. Isn't that right?

12 A. Uh-huh (affirmative.)

13 Q. And it rained all during that period of time?

14 A. Yeah.

15 Q. Isn't that correct?

16 A. Yeah.

17 Q. It rained that whole two or three days, didn't it?

18 A. Yeah, it rained.

19 Q. So when he got down there to investigate this fire
20 scene this trailer had been burned for a week, and it had rained
21 on it for two or three days, is that correct?

22 A. Yeah, it had been raining on it.

23 Q. Okay. And do you know that Boyd had been down
24 there sifting around and doing some stuff around the fire before
25 Mr. Clabo ever came down there, hadn't he?

1 A. No, sir, I don't.
2 Q. You didn't see that?
3 A. No.
4 Q. Do you know whether he had or hadn't?
5 A. No, sir, I don't.
6 Q. Didn't you hear some conversations down there at
7 the scene that night by people that was talking about the fire,
8 and that it was an electrical fire?
9 A. No, sir.
10 Q. You never heard that?
11 A. No, never heard it.
12 Q. Did you hear any conversations from anyone about
13 how the fire started?
14 A. No, sir.
15 Q. Isn't it true, Mr. Henry, that you told this story
16 about Mr. Dellinger's truck being down there before the fire in
17 order to help your friend Boyd Branum, isn't that correct, sir?
18 A. No, sir.
19 Q. But you waited until the 25th before you ever told
20 anybody this story you're telling here now?
21 GENERAL SCHMUTZER: Objection, Your Honor. That's
22 the fourth time he's asked.
23 THE COURT: He's already answered that, Mr. Daniel.
24 MR. DANIEL: Thank you.
25 BY MR. DANIEL:

1 Q. And you remember when they took your statement, Mr.
2 Henry, the recorded statement, and asked you how far away the
3 trailer was -- the truck was parked from where the trailer was
4 burned? Do you remember them asking you that question?

5 A. Yeah.

6 Q. Do you remember giving this statement, "Well, I'd
7 say about 400 yards down the road?

8 A. Yeah, it wasn't that far.

9 Q. But that's what you told them back right after this
10 happened, wasn't it?

11 A. Yes, sir.

12 MR. DANIEL: No further questions.

13 **

14 CROSS-EXAMINATION

15 BY MR. MILLER:

16 Q. The fire down there at the trailer, when you first
17 saw it, where did you see it -- what part of the trailer? Was
18 it coming out the roof?

19 A. No, sir, it come out the -- the door was open, and
20 it come up about middle ways, then it come up like that.

21 Q. From your trailer you could see it coming out the
22 door?

23 A. Yeah, out the door.

24 Q. And your residence is actually closer to Mr.
25 Dellinger's than down here to Mr. Griffin's, isn't it?

1 down, and I didn't pay no attention to any other cars.

2 Q. You said the first time you told anybody about this
3 was the 25th when you talked to Jeff McCarter?

4 A. Yes, sir.

5 Q. And you told us the reason why you didn't is
6 because you were scared?

7 A. Yes, sir.

8 Q. And why was that?

9 MR. MILLER: I object.

10 GENERAL SCHMUTZER: Well, you...

11 THE COURT: Overruled. You opened the door.

12 MR. MILLER: May we approach the bench, Your Honor?

13 THE COURT: Yes.

14 (A bench conference is held on the record, to-wit:)

15 MR. MILLER: It may be competent, but I don't know
16 what they're going to say.

17 THE COURT: Do you know what the answer is?

18 GENERAL SCHMUTZER: No, I don't. They asked it,
19 and opened it up. I think he needs to explain it.
20 I have no idea.

21 THE COURT: It's wide open now, guys. It's been
22 questioned repeatedly why he waited so late, and
23 it's fair to ask that question.

24 (Said bench conference being completed, the
25 following proceedings are had in open court.)

1 BY GENERAL SCHMUTZER:

2 Q. You may answer, sir. Why were you scared?

3 A. I was scared of Mr. Dellinger.

4 Q. Is that the reason why that day you talked to them
5 you didn't even tell them it was Dellinger's truck?

6 A. Yes, sir.

7 Q. Now on March the 3rd when the arson investigator
8 came up there and talked to you, they've read some portions of
9 that statement, but not all of them.

10 A. Yes, sir.

11 Q. And I believe they stated that you told the arson
12 investigator that when you first looked down there and you saw
13 it -- you saw a vehicle, and you told them it looked like a
14 truck, is that right?

15 A. Yes.

16 Q. And it was light colored?

17 A. Yeah.

18 Q. Did you also tell them, sir, in that same statement
19 that as the truck came up in front of your house you recognized
20 that truck as Dellinger's truck?

21 A. Yes, sir.

22 Q. And that's in that statement also, is that correct?

23 A. Yes, sir.

24 Q. I'll refer you to Page #2, and ask you, sir --
25 "Okay. When it went by you did you recognize the truck? Do you

1 know whose truck it was?" Your answer was, "Yeah, James
2 Dellinger."

3 MR. DANIEL: Your Honor, I'm going to object to
4 this. I don't think this is proper. He can
5 testify to it, but letting him read his statement,
6 and...

7 THE COURT: Well, he's been asked, as I understand
8 it -- this is on redirect. After a statement has
9 been referred to and asked about, he may ask about
10 other portions of it as well. You may proceed.

11 GENERAL SCHMUTZER: I'd like to file that, if the
12 Court please.

13 THE COURT: So ordered.

14 (EXHIBIT #11 - Page #2 of statement; marked and
15 filed.)

16 MR. DANIEL: Your Honor, we object to filing that.
17 There may be other portions of it that's
18 incompetent.

19 THE COURT: Well, at this point it's not been
20 passed to the jury. The Court will look at it
21 before it will be passed.

22 MR. DANIEL: As long as it's competent there's no
23 problem.

24 THE COURT: Sure. Anything further of this
25 witness?

1 MR. DANIEL: Nothing, Your Honor.

2 THE COURT: Mr. Miller?

3 MR. MILLER: No, Your Honor.

4 THE COURT: You may step down.

5 THE WITNESS: May I be excused?

6 THE COURT: Is he free to go?

7 GENERAL SCHMUTZER: Yes, Your Honor.

8 MR. MILLER: Your Honor, I don't think we can
9 release him at this time. There is some question
10 about the tape -- we've not listened to the tape,
11 and there are inaudible portions in that
12 transcript.

13 THE COURT: Okay. If you will stay with us a
14 little while longer, Mr. Henry, out in the hallway
15 or out where the other witnesses are.

16 THE WITNESS: Okay.

17 THE COURT: Thank you.

18 MR. WEBB: May I approach, Your Honor?

19 THE COURT: Yes.

20 (A bench conference is held on the record, to-wit:)

21 MR. WEBB: Since there was a statement made -- I
22 believe the statement was Alvin Henry was scared
23 of James Dellinger. As Mr. Dellinger's counsel,
24 I would ask for a cautionary instruction.

25 THE COURT: Okay, I'll give it.

1 MR. WEBB: And once again, I renew my motion for
2 severance.

3 GENERAL SCHMUTZER: Your Honor, I don't think a
4 cautionary instruction would be proper...

5 THE COURT: Well, all I'm going to tell them is
6 that this -- at this juncture, it may be considered
7 only as to Mr. Dellinger.

8 (Said bench conference being completed, the
9 following proceedings are had in open court.)

10 THE COURT: Ladies and gentlemen of the jury, in
11 regards to the last testimony by Mr. Henry in regards to his
12 statement that he was afraid of James Dellinger, at this
13 juncture that testimony may be considered only as against Mr.
14 Dellinger until otherwise advised. General Schmutzer?

15 GENERAL SCHMUTZER: The State calls Jennifer
16 Branum.

17 MR. MILLER: Your Honor, may I approach the bench?
18 I apologize.

19 THE COURT: I'm going to have to get me some new
20 carpet here.

21 (A bench conference is held on the record, to-wit:)

22 THE COURT: Yes?

23 MR. MILLER: I object to the instruction that they
24 can hold that against Mr. Delliner.

25 THE COURT: I didn't say that, did I?

1 GENERAL SCHMUTZER: I really wasn't listening.

2 MR. MILLER: You can use that against Mr. Dellinger
3 -- I think they can use it in considering his --
4 Mr. Henry's testimony, but you can't use it against
5 Mr. Dellinger.

6 THE COURT: It may be considered at this point only
7 as against Mr. Dellinger.

8 MR. MILLER: I think the jury may get an impression
9 they can use that to hold it against Mr. Dellinger
10 for some other reason than...

11 THE COURT: Okay, I see what you're...

12 GENERAL GREEN: Your Honor?

13 THE COURT: Yes?

14 GENERAL GREEN: One of the court officers just
15 brought it to my attention that one of the ladies
16 in the first row, and I don't know which one, but
17 the officer can identify her, but while we were all
18 up here talking to Your Honor a moment ago, leaned
19 up and tapped on one of the jurors, and talked to
20 a jury member.

21 THE COURT: Who is the officer?

22 GENERAL GREEN: Steve Ratcliff.

23 THE COURT: If he'll come forward, please. Who was
24 that?

25 OFFICER RATCLIFF: The lady on the front row

1 directly behind the jury box that's in the maroon
2 sweater. When you all were up here talking just
3 now she reached over and said something to one of
4 the members of the jury.

5 **THE COURT:** Okay. I'll ask the jury to step out
6 in a moment. Thank you.

7 **GENERAL SCHMUTZER:** Do you want to do that now
8 before we start?

9 **THE COURT:** Yes, I am going to tell them that that
10 statement may be considered only in regards to Mr.
11 Dellinger, if I made a misstatement.

12 (Said bench conference being completed, the
13 following proceedings are had in open court.)

14 **THE COURT:** If I misspoke in my last instruction
15 to you -- if I said that it may be considered only as against
16 Mr. Dellinger, I apologize to you. It may be considered at this
17 point only in relation to Mr. Dellinger, unless otherwise
18 advised. At this time, ladies and gentlemen, the Court is going
19 to have to ask you to step out to take care of another matter
20 before we proceed further. All rise.

21 (JURY OUT)

22 **THE COURT:** You may be seated. Officer Ratcliff,
23 if you will, tell the Court what you just said at the bench
24 here.

25 **OFFICER RATCLIFF:** While you all were talking --

1 while the other attorneys were talking to you, Your Honor, this
2 lady right up here leaned over, and said something -- I don't
3 know what was said, into the jury box, and I cannot specifically
4 say which juror she was talking to.

