

XVI 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

SUPREME COURT CLERK

TRANSCRIPT OF THE EVIDENCE:

Trial

February 16-24, 1993

Volume 14 of 22 Volumes

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

APPEARANCES:

FOR THE STATE

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CIRCUIT COURT
FILED
HOUR 9:30 A. M.
DATE JAN 07 1994
Henry H. Green
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

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1 MR. DANIEL: It's going to be a long one. We are
2 going to cross examine, and it's going to be a
3 long...

4 THE COURT: Okay.

5 MR. DANIEL: It's up to you. I'm in no hurry.

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

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

10 THE COURT: Ladies and gentlemen of the jury, it
11 is my understanding that the next witness is going to take a
12 considerable length of time, so counsel have asked for a break.
13 I'll give you a five minute break, and we'll come back and start
14 that witness.

15 (COURT STOOD IN RECESS)

16 GENERAL SCHMUTZER: Your Honor, we filed -- the
17 defense filed two statements for Lilly -- no, Jamie Forsythe...

18 MR. DANIEL: They were for identification only, I
19 understand.

20 GENERAL SCHMUTZER: I think one was for -- we
21 agreed that one wouldn't be passed, but it's my understanding
22 the other one would be passed.

23 THE COURT: I didn't rule on that.

24 GENERAL SCHMUTZER: You did not?

25 THE COURT: No, I did not.

1 GENERAL SCHMUTZER: Okay, Your Honor. I would ask,
2 if we could, to file those. They haven't been filed yet, and
3 then I agree with them that the statement regarding the taped
4 conversation of both of them at the same time be -- has a number
5 of immaterial statements, but I don't think the narrative does.

6 THE COURT: I'll have to look over it. Let's go
7 ahead and bring the jury in, and start the other witness. I'll
8 look over it, and make a ruling on that.

9 GENERAL SCHMUTZER: Okay, thank you. Do you need
10 it now or do you want to wait till later?

11 THE COURT: Let's just wait.

12 (JURY IN)

13 THE COURT: Waive the call for the State?

14 GENERAL SCHMUTZER: Yes, Your Honor.

15 THE COURT: For the defense?

16 MR. MILLER: Yes, Your Honor.

17 MR. DANIEL: Yes, Your Honor.

18 THE COURT: You may be seated. Call your next
19 witness.

20 GENERAL SCHMUTZER: The State calls Detective Jim
21 Widener.

22 **

JAMES WIDENER was called, and being duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY GENERAL SCHMUTZER:

Q. Would you give us your full name, please?

A. James Lynn Widener.

Q. And your occupation?

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

Q. And how long have you been with the Blount County
Sheriff's Department?

A. I've been with them since 1986, sir.

Q. Okay. And how long have you been in law
enforcement?

A. 16 years.

Q. And what is your training and background, sir, in
law enforcement?

A. I attended the State Police Academy in Donelson,
the state academy in Columbia, South Carolina for the Charleston
City Police Department, and various schools, specialized
training down through the years.

Q. Okay. Back in February of 1992, I take it you were
a detective at that time?

A. Yes, sir, I was.

Q. In that capacity, sir, were you called to the

1 Manning Lane area around the Blue Hole there in Blount County?

2 A. Yes, sir, I was.

3 Q. When you got to -- about what time was this, if you
4 remember?

5 A. The call came in at 4:31 in the afternoon.

6 Q. And when you got to the scene just what did you
7 find?

8 A. We responded to the scene from the courthouse, and
9 upon arrival we discovered the body of Mr. Tommy Griffin.

10 Q. Now when -- just tell the Court and jury just how
11 the body was located?

12 A. The Manning Lane or the Blue Hole is a pull off
13 right up above Walker's IGA. It pulls off of 321 and dead ends.
14 It parallels the river going in -- it's on the left hand side
15 of Manning Lane, and it's just right off the bank down to the
16 river.

17 Q. Is that a steep bank in there or is it...

18 A. In some places it is steep, sir.

19 Q. How about where the body was located?

20 A. It was steep. You would have to hold onto
21 something to stand where the body was at.

22 Q. All right. Could you see the body walking or
23 driving along Manning Lane?

24 A. Driving along you could not, sir.

25 Q. All right, sir. How was it that you could see the

1 body? How close did you have to get to the side of the bank to
2 see it?

3 A. I had to get out of the car and walk over to the
4 bank, and then over on the edge and look back before I could see
5 the body.

6 Q. Okay. I'll show you this photograph, sir, and ask
7 you if you can identify it?

8 A. Yes, sir, I can.

9 Q. And would that aid you in telling the jury where
10 the body was located?

11 A. Yes, sir, it would.

12 GENERAL SCHMUTZER: May it be filed, Your Honor,
13 as an exhibit?

14 THE COURT: So ordered.

15 (EXHIBIT #23 - Photograph; marked and filed.)

16 BY GENERAL SCHMUTZER:

17 Q. Where is this -- this is taken looking down the
18 bank?

19 A. Yes, sir.

20 Q. Can you see any part of the body there at all?

21 A. You can see just a little bit of a blue checkered
22 shirt.

23 Q. Would you draw an arrow to that, please?

24 A. (Witness complies.)

25 THE COURT: May I see the photograph before it's

1 passed?

2 GENERAL SCHMUTZER: Yes, Your Honor.

3 BY GENERAL SCHMUTZER:

4 Q. What was the condition of the body?

5 A. The body was lying front down -- face down. His
6 head was turned over to the side. The head was down toward the
7 river, the feet were back up the bank toward the roadway.

8 Q. Okay, sir. And did you observe any wounds on him
9 of any kind?

10 A. Yes, sir, I did.

11 Q. Where was that?

12 A. At the very back of the head, the neck area, there
13 was a hole that looked about the size of a half or silver
14 dollar.

15 Q. The body was removed and an autopsy performed, is
16 that correct?

17 A. Yes, sir, it was.

18 Q. And did you -- around the scene -- was the scene
19 itself cordoned off?

20 A. Yes, sir. Immediately upon our arrival we cordoned
21 the scene off, and started crime scene procedures.

22 Q. Did you -- when you started an investigation around
23 the crime scene did you find anything?

24 A. Yes, sir, we did.

25 Q. And specifically, did you find any type of shells?

1 A. Yes, sir, we did.

2 Q. What did you find?

3 A. We found two Remington Peters 12 gauge "00" buck
4 shotgun shells.

5 Q. All right. Were they spent shells or fired shells,
6 or were they...

7 A. They were spent shell casings.

8 Q. All right. Do either one of those show up in here?
9 Do you know off hand?

10 A. No, sir, not in that.

11 Q. Okay. Now