5 THE COURT: Okay. Who is that?

6 OFFICER RATCLIFF: This lady with glasses, Your
7 Honor.

8 THE COURT: Yes, ma'am. What is your name, please,
9 ma'am?

10 SPECTATOR: Lois Tomlinson.

11 THE COURT: And did you make a statement to one of
12 the jurors, ma'am?

13 MS. TOMLINSON: Foolish of me, I just told her I
14 liked her hair.

15 THE COURT: Okay. Well, please, ma'am, and I
16 certainly understand at this juncture that you didn't intend to
17 do anything, but obviously it is a situation that the Court has
18 to protect our jurors from any other contact whatsoever, so
19 please do not -- or anyone say anything or make any contact with
20 any of the jurors.

21 Since the jury is out, the Court is going to take
22 a short recess.

23 (COURT STOOD IN RECESS)

24 THE COURT: Bring the jury back.

25 (JURY IN)

1 THE COURT: Waive the call for the State?

2 GENERAL SCHMUTZER: Yes, Your Honor.

3 THE COURT: And the defense?

4 MR. DANIEL: Yes, Your Honor.

5 THE COURT: You may be seated. Ladies and
6 gentlemen of the jury, pursuant to your questions, I inquired
7 into the light there, and they said that that light was taken
8 out in that section some nine years ago, but that they would
9 work on that tonight after the jury -- in order to put a light
10 in there, they have to move out some of those chairs, and so
11 rather than having you help them, I'm going to let them come in
12 after court is over today. Anything further?

13 JUROR GIBSON: Your Honor?

14 THE COURT: Yes, sir?

15 JUROR GIBSON: We would like to know what time
16 frame that this mobile home fire started. We're unaware of what
17 was actually the time frame that it happened.

18 THE COURT: Very good. Thank you. I have brought
19 that to counsel's attention, and explained to them that request.
20 You all may proceed. You may call your next witness.

21 GENERAL SCHMUTZER: Your Honor, the State would
22 call Sherry Russell, who was the dispatcher. We have worked out
23 a stipulation. She worked all night, and she would testify --
24 if she were here she would testify, Your Honor, that she was the
25 dispatcher on that evening of Friday, February the 21st, 1992.

1 That she received a call about Tommy Griffin's trailer being on
2 fire. She actually received a total of four calls, the first
3 coming in at 9:02 p.m., and that call came from Alvin and Linda
4 Henry residence located on Bluff Heights Road in Sevierville.

5 The second call came in at 9:03 p.m. from the Devon
6 F. Mays, also Bluff Heights Road in Sevierville. The third call
7 came from the residence of Viola Griffin on White's School Road
8 in Sevierville. That call came in at 9:06.

9 Your Honor, the fourth call came from the Boyd
10 Branum residence on Bluff Heights Road in Sevierville, and that
11 came in at 9:09 p.m. That when she received the first call she
12 transferred the call to the Sevierville Fire Department --
13 Sevier County Fire Department, and that the first unit arrived
14 on the scene around 9:17.

15 THE COURT: Okay. So that's been stipulated to?

16 MR. DANIEL: Yeah, we've seen it, Your Honor.

17 GENERAL SCHMUTZER: May this be filed, Your Honor?

18 THE COURT: It sure may.

19 (EXHIBIT #12 - Chart showing calls to 9-1-1; marked
20 and filed.)

21 THE COURT: Ladies and gentlemen of the jury, a
22 stipulation by the parties means that if this witness were
23 called, that that stipulation as announced by General Schmutzer
24 is what she would testify to. That is stipulated to so that
25 witness will not actually have to come into court and testify.

1 So you may consider that as if it had been testified in open
2 court.

3 MR. DANIEL: Your Honor, please...

4 THE COURT: Yes?

5 MR. DANIEL: While you are going on stipulations,
6 there were some stipulations that have been filed between the
7 State and the defendant, and we would like to introduce those
8 at this time, and have them taken from the court's records, and
9 made a part of this. We might need them for some cross
10 examination.

11 THE COURT: Fine.

12 MR. DANIEL: I'll file this as an exhibit, Your
13 Honor.

14 THE COURT: Okay.

15 (EXHIBIT #13 - Stipulation; marked and filed.)

16 THE COURT: It's going to be filed into the court
17 record?

18 MR. DANIEL: No, I think it can be used as...

19 GENERAL SCHMUTZER: May we approach the bench, Your
20 Honor?

21 (A bench conference is held on the record, to-wit:)

22 THE COURT: That's the stipulation you all
23 previously entered into.

24 GENERAL SCHMUTZER: This, Your Honor, was a
25 stipulation that we entered into with regard to the

1 proffered proof. We would -- of course, it would
2 not be admissible in front of this jury. This is
3 only what was offered, Your Honor, and filed back
4 in August of 1992 when the Court was originally
5 hearing the bond hearing, and this was there. They
6 stipulated our proof, and we in turn stipulated to
7 theirs only for the purpose of putting it in.

8 MR. DANIEL: It doesn't say that. It says "This
9 stipulation is entered into between the State and
10 the defendant," and that's what we've been going
11 under the assumption that those are stipulations
12 by all parties.

13 GENERAL SCHMUTZER: No, Your Honor. That -- we
14 would object to that. I think -- that was prepared
15 not to tell the flat out truth, but that was
16 prepared...

17 MR. WEBB: Those are stipulations that we entered
18 into, and we've relied upon.

19 GENERAL SCHMUTZER: Those are stipulations that we
20 entered into...

21 THE COURT: I didn't think those were issues...

22 MR. WEBB: I thought those were issues that were
23 not in dispute.

24 THE COURT: These are issues, gentlemen, that you
25 all have all told the jury. I think most of them,

1 as I read them, will be matters of fact anyway that
2 are undisputed. If you want to file those in the
3 record after the witnesses -- as I understand, all
4 offers of stipulation do not prohibit either party
5 from offering evidence on a point -- either side,
6 as I understand the law. So if...

7 MR. WEBB: I don't think we're objecting to that.

8 THE COURT: I understand that.

9 MR. WEBB: And I don't want to misrepresent -- my
10 interpretation is that those stipulations were not
11 in issue. I thought those were things that you
12 agreed to...

13 GENERAL SCHMUTZER: I didn't agree to -- when we
14 entered into this -- I have no problem with what's
15 there.

16 THE COURT: Right.

17 GENERAL SCHMUTZER: But when we entered into this
18 it was solely for the purpose of defining the
19 issues so that they didn't have to go to proof
20 either on the question of bond and bail, and that
21 was solely the purpose it was entered into. That
22 was back in August when we did that.

23 THE COURT: Well, I -- I am aware by everyone's
24 statements that that has generally been the status
25 of the proof throughout this entire investigation.

1 If for some reason at the end of the proof it is
2 not otherwise shown in this light, then I will hear
3 from you again. I will be glad to hear from you
4 again on this issue, Mr. Daniel. If you want to
5 file that in the record at this time for
6 identification purposes, you certainly can.

7 MR. DANIEL: Your Honor, this is a copy. The
8 original is with the clerk's office.

9 THE COURT: Sure. That's fine because I think we
10 all recognize that's...

11 MR. DANIEL: There's no question about it's a xerox
12 -- not a xerox, a...

13 THE COURT: Photocopy, yes.

14 MR. DANIEL: Yes. So we would like to offer that
15 as an exhibit, and we feel like, Your Honor, that
16 since it is a stipulation -- I always understood
17 that a stipulation stipulates something that does
18 not have to be proven by either side.

19 THE COURT: Right.

20 MR. DANIEL: And that's what a stipulation is.

21 THE COURT: Right.

22 MR. DANIEL: So we feel like that these are things
23 that we can prove that's agreed upon, and that
24 neither side has to prove, and it's taken...

25 THE COURT: And I would certainly, either in

1 argument or otherwise, if it -- if it came to pass
2 that there was something disputed about that, then
3 I would certainly let you refer to it then if it
4 came into dispute. But at this juncture there is
5 no dispute. I've understood the opening
6 statements, the questions...

7 MR. DANIEL: I don't think there's much question,
8 but I just feel like there's some crucial things
9 that we should be able to tell the jury that it has
10 been stipulated. Either the State can tell them,
11 or we can tell them, but these are stipulations
12 that both parties have agreed on.

13 THE COURT: I will take that up afterwards. You
14 know, at this juncture, as I have understood it,
15 again -- you know, counsel has all stated these
16 things to the jury, but I'm not going to send some
17 document of stipulation to them because that would
18 be in lieu of testimony. As you well know, a jury
19 cannot read or hear -- in a normal situation, it
20 cannot take exhibits of testimony back into the
21 jury room, either depositions or otherwise.

22 MR. DANIEL: I understand that. But we would
23 probably be able to read to the jury, these are
24 some things stipulated which neither side has to
25 have the obligation to try to prove.

1 THE COURT: I will consider that later as your case
2 proceeds, if you decide to put proof on.

3 GENERAL GREEN: General Flynn just passed me a
4 note, and it looks like Ms. Perkins' writing, but
5 apparently some defense witnesses have discussed
6 some testimony.

7 MR. MILLER: How could they discuss testimony when
8 they've been out in the hall?

9 GENERAL GREEN: I just wanted to pass this to the
10 Court. What I would suggest, Your Honor, is
11 perhaps the Court could just ask one of the court
12 officers to go out because obviously, if you do it
13 otherwise, you are going to have to send the jury
14 out again.

15 MR. DANIEL: Your Honor, we are dealing with some
16 people that their understanding of the rules...

17 THE COURT: I know. Is Mr. Maner out there in the
18 hallway, Sheriff? If you would go out into the
19 hallway, and tell all of the witnesses do not
20 discuss the testimony of any witness who has
21 testified or is going to testify, okay?

22 MR. MANER: Okay.

23 THE COURT: So tell them that that's from the
24 Court.

25 MR. MANER: I will.

(Said bench conference being completed, the following proceedings are had in open court.)

THE COURT: You may proceed.

GENERAL SCHMUTZER: Your Honor, with this exhibit, I would like to pass it to the jury. I would also state that it's listed in military time, 21:02, which is 9:02. It's listed 21:02, 21:03, 21:06, and 21:09. May we pass Exhibit #12 to the jury?

THE COURT: Sure.

GENERAL SCHMUTZER: The State calls Jennifer Branum.

**

JENNIFER BRANUM was called, and being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY GENERAL SCHMUTZER:

Q. State your full name, please.

A. Jennifer Jane Branum.

Q. And how old are you?

A. 13.

THE COURT: If you'll scoot up just a little bit closer to that tall microphone right there so the jury can hear you.

GENERAL SCHMUTZER: Speak right up into that microphone, and that will be great.

BY GENERAL SCHMUTZER:

Q. And you say you're 13 years old?

A. Yeah.

Q. And where do you live?

A. Bluff Heights.

Q. And you live there with your father?

A. Yes, sir.

Q. And what's his name?

A. Boyd Branum.

Q. And your mother was the late Connie Branum, is that right?

A. Yes, sir.

Q. Do you go by Jennifer, or how do you -- do you go by Jennifer? Do they call your Jennifer or Jenny?

A. Jenny.

Q. Back -- do you remember the night that your uncle's trailer burned down up there at Bluff Heights -- Tommy Griffin's trailer?

A. Yes, sir.

Q. Were you home that evening?

A. Yes, sir.

Q. When did you first learn that the trailer was on fire?

A. When my sister came in and woke me up.

Q. Your sister, what's her name?

1 A. Sandy Branum.

2 Q. When she came in and woke you up, where were you,
3 in your bedroom?

4 A. In bed.

5 Q. What did you do?

6 A. I got up, and went in there, and woke up my dad.

7 Q. And after you woke up your dad, what did you do?

8 A. I went up to James Dellinger's and Gary Sutton's.

9 Q. Okay. Did you take time to change clothes, or did
10 you still have on your bed clothes?

11 A. I still yet had on my bed clothes.

12 Q. When you went up -- after you woke up your dad you
13 say you went up to James Dellinger's?

14 A. Yes, sir.

15 Q. And what did you -- when you got there, just tell
16 the Court what happened when you first got there. Who was
17 there?

18 A. Linda Dellinger and...

19 Q. Well, let me ask you this. When you went up there,
20 I take it you knocked on the door?

21 A. Yes, sir.

22 Q. Who actually answered the door?

23 A. Linda Dellinger.

24 Q. What did you tell her?

25 A. I told her that Tommy's trailer was on fire.

- 1 Q. Okay. Did you ask for anybody?
- 2 A. I asked for James.
- 3 Q. What did Linda say?
- 4 A. That he wasn't there at this moment.
- 5 Q. Did you see James Dellinger?
- 6 A. Yes, sir.
- 7 Q. When was that?
- 8 A. Right after I asked her.
- 9 Q. Where was he?
- 10 A. He was coming down the hall.
- 11 Q. Who was with him, if anybody?
- 12 A. Gary Sutton.
- 13 Q. Did you notice anything about them that was a
- 14 little unusual when they came down the hall?
- 15 A. Their pants was wet, and they was out of breath,
- 16 and they still yet had their jackets on.
- 17 Q. What portion of their pants were wet, did you
- 18 notice?
- 19 A. Almost up to the knees.
- 20 Q. When they came down did you have any conversation
- 21 with either one of them?
- 22 A. I told them that Tommy's trailer was on fire.
- 23 Q. Did either one of them say anything when you told
- 24 them that?
- 25 A. James Dellinger said that they couldn't go down

1 there at this moment.

2 Q. Did he say why?

3 A. Because they were in enough trouble as it is.

4 Q. What did you say then, if anything?

5 A. I didn't say anything.

6 Q. Did you ask them anything at all about Tommy?

7 A. Yeah, I asked them if Tommy was in the trailer.

8 Q. What -- did anyone respond to that?

9 A. Gary said that he wasn't, that he was in Blount
10 County with a girl.

11 Q. After you talked to them, what did you do then?

12 A. I went back down and woke up my dad.

13 Q. Was your dad still not out of bed?

14 A. Yes, sir.

15 Q. He was still in bed when you got over there?

16 A. Yes, sir.

17 Q. Had he worked the night before?

18 A. Yes, sir.

19 Q. After you woke up your dad what did you do?

20 A. Called 9-1-1.

21 Q. Where is -- you say you called 9-1-1?

22 A. Yes, sir.

23 Q. From your dad's -- from your home?

24 A. Yes.

25 Q. Where is your home in relation to James

1 Dellinger's?

2 A. Right below it.

3 Q. On the same side of the street or on the other side
4 of the road?

5 A. James Dellinger's is on the other side, and we're
6 on the other.

7 Q. Are you very close -- I mean, is it very far away?

8 A. No, sir.

9 Q. After you called 9-1-1, what did you do then?

10 A. I went down to the fire.

11 Q. When you got down there were any of the fire trucks
12 there yet?

13 A. No.

14 Q. Did you see the place on fire?

15 A. Yes.

16 Q. After you got down there did any of the fire trucks
17 arrive?

18 A. Yes, sir.

19 Q. Did your mother ever come?

20 A. Yes, sir.

21 Q. Now was she at home that evening?

22 A. No, sir.

23 Q. Where was she?

24 A. She was down at my granny's.

25 Q. And who is your granny?

- 1 A. Viola Griffin.
- 2 Q. And where does she live?
- 3 A. White's School Road.
- 4 Q. Did your mother even come to the fire?
- 5 A. Yes, sir.
- 6 Q. And who did she come with?
- 7 A. Viola Griffin.
- 8 Q. And when they came, where did they pull?
- 9 A. They pulled into Devon Mays' driveway.
- 10 Q. Were there other people gathered out there to watch
- 11 the fire?
- 12 A. Yes.
- 13 Q. Did you stay out there and watch the fire until
- 14 they put it out?
- 15 A. No, sir.
- 16 Q. What did you do?
- 17 A. I went -- my mom told me to go home, and put me
- 18 some clothes on.
- 19 Q. And did you do that?
- 20 A. Yes, sir.
- 21 Q. Did you go back down?
- 22 A. Yes, sir.
- 23 Q. When you went back down did you see Mr. Herman
- 24 Lewis?
- 25 A. Yes, sir.

1 Q. I believe he's what, your great uncle? He's
2 your...

3 A. I know that he's my uncle.

4 Q. He's your uncle?

5 A. Yeah.

6 Q. And I believe actually he is your grandmother's -
7 - your granny's brother?

8 A. Yes, sir.

9 Q. Where was he when you saw him?

10 A. He was parked in front of McDermon's.

11 Q. The McDermon's?

12 A. Yeah.

13 Q. And is that the summer place that's just above
14 Tommy Griffin's trailer?

15 A. Yes, sir.

16 Q. Was he parked there in his car?

17 A. Yes, sir.

18 Q. Was anybody with him?

19 A. He was with Mary Ann Lewis.

20 Q. Do -- did you stay there until all the fire trucks
21 left?

22 A. No, sir.

23 Q. What did you do?

24 A. I got my baby cousin, Rachel Hale, and we went back
25 up to my house.

Courtesy of
Time of Death Podcast
by Beth Braden

- 1 Q. Your baby cousin?
- 2 A. Yeah.
- 3 Q. And what did you take her up to the house for?
- 4 A. Because it was getting cold outside.
- 5 Q. When you took her up to the house did anybody else
- 6 come up to the house?
- 7 A. Herman Lewis drove us up.
- 8 Q. He took you up there?
- 9 A. Yes, sir.
- 10 Q. Did you all continue to stay up there?
- 11 A. Me and my baby cousin did.
- 12 Q. Did -- while you were up there did you ever see
- 13 James Dellinger or Gary Sutton again?
- 14 A. James Dellinger went and got something out of his
- 15 truck and put it in the back of his wife's car.
- 16 Q. What kind of truck did he have?
- 17 A. A white car -- a white truck. I'm not for sure
- 18 what kind.
- 19 Q. What kind of car was his wife's car?
- 20 A. A gray one.
- 21 THE COURT: I'm sorry, a what?
- 22 THE WITNESS: A gray one.
- 23 GENERAL SCHMUTZER: She said a gray one.
- 24 THE COURT: A gray one. Okay.
- 25 BY GENERAL SCHMUTZER:

1 Q. Was this -- when you saw this where were you?
2 Where were you when you saw this?

3 A. In my house.

4 Q. Were you inside or outside?

5 A. Inside.

6 Q. Did you see what it was that he got out of his
7 truck?

8 A. It was about this long, and I'm not for sure how
9 big it was.

10 Q. Was it -- how was it -- could you tell what it was?

11 A. It was long, and it was wrapped up in a sheet.

12 Q. Where did he put it? Where did he get it from,
13 could you tell, or did you just see him get it out of the truck?

14 A. In the back of the seat.

15 Q. Where did you see him put it?

16 A. In the front of Linda's car.

17 Q. What did he do then?

18 A. They left.

19 Q. They, who was that?

20 A. Dellinger and Sutton.

21 Q. Was your Uncle Herman Lewis still there?

22 A. Yes, sir.

23 Q. Did they leave, too?

24 A. Yes, sir.

25 Q. Did you ever see them again that night, these two

1 defendants?

2 A. No, sir.

3 Q. Did you see them again the next day, the Saturday,
4 the following day?

5 A. Yes, sir.

6 Q. About when was this? Do you remember? Was it
7 morning or afternoon or...if you recall?

8 A. I believe it was in the morning.

9 Q. What did you see that time?

10 A. They came out and got something back out of Linda's
11 -- back of her car, and put it under the house.

12 Q. Could you tell what it was they got out of the back
13 of her car?

14 A. It looked like the same thing I seen that night.

15 Q. Was it still wrapped in that sheet or whatever?

16 A. Yes, sir.

17 Q. Whose house did they put it under?

18 A. James Dellinger's.

19 Q. Do you remember which one of them got it out?

20 A. No, sir.

21 GENERAL SCHMUTZER: You may cross examine.

22 **

CROSS-EXAMINATION

BY MR. MILLER:

Q. Miss Branum, I think you said the first thing you did after you saw the fire -- let me back up a little bit. When you first saw the fire were you in bed or had you gone to bed yet?

A. I was in bed.

Q. You were in bed. And what was it that drew your attention to the fire?

A. Sandy Branum came in there and told me.

Q. Okay. That's your sister?

A. My sister.

Q. How old is she?

A. 15.

Q. What was the next thing that you did?

A. I went down and woke up my dad.

Q. Okay. And what did your dad say?

A. He got up, and then I called 9-1-1.

Q. He got up. What did he do?

A. He put his clothes on, and he went down to the fire.

Q. After you called 9-1-1, what did you do?

A. I went down to the fire.

Q. When was it that you -- you said sometime you went up to the Dellinger residence. When was that?

1 A. Right after I got up.

2 Q. Let's back up not, I'm getting a little bit
3 confused. You told me after you woke up the first thing you did
4 was wake your dad up?

5 A. Yes, sir.

6 Q. Okay, now. Right after you woke up did you wake
7 your dad up or did you go up to James Dellinger's?

8 A. Yes, sir.

9 Q. Which one? Did you wake your dad up or go to James
10 Dellinger's first?

11 A. I woke my dad up first.

12 Q. And then you called 9-1-1?

13 A. No.

14 Q. When did you call?

15 A. I called right after I came down from Dellinger's
16 and woke up my dad.

17 MR. MILLER: Your Honor, I don't want to be
18 repetitious, but I'm having a hard time getting all
19 this straight.

20 THE COURT: Go ahead.

21 BY MR. MILLER:

22 Q. Your sister woke you up?

23 A. Yes, sir.

24 Q. And what was the first thing you did?

25 A. I woke up my dad.

- 1 Q. You woke your dad up?
- 2 A. Yes, sir.
- 3 Q. And what was the next thing you did?
- 4 A. Went up to Dellinger's.
- 5 Q. Okay. And what was the next thing you did?
- 6 A. I came back down, and woke up my dad.
- 7 Q. How many times did you have to wake him up?
- 8 A. Twice.
- 9 Q. He had gone -- you testified earlier that when you
- 10 woke him up he put his clothes on, and went down to the fire,
- 11 but that didn't happen because you went up to Dellinger's and
- 12 came back, and he was still asleep, is that right?
- 13 A. Yes, sir.
- 14 Q. What did you tell your dad the first time you woke
- 15 him up?
- 16 A. I told him that Tommy's trailer was on fire.
- 17 Q. Okay. What did he say about that?
- 18 A. He said, "Okay."
- 19 Q. Did he get up out of bed?
- 20 A. No, sir.
- 21 Q. Did he roll back over, and go to sleep?
- 22 A. Yes, sir.
- 23 Q. Did he go to sleep before you went up to the
- 24 Dellinger's?
- 25 A. Yes, sir.

- 1 Q. You didn't try to wake him up again?
- 2 A. After I came back.
- 3 Q. But not before?
- 4 A. No.
- 5 Q. And who all did you see up at the Dellinger's?
- 6 A. I seen Linda Dellinger and Angel's little baby.
- 7 Q. Angel Gray?
- 8 A. Yes, sir.
- 9 Q. And that's James and Linda's, I guess,
- 10 granddaughter, is that correct?
- 11 A. Yes, sir.
- 12 Q. Was Angel Gray there or just her baby?
- 13 A. I'm not for sure.
- 14 Q. Do you remember anybody else being there?
- 15 A. No, sir.
- 16 Q. Did you go into the house?
- 17 A. No, sir.
- 18 Q. What was your reason for going up to the
- 19 Dellinger's?
- 20 A. Because Dellinger's white truck was there, and I
- 21 just wanted to know if Tommy was in the trailer.
- 22 Q. How long did it take to go up there to Dellinger's
- 23 and back down to your house?
- 24 A. I'm not for sure.
- 25 Q. And when you got back to your house what did you

1 do?

2 A. I went in there and woke up my dad again.

3 Q. Okay. What did you tell him this time?

4 A. I told him to get up, that Tommy's trailer's on
5 fire, and that he needed to go down there.

6 Q. Did he get up that time?

7 A. Yes, sir.

8 Q. And he went down to the fire?

9 A. Yes, sir.

10 Q. And you went down to the fire?

11 A. Not right after I woke him up.

12 Q. But you went down there later on?

13 A. Yes, sir.

14 Q. A bunch of people came out to watch the fire, is
15 that correct?

16 A. Yes, sir.

17 Q. Several fire trucks were there, is that correct?

18 A. When I went down there?

19 A. No, at some point several fire trucks came?

20 A. Yes, sir.

21 Q. And did you overhear anybody talking about the
22 cause of the fire?

23 A. No, sir.

24 Q. I believe your father actually -- he was the owner
25 of that trailer, is that correct?

1 A. Yes, sir.

2 Q. Did Tommy stay there all the time or just some of
3 the time?

4 A. Just some of the time.

5 Q. Do you know whether or not he paid rent on the
6 trailer or who he paid or if he paid at all?

7 A. He paid the rent to my mom.

8 Q. Did you hear any dogs barking out there before the
9 fire?

10 A. Yes, sir.

11 Q. Did that wake you up?

12 A. No, sir.

13 Q. The dogs didn't wake you up?

14 A. No, sir.

15 Q. Were you asleep when you heard the dogs?

16 A. I was asleep, but heard the dogs barking.

17 Q. And I think you said Viola Griffin, who is your
18 grandmother, and your mother, and your father were down there.
19 Did you hear them talk about the trailer having a faulty plug
20 in it?

21 A. No, sir.

22 Q. Did you know about the faulty plug in the trailer?

23 A. No, sir.

24 Q. You were, I think you said, at your house when you
25 saw -- looked up there at James Dellinger's residence, is that

1 correct?

2 A. Yes, sir.

3 Q. And that's a little bit of ways up the hill, isn't
4 it?

5 A. Yes, sir.

6 Q. It's dark up there, an no street lights up there?

7 A. Yeah, there's street lights.

8 Q. Up that at Dellinger's house?

9 A. No, sir.

10 Q. The street light's down below your house, isn't it,
11 or is there another one up there?

12 A. There's a street light right at our road.

13 Q. And tell us again how long you said this thing was
14 that you saw.

15 A. About that long.

16 Q. And you thought it was a sheet, is that right?

17 A. Yes, sir.

18 Q. You don't know whether there was anything wrapped
19 in the sheet?

20 A. I'm not for sure.

21 Q. And then I think you said you saw it some other
22 time -- you saw the sheet again?

23 A. Yes, sir.

24 Q. Was that in the day?

25 A. In the morning.

1 Q. In the morning?

2 A. Yes, sir.

3 Q. I'm about finished up. I just want to make sure
4 I have this correct. After -- your sister woke you up, not the
5 dogs, is that correct?

6 A. Yes, sir.

7 Q. And she told you there was a fire down there?

8 A. Yes, sir.

9 Q. And what did you do at that time?

10 A. I got up.

11 Q. You got up and did what?

12 GENERAL SCHMUTZER: We've been over this, Your
13 Honor, and I think -- he's just repeating it.

14 THE COURT: She said that she...

15 GENERAL SCHMUTZER: There's no sense repeating it,
16 she's been over it -- he's been over it five times.

17 MR. MILLER: I just wanted to make sure I had it
18 clear, Your Honor. I believe that's all.

19 THE COURT: Mr. Webb?

20 **

21 CROSS-EXAMINATION

22 BY MR. DANIEL:

23 Q. Miss Branum, I'm going to talk to you, and if you
24 don't understand my questions, you ask me to repeat them, okay.
25 I just want to get some answers to some things, okay? If you

1 don't understand it you tell me. As I understand it, somebody
2 came and woke you up, and there was a fire going on down at the
3 trailer, is that right?

4 A. Yes, sir.

5 Q. And was the fire going pretty good at that time?
6 Could you see it?

7 A. Yes, sir.

8 Q. And you put your clothes on?

9 A. I still had my night gown on.

10 Q. You didn't change clothes, then, at that time?

11 A. No, sir.

12 Q. The first thing you did you went in and woke -- you
13 tried to wake your father up, is that right?

14 A. Yes, sir.

15 Q. Was your mother there at that time?

16 A. No, sir.

17 Q. Do you know where she was?

18 A. Yes, sir.

19 Q. Where was that?

20 A. Down at my granny's.

21 Q. Down at your grandmother's?

22 A. Yes, sir.

23 Q. All right. And then you ran up to the Dellinger's
24 house, and the reason you went up there is that you were worried
25 about Tommy, to see where he was, is that correct?

- 1 A. Yes, sir.
- 2 Q. And you never did go in the house?
- 3 A. No, sir.
- 4 Q. Just ran up to the front and asked them if Tommy
- 5 was there -- if Tommy was in the fire?
- 6 A. I had to yell through the back door.
- 7 Q. You had to go to the back door?
- 8 A. Where the steps was.
- 9 Q. I beg your pardon, ma'am?
- 10 A. Where the steps was.
- 11 Q. The steps are at the back door?
- 12 A. Yes, sir.
- 13 Q. So you had to run around to the back of the house?
- 14 A. Yes, sir.
- 15 Q. Can you see from the back of the house down to your
- 16 house?
- 17 A. No, sir.
- 18 Q. You can't see down there, can you?
- 19 A. Is that right? And that's where there was -- was
- 20 there a truck parked back there at that time?
- 21 A. Yes, sir.
- 22 Q. And that was Mr. Dellinger's truck?
- 23 A. Yes, sir.
- 24 Q. No other vehicles were there at that time?
- 25 A. Linda Dellinger's car was.

1 Q. Her car was there. So you went back there, and you
2 hollered in there, and you never went in the house?

3 A. No, I knocked on the door, and she came to the
4 door.

5 Q. And you hollered and asked them if Tommy was there
6 with them or where -- if they knew where he was?

7 A. No, I asked her if Dellinger or Sutton was there.

8 Q. I beg your pardon?

9 A. I asked her if Dellinger or Sutton was there.

10 Q. And she said she didn't know, and they walked up -
11 - they came up to you about that time -- they came from the
12 front of the house?

13 A. She said that they were not there at this moment.

14 Q. Anyway, James -- Gary Sutton, you said, hollered
15 and told you that -- not to worry, that Tommy was in Blount
16 County with a girl -- in Maryville.

17 A. After I asked him.

18 Q. Is that right, he said Maryville.

19 GENERAL SCHMUTZER: I would object, Your Honor...

20 BY MR. DANIEL:

21 Q. I'm sorry, I can't hear you, ma'am, and I
22 apologize.

23 A. Would you please repeat the question?

24 A. I said so you say that Gary Sutton is the one that
25 told you that Tommy was in Maryville or Blount County with a

1 girl?

2 A. Blount County with a girl.

3 Q. And that -- then you ran back down to the house,
4 is that correct?

5 A. My house.

6 Q. To your house. And your father had either not
7 gotten up, but he was still asleep at that time, is that right?

8 A. Yes, sir.

9 Q. So you went in again and woke him up?

10 A. Yes, sir.

11 Q. Is that right?

12 A. Yes, sir.

13 Q. And then at that time you dialed what we call 9-1-
14 1, is that correct?

15 A. Yes, sir.

16 Q. And if the records show that that dialing when at
17 about nine minutes after 9:00, would that be about what you
18 would think the time would be?

19 A. I'm not for sure.

20 Q. So you couldn't have been up at the house -- the
21 Dellinger's house over a couple of minutes or a minute or two
22 at the most, could you? You wasn't up there but just a minute?

23 A. I'm not for sure.

24 Q. You never did go in the house?

25 A. No, sir.

1 Q. And then you went down to the fire, too, and your
2 father had went down there to the fire, is that right?

3 A. Yes, sir.

4 Q. And I believe the trailer belongs to your father,
5 is that right?

6 A. Yes, sir.

7 Q. Now Tommy and Gary were good friends?

8 A. Yes, sir.

9 Q. Ran around together, stayed together practically
10 all the time, didn't they?

11 A. Yes, sir.

12 Q. And Tommy lived with Gary a lot of the time, is
13 that right?

14 A. I'm not for sure.

15 Q. Do you know he stayed with him some over at his
16 house?

17 A. No, sir.

18 Q. They were together constantly? If you would see
19 one, you would see the other, is that about right?

20 A. Yes, sir.

21 Q. And you know that down there around the house they
22 shot a lot of shells -- I mean, a lot of people would shoot guns
23 down and around the Dellinger's house and around your all's
24 house, is that right? Just fire guns and shoot at different
25 things?

1 A. Yes, sir.

2 Q. Was there a lot of shells that laid around down
3 there out in the yard?

4 A. I'm not for sure.

5 Q. Did you ever ride a bicycle or walk up and down
6 through there where you could see shells out there laying
7 around?

8 A. I walk up and down the road.

9 Q. Beg your pardon?

10 A. I've walked up and down the road.

11 Q. Have you been in the yards -- the Dellinger's yard?

12 A. Yes, sir.

13 Q. And also in Tommy's yard?

14 A. Yes, sir.

15 Q. Seen shells laying around there in the yard at both
16 places? You know what I mean by shells, hulls where a gun's
17 been shot?

18 A. Yes, sir.

19 Q. Is that right?

20 A. Yes, sir.

21 Q. And you have a little brother by the name of David,
22 is that correct?

23 A. David Ben Branum.

24 Q. And that's your little brother, is that right?

25 A. Yes, sir.

1 Q. He's about what, 12 -- 10 years old?

2 A. No, sir, he's eight.

3 Q. And he -- do you know Justin -- Justin Sutton? Is
4 there a little boy named Justin that you know?

5 A. I might have met him, but I don't know him.

6 Q. Do you know that he and Justin -- did you ever see
7 them playing together?

8 A. I'm not for sure.

9 Q. You don't know whether they played together or not
10 then, do you?

11 A. No.

12 Q. Did you ever see your brother picking up any shells
13 and throwing them or carrying them around?

14 A. He's picked up shells, but he's thrown them away.

15 Q. Boys will do that -- did he bring some in the
16 house, those long silver, shiny shells?

17 A. Yes, sir.

18 Q. Beg your pardon?

19 A. Yes, sir.

20 Q. And did you ever -- you say you don't know -- you
21 don't know this boy Justin, you're not familiar with him?

22 A. No, sir, I might have met him, but...

23 Q. You didn't -- they were younger than you, is that
24 right?

25 A. Yes, sir.

1 Q. You didn't play with them?

2 A. No.

3 Q. You say your brother would bring them in the house
4 sometimes -- the shells in the house?

5 A. Yes, sir.

6 Q. Did he ride with your mother in her car at times?

7 A. Yes, sir.

8 Q. Did you ever seen him and any of his friends
9 playing in and around the car out there when your mother's car
10 would be parked there?

11 A. Yes, sir.

12 MR. DANIEL: No further questions.

13 THE WITNESS: Can I be excused?

14 THE COURT: Mr. Miller, anything?

15 MR. MILLER: No, Your Honor.

16 THE COURT: General Schmutzer, anything further?

17 GENERAL SCHMUTZER: No, Your Honor -- well, I do.
18 I just have a couple of questions.

19 **

20 REDIRECT EXAMINATION

21 BY GENERAL SCHMUTZER:

22 Q. When -- this street light you're referring to, is
23 that street light up towards Dellinger's trailer or down towards
24 Tommy's trailer from your house -- the street light you're
25 talking about?

1 A. It's right on the other side of our road.

2 Q. Other side of your road?

3 A. Not beside the fence, but on the...

4 Q. Why don't you -- can you come down here, maybe, and
5 look at this? I don't even know if you've had a chance to see
6 this or not. You see what's marked there as Boyd Branum's
7 place?

8 A. Yes.

9 Q. There's a little place -- a spot that's marked
10 street light. Is that the one you're talking about?

11 A. Yes, sir.

12 Q. Now you mentioned about the -- you went around the
13 back door -- towards the back door -- your house faces the front
14 of the trailer -- I mean, your home. From your place can you
15 see the vehicles -- the cars -- the car and the truck, the way
16 they are parked in there?

17 A. Yes, sir.

18 Q. So they're not parked all the way behind his
19 trailer?

20 A. No, sir.

21 Q. They are parked out where you can see them?

22 A. Yes, sir.

23 THE WITNESS: Can I be excused?

24 THE COURT: Is she free to go?

25 GENERAL SCHMUTZER: Yes, Your Honor.

1 MR. DANIEL: Yes.

2 GENERAL SCHMUTZER: The State calls Sandy Branum.

3 **

4 SANDY BRANUM was called, and being duly sworn, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY GENERAL SCHMUTZER:

8 Q. Would you please state your full name?

9 A. Sandra Viola Branum.

10 Q. And you are the daughter of Boyd Branum and the
11 late Connie Branum?

12 A. Yes, sir.

13 Q. And Jennifer, I believe, is your sister, is that
14 right?

15 A. Yes, sir.

16 Q. How old are you?

17 A. 15.

18 Q. Do you know these two defendants, James Dellinger
19 and Gary Sutton?

20 A. Yes, sir.

21 Q. About how long have you known them?

22 A. As long as they've lived up in their trailers. I
23 don't know how long that's been.

24 Q. All right. Did you ever see a fight between Gary
25 Sutton and your uncle, Bill Griffin?

1 A. Yes, sir.

2 Q. Where was that?

3 A. At my granny's house.

4 Q. What happened?

5 A. Well, I don't really know. I was in there sitting
6 in the living room, and I heard -- you know, outside talking,
7 and I got up and went out and looked, and James, Gary, and
8 Billy, and Tommy, and Tammy -- my Aunt Tammy was out there, and
9 I came back in and put my shoes on, and went out. When I went
10 out I seen Gary in Bill's face pointing his finger, and then
11 Bill slapped his finger out of his face, and then the next thing
12 I know they were -- Billy and Gary were on the -- were fighting,
13 and Billy fell on the ground and hit his head over -- my granny
14 has bricks around her flower bed, and Bill fell, and Gary was
15 stomping him -- stomping Billy in the head with his boots, and
16 I shoved Gary off of Billy.

17 Q. When was this -- do you remember about when this
18 happened?

19 A. Not long after Christmas because my granny was in
20 the hospital.

21 THE COURT: Was that Christmas of '92?

22 GENERAL SCHMUTZER: It would be '91.

23 THE WITNESS: '91.

24 THE COURT: '91, I'm sorry.

25 BY GENERAL SCHMUTZER:

1 Q. This was the Christmas just before Tommy's trailer
2 burned, is that right?

3 A. Yes, sir.

4 Q. Did anybody take your Uncle Bill to the doctor or
5 hospital?

6 A. Yes.

7 MR. WEBB: Your Honor, let me object, and can we
8 approach the bench?

9 THE COURT: Yes.

10 (A bench conference is held on the record, to-wit:)

11 MR. WEBB: Your Honor, this puts us in an awkward
12 position. I think a charged crime went to the
13 grand jury, and a no true bill was found, and I
14 thought you told them -- the General represented
15 that they were going to say -- to show bad blood
16 or whatever it shows -- you know, why do we have
17 to get to the hospital?

18 GENERAL SCHMUTZER: I only asked if he went to the
19 hospital -- if somebody took him.

20 MR. WEBB: We went to the hospital, too, but I may
21 not be able to bring that proof up. That has no
22 relevance. Now Judge, I'm going to be very -- I'm
23 going to renew my objection. This is totally
24 irrelevant. It has nothing to do with this
25 lawsuit, and...

1 THE COURT: I understand. Let's don't go any
2 further along the hospital aspect of it. She's
3 already testified...

4 MR. WEBB: But I want the Court to understand --
5 you've already told me that I don't have to object
6 every time this other crimes or prior bad acts
7 evidence comes in. I want to make sure that's
8 clear and on the record.

9 THE COURT: Right. It's clear and on the record
10 twice.

11 MR. WEBB: Okay. I would like the Court to
12 instruct the jury. There needs to be -- obviously,
13 this -- the jury cannot take this evidence to have
14 any reflection on the guilt or innocence of my
15 client on this charge that we're here on. I would
16 like a cautionary instruction to the jury.

17 THE COURT: I have instructed the jury on other
18 crimes evidence at least twice, if not three times.
19 I will instruct them again throughout the trial.
20 I will do my best to take care of that.

21 MR. WEBB: Well, what it is -- it just has such
22 a...

23 THE COURT: I understand your position.

24 MR. WEBB: Of course, that's what the general
25 wants. He wants to bring in all this to show

1 things that are not relevant to this lawsuit, but
2 I would still ask for a cautionary instruction.

3 THE COURT: I will read them a cautionary -- I will
4 read them the instruction on evidence of other
5 crimes. I will do that.

6 MR. WEBB: Can I go to my -- I would like to show
7 you the instruction that I drafted up, and...

8 THE COURT: Well, I'm going to charge this...

9 MR. MILLER: Your Honor?

10 THE COURT: Yes?

11 MR. MILLER: I want to make Mr. Webb's motion as
12 to bring up evidence as to Mr. Sutton, and make a
13 motion for severance at this time because of that,
14 and...

15 THE COURT: Gentlemen, I've already ruled on that
16 at least five times.

17 MR. MILLER: I've not made that motion...

18 THE COURT: Well, I've already ruled on that motion
19 a bunch of times, and -- so don't...

20 MR. WEBB: The jury needs to understand -- we're
21 trying to...

22 GENERAL SCHMUTZER: It goes, obviously, to bad
23 blood, to motive and intent. Your Honor, the only
24 reason why I asked if they went to the hospital is,
25 obviously, the extent of the injuries goes to the

1 amount of animosity that was formed and involved
2 in this thing. It wasn't just a little old fight
3 where they just broke up and both went home and
4 nursed their wounds. This boy was stomped.

5 **THE COURT:** She's testified to that.

6 **GENERAL SCHMUTZER:** Yeah, that's what I mean.

7 **MR. WEBB:** Well, Your Honor, let's put it on the
8 record. This matter -- the attorney general's
9 office had the power to prosecute that case, and
10 they saw fit -- there was a state warrant, there
11 was a grand jury hearing, and the grand jury issued
12 a no true bill, and had to find that that was a
13 justifiable act.

14 **GENERAL SCHMUTZER:** Not necessarily at all, Your
15 Honor, and certainly wasn't in this case, but
16 that's...we don't want to go into whose fault it
17 was, but only to show that it happened, and the
18 extent that it happened to show the animosity and
19 the ill feelings.

20 **THE COURT:** And if I let you go on to show the
21 extent -- that he went to the hospital, and you go
22 on with it, then that might open up a whole other
23 set of issues about bringing in medical records
24 that have absolutely...

25 **GENERAL SCHMUTZER:** Oh, I wasn't going to go into

1 it that far.

2 THE COURT: Except they might want to. So let's
3 don't go any further.

4 (Said bench conference being completed, the
5 following proceedings are had in open court.)

6 THE COURT: Ladies and gentlemen, I want to
7 instruct you again on the law as it pertains to other alleged
8 bad acts or crimes because it is an important issue, and I want
9 you to understand it as best I can explain it to you, and having
10 said that I believe I will read the law to you, which makes it
11 always easier.

12 "If from the proof you find that a defendant has
13 committed a crime or bad acts other than that for which he is
14 on trial, you may not consider such evidence to prove his
15 disposition to commit such a crime as that on trial. This
16 evidence may only be considered by you for the limited purposes
17 of whether or not it provides either the complete story of the
18 crime on trial, that is, such evidence may be considered by your
19 where the prior crimes and the present alleged crime are
20 logically related or connected, or are part of the same
21 transaction so that the proof of the other tends or is necessary
22 to prove the one charged, or is necessary for a complete account
23 thereof.

24 Also, for motive it may be considered. That is,
25 such evidence may be considered by you if it tends to show a

1 motive of the defendant for the commission of the offense
2 presently charged or the defendant's intent, that is, such
3 evidence may be considered by you if it tends to establish that
4 the defendant actually intended to commit the crime with which
5 he is presently charged.

6 Such evidence of other crimes, if considered by you
7 for any purpose, must not be considered for any purpose other
8 than that specifically stated by the Court."

9 General Schmutzer, you may proceed.

10 GENERAL SCHMUTZER: Thank you very much, Your
11 Honor.

12 BY GENERAL SCHMUTZER:

13 Q. Miss Branum, that fight that you just testified to,
14 was the defendant Dellinger there?

15 A. Yes, sir.

16 Q. Now, were you home the evening that your Uncle
17 Tommy Griffin's trailer burned?

18 A. Yes, sir.

19 Q. How did you first learn, or how did you first
20 discover that it was on fire?

21 A. I was laying on the couch. I'd just got through
22 cleaning up my mom's house, and the phone rung, and it was Linda
23 Henry.

24 Q. Is that Alvin Henry's wife?

25 A. Yes, sir.

1 Q. What did she tell you?

2 A. She said, "Did you know that Tommy's trailer was
3 on fire?" I said, "No, I didn't." And Linda said, "Well, it
4 is," and I said, "Well, I got to go. I got to call my mom down
5 at my granny's and call the fire department." She said, "I've
6 already called the fire department." And I said, "Okay,
7 thanks." And I hung the phone up, and I called my mom and told
8 mom that Tommy's trailer was on fire. My brother answered the
9 phone, and I said, "Tell mom Tommy's trailer's on fire." Then
10 he hung the phone up, and -- well, I got up, and I went in and
11 I told my dad, and I left, and I went down to the trailer, and
12 then my mom came up there.

13 Q. Now, where was your mom when you called her?

14 A. Down at my granny's.

15 Q. Were you down there when she came?

16 A. Yes, sir.

17 Q. Who did she come with?

18 A. My granny, and Lucy, and my brother, and I think
19 Rachel, my baby cousin, was with them.

20 Q. When they got there had any of the fire trucks
21 arrived?

22 A. No.

23 Q. When you got there did the fire trucks come in --
24 arrive?

25 A. Yes.

1 Q. What -- where did you all -- where did they pull
2 in?

3 A. My mom?

4 Q. Uh-huh (affirmative.)

5 A. She pulled in Devon Mays' and Elaine Mays'
6 driveway.

7 Q. Where did you all stay when you were watching the
8 fire?

9 A. In Elaine Mays' yard.

10 Q. While you were out there watching the fire did your
11 sister, Jennifer, ever come down?

12 A. Yes.

13 Q. Was your mother concerned?

14 A. Yes, sir.

15 Q. What was she concerned about?

16 A. That Tommy was in the trailer.

17 Q. Did she -- while she was there did your sister ever
18 come down and tell you all that he wasn't there?

19 A. Yes.

20 Q. Where did she say he was?

21 A. That he was in Blount County with some girl.

22 Q. While you were all there watching the fire did your
23 mother tell you to make any telephone calls or did you make any
24 telephone calls?

25 A. Yes.

- 1 Q. Do you know about what time that was?
- 2 A. About 15 till 10:00 or about 10:00.
- 3 Q. When -- how come you to make a call?
- 4 A. Because we wanted...
- 5 Q. Who told you...
- 6 A. My mom -- me and my mom and my granny wanted to
- 7 know exactly where Tommy was at so we could get hold of him, so
- 8 I went and called up at James Dellinger's house.
- 9 Q. Where did you call?
- 10 A. From Elaine Mays'.
- 11 Q. Did you get permission from her before you made
- 12 your call?
- 13 A. Yes, sir.
- 14 Q. Who did you talk to?
- 15 A. James Dellinger.
- 16 Q. All right. And what did you ask him, and what did
- 17 he say? What was said?
- 18 A. I said, "James," I said, "Do you know where Tommy's
- 19 at? Is there any way we can get hold of him?" He said, "Don't
- 20 worry about Tommy. He's in Blount County Jail right now, and
- 21 me and Gary's going to go get him."
- 22 Q. Did you tell your mother this?
- 23 A. Yes, I did.
- 24 Q. Did Tommy -- I mean, did James -- or Gary Sutton
- 25 or James Dellinger ever come down to the fire that night?

- 1 A. No, sir.
- 2 Q. How about his wife, Linda Dellinger?
- 3 A. Yes.
- 4 Q. Did she ever come down?
- 5 A. Yes, sir.
- 6 Q. Did she come down alone or with somebody?
- 7 A. With Carolyn Weaver.
- 8 Q. Who is Carolyn Weaver?
- 9 A. At the time I believe it was Gary's girlfriend.
- 10 Q. When they came down -- did they come down before
- 11 or after you had made that telephone call?
- 12 A. After.
- 13 Q. When they came down -- I take it they were coming
- 14 down from their trailer up there?
- 15 A. Yes, sir.
- 16 Q. When they came down did you have any conversation
- 17 with either one of them?
- 18 A. Yes, sir.
- 19 Q. And who was that?
- 20 A. Both.
- 21 Q. What did they tell you?
- 22 MR. WEBB: Your Honor, I would object to hearsay.
- 23 THE COURT: Sustained.
- 24 BY GENERAL SCHMUTZER:
- 25 Q. In any event, when they came down was your sister,

1 Jennifer, still there, or had she already gone back, or do you
2 remember?

3 A. She had already went back.

4 Q. Up to your house?

5 A. Yes.

6 Q. How did you learn that James Dellinger and Gary
7 Sutton had, in fact, gone to get your uncle?

8 A. Linda Dellinger.

9 Q. How long did you all stay down there at the fire,
10 you and your mother and your granny?

11 A. It was about 10:30 or maybe 11:00.

12 Q. Were you still there when all the fire trucks left?

13 A. Yes, sir.

14 Q. Was your mother still out there when all the fire
15 trucks left?

16 A. Yes, sir.

17 Q. During that period of time had she ever gone in to
18 make any telephone calls?

19 A. No, sir.

20 Q. Where did you all go after you left Devon Mays'
21 yard?

22 A. I went back up to my house, and my mom took my
23 granny home.

24 Q. Back over on White's School Road?

25 A. Yes, sir.

1 Q. Did she ever come back to your house that night?

2 A. Yes, sir.

3 Q. About what time was it when she got back, if you
4 recall?

5 A. About 10 or 15 after 11:00, somewhere around there.

6 Q. What did you all do then? Did you go on to bed or
7 did you sit up?

8 A. Set up with my mom.

9 Q. What were you setting up for?

10 A. I just wanted to stay up with her because she was
11 real upset.

12 Q. And why was she upset?

13 A. Because she was worried about Tommy...

14 MR. WEBB: We object, Your Honor.

15 MR. DANIEL: That would be a conclusion, Your
16 Honor.

17 THE COURT: Sustained.

18 BY GENERAL SCHMUTZER:

19 Q. Now at that point, were you waiting on anybody?

20 A. Yes, sir.

21 Q. Who were you waiting on?

22 A. James and Gary to come back home.

23 Q. Why were you waiting on them to come back?

24 A. To find out where Tommy was at.

25 Q. Did you expect Tommy to come back with them?

1 A. Yes, sir, in a way I did.

2 Q. Is that what he had told you, that they were going
3 to go get him?

4 A. Yes, sir.

5 Q. Did you see them when they came back?

6 A. Yes, sir.

7 Q. Where did they -- when they came back what car were
8 they driving?

9 A. Linda Dellinger's car.

10 Q. What color is it?

11 A. Gray.

12 Q. About what time was it when they came back?

13 A. 1:00.

14 Q. Had you been watching for them?

15 A. Yes, sir.

16 Q. Had your mother been watching for them?

17 A. When they came in who all got out of the car?

18 A. James and Gary.

19 Q. Where did they go?

20 A. In the trailer.

21 Q. Did anybody else get out of the car with them?

22 A. No, sir.

23 Q. When they went into the trailer what did your
24 mother do?

25 A. She called.

1 Q. Called who?

2 A. James.

3 Q. And did she talk to him?

4 A. Yes.

5 Q. And what did James tell her?

6 MR. DANIEL: Your Honor, we object to that unless
7 she heard it.

8 THE COURT: Sustained.

9 BY GENERAL SCHMUTZER:

10 Q. Let me ask you this. What did she do after she
11 talked to James?

12 A. She called the Blount County Jail.

13 Q. And did you -- she called from your all's house?

14 A. Yes, sir.

15 Q. Of course, that would be a long distance call. Did
16 Tommy come back with James and Gary that night?

17 A. No, sir.

18 Q. Did you go on to bed that evening, or did you
19 continue to stay up with your mother?

20 A. I went to bed about 4:00 -- 4:00 or 5:00 in the
21 morning.

22 Q. You set up that late with her?

23 A. Yes, sir.

24 Q. Did she continue to call again trying to call the
25 Blount County Jail trying to locate Tommy?

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1 A. Yes, sir.

2 GENERAL SCHMUTZER: You may cross examine.

3 **

4 CROSS-EXAMINATION

5 BY MR. MILLER:

6 Q. I believe you said that Linda Henry was the one
7 that alerted you to the fire when she called up to your house?

8 A. Yes, sir.

9 Q. What did you do after she called up there?

10 A. Called my mother down at my granny's.

11 Q. And then what did you do?

12 A. I went down to the fire.

13 Q. Okay. Did you tell anybody else in the house about
14 the fire?

15 A. Yes, I told my dad.

16 Q. Did he get up and go down to the fire?

17 A. Yes, he did.

18 Q. So right after you got him up you went down to the
19 fire?

20 A. Yes, I did.

21 Q. And you say your sister came down to the fire later
22 on?

23 A. Yes, sir.

24 Q. How much after you had gotten down to the fire did
25 she come down there?

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1 A. She came down about -- I got there about five
2 minutes after 9:00, so she came down about 9:15, 9:20.

3 Q. What time did your father come down to the fire?

4 A. About 9:30.

5 Q. You stood down there with your mother the whole
6 time during the fire?

7 A. Yes, sir.

8 Q. Did you hear them talking to anybody, the firemen,
9 about how the fire may have started?

10 A. No, sir.

11 Q. Did you not hear her mention to anybody about the
12 faulty plug in the trailer?

13 A. Yes.

14 Q. Okay. Who did you tell that to?

15 A. One of the firemen, I think.

16 Q. Okay. Did she tell the fireman that there was more
17 than one faulty plug, or just what did you hear?

18 A. I heard her say that there was like one faulty,
19 real bad plug in behind where the T.V. was at.

20 Q. Okay.

21 A. And she thought that might have started it.

22 Q. Did she tell the firemen anything else about how
23 the fire may have started?

24 A. Through the wood heater.

25 Q. Through the wood heater? Anything else that she

1 told them?

2 A. No.

3 Q. Let me ask you about the fire itself. Did you look
4 -- once Linda Henry called you, did you look down at the fire?

5 A. Yes, sir.

6 Q. And where did you see the fire, where in the
7 trailer?

8 A. I got up on the couch, and I looked down, and I
9 seen some flames, and I thought, "Oh, goodness," -- you know,
10 I thought the McDermon's house was on fire. I didn't know it
11 was Tommy's trailer -- Harry and Betty McDermon. There's is
12 just like a summer house, and I thought their house was on fire.
13 I couldn't really tell you where it was started.

14 Q. Are you saying you saw the fire before Linda Henry
15 called?

16 A. Yes, sir.

17 Q. And she called shortly after?

18 A. The phone rung, and I got up and saw it. When the
19 phone rung, I got up to answer the phone.

20 Q. Okay. And where -- when you looked down there was
21 the fire all over the trailer? Was it coming through the roof,
22 and so forth?

23 A. It was all -- you know, all around.

24 Q. That would have been at what time?

25 A. 9:00.

1 Q. 9:00? Were the flames coming up real high and so
2 forth?

3 A. Yes, sir.

4 Q. Do you remember what color the fire was?

5 A. It was a regular fire.

6 Q. You know -- you've seen different flames, blue,
7 red, and so forth.

8 A. I couldn't tell you.

9 MR. MILLER: I believe that's all, Your Honor.

10 THE COURT: Mr. Daniel?

11 **

12 CROSS EXAMINATION

13 BY MR. DANIEL:

14 Q. Miss Branum, I want to ask you a few questions, and
15 if you don't understand what I'm asking, will you ask me to
16 repeat it? I'm not trying to trick you, I just want to make
17 sure we get some things straight. As I understand it, then,
18 after you -- you got a call that the trailer was on fire before
19 you ever knew that there was a fire, and when you got up you
20 looked down there, and saw the fire about the same time you
21 picked up the phone, is that correct?

22 A. Yes, sir.

23 Q. And you -- then after that you went to tell -- did
24 you go wake your father up?

25 A. Yes, sir.

1 Q. And then you went to talk to your sister, is that
2 correct, and her name would be -- what's your sister's -- the
3 one that just testified?

4 A. Jennifer Branum.

5 Q. Jennifer, is that correct?

6 A. Yes, sir.

7 Q. And Jennifer, did you wake her up?

8 A. I didn't wake her up. I'd say she heard me because
9 I went through the house and hollered, "Dad, get up, hurry.
10 Tommy's trailer is on fire." She came out of the bedroom, and
11 said, "What?" I said, "Tommy's trailer's on fire." I said, "I
12 got to call mom." I called mom and told her the trailer was on
13 fire.

14 Q. Then you all -- after you called your mom your
15 sister then went up to the Dellinger's house, is that right?

16 A. Yes, sir.

17 Q. And this would have been some time after you had
18 received a call from the Henry's, is that correct?

19 A. Yes, sir, a little bit after.

20 Q. And then after she came -- she went up there, she
21 run up there, and right back? Were you at the house when she
22 came back?

23 A. No, sir.

24 Q. You had already gone?

25 A. Yes, sir.

1 Q. Do you know if she then got your father up? Are
2 you aware of that?

3 A. Yes, sir.

4 Q. But she just ran straight up there and straight
5 back?

6 A. Yes, sir.

7 Q. And then did you realize that a phone call was made
8 from your house to 9-1-1 number?

9 A. Yes, sir.

10 Q. Then I understand that you all went down there to
11 the fire, and your mother came over, is that correct?

12 A. Yes, sir.

13 Q. Of course, everybody was going in and out and
14 calling the fire departments and everybody else during this
15 period of time, weren't they?

16 A. No, sir.

17 Q. Nobody called anybody?

18 A. No, sir.

19 Q. You're sure of this?

20 A. I called.

21 Q. You called?

22 A. That was it.

23 Q. What time did you call, do you know?

24 A. About 15 till 10:00 or 10:00.

25 Q. They had not come at that time -- the fire

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1 department had not arrived?

2 A. Yes, they did arrive.

3 Q. But you called before they arrived?

4 A. I didn't call the fire department.

5 Q. Okay. As I understand it then, you say that you
6 were down there at the house one day when Gary got into an
7 argument with your uncle, is that correct?

8 A. Yes, sir.

9 Q. And his name is Bill?

10 A. Yes, sir.

11 Q. And Tommy was there?

12 A. Yes, sir.

13 Q. And I don't mean this to -- does Bill take them
14 Xanax, those pills?

15 A. I don't know.

16 Q. You know that he does, don't you? You've seen him
17 take some pills?

18 A. I've seen him take medicine, but I don't know what
19 kind of medicine he takes.

20 Q. Did you hear that -- were you present and see him
21 hit or slap Gary over here? Did you ever see that?

22 A. Seen him slap his finger out of his face.

23 Q. Did you see him hit him?

24 A. No, sir.

25 Q. You never saw him hit him at all?

- 1 A. No, sir, not until they were fighting.
- 2 Q. They got in a fight?
- 3 A. Uh-huh (affirmative.)
- 4 Q. And then after the fight was over Gary left, and
- 5 Tommy -- your Uncle Tommy went with Gary, didn't he?
- 6 A. Yes, sir.
- 7 Q. They were best friends, weren't they -- Tommy and
- 8 Gary?
- 9 A. They were friends.
- 10 Q. They stayed together all the time?
- 11 A. Some, yeah.
- 12 Q. So after your -- after Tommy's brother -- Bill is
- 13 Tommy's brother, right?
- 14 A. Yeah.
- 15 Q. So after Bill had had a fight with Gary, Tommy then
- 16 left and went with Gary when they left, is that right?
- 17 A. Yes, sir.
- 18 Q. They weren't arguing or fussing or anything?
- 19 A. No, sir, not that I know of.
- 20 Q. Did you know that when they -- they your Uncle Bill
- 21 brought charges against Gary, and Tommy came up here to testify
- 22 for Gary? Did you know that?
- 23 A. Yes, sir.
- 24 Q. You knew that Tommy and Gary had no problems at
- 25 all, didn't you? They were just good friends, weren't they?

1 A. I guess.

2 Q. And so when you heard that somebody said that --
3 not to worry about Tommy because he wasn't in the fire, he was
4 over in Blount County or Maryville, and he was with some girl.

5 A. That's what my sister said.

6 Q. Said when she came down there?

7 A. Yes, sir.

8 MR. DANIEL: No further questions, Your Honor.
9 Thank you.

10 THE COURT: Mr. Miller?

11 **

12 RE CROSS-EXAMINATION

13 BY MR. MILLER:

14 Q. Sandy, Mr. Daniel asked you about Gary running
15 around with Tommy. Did James Dellinger run around with Tommy
16 all the time, too, the three of them?

17 A. With Tommy, yes.

18 Q. And they were good friends as well, is that
19 correct?

20 A. From what I saw.

21 Q. You never saw James and Tommy have any problem at
22 all, did you?

23 A. I did when they were drinking some. They would
24 fuss.

25 Q. Fuss and fight?

1 A. Yeah.
2 MR. MILLER: That's all.
3 THE COURT: Anything further?
4 GENERAL SCHMUTZER: Nothing further, Your Honor.
5 THE COURT: Is she...
6 MR. DANIEL: She may be excused, Your Honor.
7 THE COURT: You are free to go.
8 GENERAL SCHMUTZER: Call Tim Nichols.
9 THE COURT: Approach just a moment, please,
10 counsel.
11 (A bench conference is held on the record, to-wit:)
12 THE COURT: Is this the last witness on this point?
13 GENERAL SCHMUTZER: Your Honor, I would suggest to
14 the Court -- we intend to put on two more witnesses
15 and quit. I think it's going to be too long.
16 THE COURT: Let's see.
17 GENERAL SCHMUTZER: The records of the phone
18 company, and that's it.
19 THE COURT: Okay.
20 MR. MILLER: We weren't furnished any Jencks on
21 those last two...
22 GENERAL SCHMUTZER: We didn't have any Jencks.
23 MR. MILLER: Okay.
24 (Said bench conference being completed, the
25 following proceedings are had in open court.)
26 **

1 TIM NICHOLS was called, and being duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY GENERAL SCHMUTZER:

5 Q. If you will, please, state your full name.

6 A. Timothy Scott Nichols.

7 Q. And where do you live, Mr. Nichols?

8 A. Sevierville.

9 Q. And what is your -- you're a fire fighter, is that
10 correct?

11 A. Yes, sir.

12 Q. And what -- Sevierville/Sevier County Department?

13 A. Yes, sir.

14 Q. Did you head up the fire fighting that took place
15 at the Tommy Griffin trailer back on February the 21st of last
16 year?

17 A. Yes, sir.

18 Q. And when you were up there, sir, do you maintain
19 records there as to when the trucks go out, and when they
20 arrive, and when they leave?

21 A. Yes, sir. I've got a copy of all that right here.

22 Q. Do you? Let me show you -- I'll refer you to a
23 copy that was made. Is that a copy of your report that you
24 filed?

25 A. Yes.

1 Q. Now, what time does your report show that you all
2 first arrived -- first -- did you send more than one truck up
3 there -- fire truck?

4 A. Yes, we went a total of five trucks.

5 Q. When did the first one arrive on the scene?

6 A. It was at 9:17.

7 Q. And when did the last truck leave the scene?

8 A. It would be 22:28, that would be about 10:30.

9 Q. Okay, sir. Now -- I take it it was a total loss?

10 A. Yes.

11 Q. While you were there I believe you had some
12 discussions with Ms. Connie Branum about the possibility of bad
13 wiring, is that correct?

14 A. Yes, sir.

15 Q. Faulty plug or something?

16 A. Yes, sir.

17 Q. I take it you were trying to determine the possible
18 cause of the fire?

19 A. That's correct.

20 Q. Did you do any investigation yourself to determine
21 the cause of the fire?

22 A. No, we sort of just went about looking through, but
23 it was pretty much gone -- the trailer was fully gone.

24 Q. All right. Did you -- I believe later an arson
25 investigator actually came and conducted an investigation?

1 center where it started to spread -- you know, to both sides.

2 Q. You figured it started right in the center of the
3 trailer?

4 A. Yes, that's what it looked like.

5 Q. You said there was flooring at the end, but up
6 there the door and so forth, there wasn't?

7 A. Not much -- you know...

8 Q. Not much flooring left?

9 A. No.

10 Q. Connie Branum told you about the faulty plug? Did
11 she tell you about more than one faulty plug?

12 A. No, she said right in the living room area where
13 it looked like it was pretty much burned.

14 Q. And did anybody else tell you about the faulty
15 plug?

16 A. No.

17 Q. Do you not remember her mother, Viola Griffin?

18 A. She was there, but she didn't mention nothing about
19 the plug.

20 Q. Okay.

21 A. And you all didn't call the arson investigator
22 because you didn't suspect arson?

23 A. No, sir, sure didn't.

24 Q. Are there cases where you suspect arson, and you
25 call him in?

1 A. Yes, if -- you know, if we suspect it or if
2 somebody there might have suspected it, we would have called him
3 in.

4 Q. And nobody down there at the fire suspected arson?

5 A. No.

6 Q. You didn't smell any gas or anything down there?

7 A. No, sir.

8 Q. You didn't find any evidence of any accelerant of
9 any kind?

10 A. No.

11 MR. MILLER: I believe that's all.

12 THE COURT: Mr. Webb?

13 **

14 CROSS-EXAMINATION

15 BY MR. WEBB:

16 Q. Mr. Nichols, you have been fighting fires for
17 several years now, haven't you?

18 A. Yes, about six.

19 Q. And you take that as a very serious responsibility,
20 don't you?

21 A. Yes, sir.

22 Q. In fact, I believe that you're what's known as a
23 Class Two fire fighter?

24 A. Yes.

25 Q. And all those years -- in other words, you've

1 started out maybe at the bottom of the ladder, and you're rose
2 up in the ranks, is that correct?

3 A. Correct.

4 Q. In fact, you're an officer there, aren't you?

5 A. That's correct.

6 Q. And I believe when you got there you -- when you
7 got there you were the man in charge?

8 A. Yes, sir.

9 Q. Now I'm just going to assume, and tell me if I'm
10 wrong, but I bet this is not the first fire you're fought?

11 A. No, sir.

12 Q. Over the last six years just tell this jury how
13 many fires you've fought, approximately?

14 A. About a thousand, I'd say.

15 Q. Well, you fighting all these fires makes you
16 somebody that we can sort of talk to -- that's your specialty,
17 fighting fires, if you've fought a thousand fires over the last
18 several years. Wouldn't that be a fair statement?

19 A. Yes.

20 Q. You know, there's some fires you'll fight, and
21 you'll know right up front it's an arson, won't you?

22 A. It all depends -- you know, sort of.

23 Q. You know, one of the things -- tell this jury --
24 I bet you there's been times when you've suspected arson, and
25 you've told your superiors, and in fact, it turned out to be

1 arson?

2 A. Not right off. I can't ever recall doing that.

3 Q. Okay. This is a fire that -- you were there and
4 you watched it burn, I take it?

5 A. Like I said -- you know, when we first got there
6 it was pretty much gone.

7 Q. There wasn't any floor there around the door, was
8 there, or very little?

9 A. They was in spots -- you know, they was some at
10 certain points, and others, they wasn't.

11 Q. You didn't see any pour patterns or anything --
12 burn patterns to give you any idea about arson or accident or
13 any other way?

14 A. No. You know, I'm not an investigator, and I don't
15 know -- you know, how they investigate that.

16 Q. Right. While you were down there did anybody come
17 up and -- strike that right now. Do you agree that when you are
18 trying to determine the original fire, it's important to talk
19 to everybody around there, and get any statements they have
20 about anything?

21 A. Yes.

22 Q. Did you do that that night?

23 A. Yes, I talked to his mother, and I talked to his
24 sister, Connie.

25 Q. How many other people were down there that evening?

1 Just approximately, I know you can't tell me exactly.

2 A. 20 or 30, maybe.

3 Q. Bystanders, witnesses, and that type of thing?

4 A. Yes.

5 Q. People in the neighborhood that lived around that
6 area?

7 A. Yes.

8 Q. Did you ever talk to -- did a man named Alvin Henry
9 ever come up to you and say, "I seen a suspicious looking
10 vehicle?" He didn't, did he, sir?

11 A. I don't believe so. The only person outside the
12 fire department I really talked to was his mother and sister.

13 Q. So none of these other bystanders came up to you,
14 and said, "By the way, we seen a suspicious looking vehicle in
15 the area that we need to tell you about," did they, sir?

16 A. No, sir.

17 Q. Gary Clabo, he's an arson investigator, is that
18 correct?

19 A. That's correct.

20 Q. Did he come on the scene that night?

21 A. No, not that night.

22 Q. No one called him to come on the scene?

23 A. No, sir.

24 Q. That following week, it rained that week, didn't
25 it? Three or four days that next week, didn't it?

1 A. I can't recall. It might have.

2 Q. Would you agree with me that it's important to get
3 to a fire shortly after it's burned to investigate it, wouldn't
4 you? That's a fair statement, isn't it, sir?

5 A. Yes.

6 Q. And the more time that passes, the more chance for
7 the weather and the elements to interfere to things that's
8 there, and would interfere with the investigation, won't it?

9 GENERAL SCHMUTZER: I'll have to object to this,
10 Your Honor. The man said he's not qualified. He's
11 not an arson investigator.

12 MR. WEBB: Your Honor, he's been there six years,
13 and he's fought a thousand fires, and I think he's
14 qualified to give his opinion and let the jury
15 weigh it.

16 GENERAL SCHMUTZER: Not as to determining whether
17 it's arson or not. As to whether or not he's a
18 fire fighter, that's a whole different matter.
19 The man's an excellent fire fighter, but he's told
20 him he is not an arson investigator. To begin to
21 ask him his opinion as to what would affect an
22 arson investigation, Your Honor, just simply
23 wouldn't be proper. He's not qualified.

24 MR. WEBB: Your Honor, we're not asking this
25 question as an arson investigator, we're asking him

1 as a fire fighter who has been there for six years,
2 fought over a thousand, and is an officer in the
3 volunteer fire department.

4 **GENERAL SCHMUTZER:** Your Honor...

5 **MR. WEBB:** The question just calls for common
6 sense. Anybody would know the answer to those
7 questions.

8 **GENERAL SCHMUTZER:** Then that's -- Your Honor, I
9 would object to that because it calls for a
10 conclusion. If that's the case, then he can't ask
11 it at all. He can't ask for a conclusion unless
12 it's an expert's opinion. That's the law, pure and
13 simple.

14 **THE COURT:** I think he could probably, as a fire
15 fighter, say that the longer after the fire, the
16 harder it would be to...

17 **THE WITNESS:** Yes, sir. I would say that.

18 **THE COURT:** That's a fair statement, isn't it?

19 **THE WITNESS:** Yes.

20 **THE COURT:** Okay.

21 **BY MR. WEBB:**

22 Q. And weather, rain, snow, sleet, and all those
23 things affect, doesn't it?

24 A. I'd say.

25 Q. People getting in and stirring around and

1 disturbing things, that would affect it, wouldn't it? That all
2 would affect the investigation, wouldn't it?

3 A. Possibly.

4 Q. Thank you, sir.

5 THE COURT: General Schmutzer?

6 GENERAL SCHMUTZER: No further questions.

7 THE COURT: Is he excused?

8 GENERAL SCHMUTZER: No objection.

9 MR. MILLER: Yes, Your Honor.

10 GENERAL SCHMUTZER: Call Mr. Duggan.

11 **

12 DAVID DUGGAN was called, and being duly sworn, was
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 BY GENERAL SCHMUTZER:

16 Q. State your full name, please.

17 A. My name is David A. Duggan.

18 Q. And who are you with?

19 A. South Central Bell Telephone Company.

20 Q. And in what capacity?

21 A. I'm the security manager.

22 Q. I'll ask you, sir, as a security manager do you
23 have access to the telephone records and toll records for
24 telephones in the South Central Bell area?

25 A. Yes, sir.

1 Q. And in particular, here in East Tennessee?

2 A. Yes, I do.

3 Q. I'll ask you, sir, if you have, at the request of
4 the State, if you have pulled the toll records for telephone
5 number 453-6225, listed to Ms. Viola Griffin on White's School
6 Road?

7 A. Yes, sir, I have.

8 Q. Okay, sir. And specifically, for February the 21st
9 and February the 22nd of 1992, I'll ask you, sir, do your
10 records show any long distance calls being made from that number
11 to Maryville?

12 A. No, sir.

13 Q. Do they show any calls -- long distance calls being
14 made to that number from Maryville -- collect calls?

15 A. No, sir, they do not.

16 Q. Now I call your attention to phone number 428-2334,
17 listed to James Dellinger on Bluff Heights. I'll ask you, sir,
18 if you pulled those records, also, -- the telephone records for
19 the 21st and 22nd of February, 1992?

20 A. Yes, sir, I have.

21 Q. I'll ask you, sir, were there any calls placed on
22 February 21st to Maryville from that number?

23 A. Yes, sir, there were.

24 Q. Direct dial calls, is that correct?

25 A. Yes, direct dial calls to Maryville -- on the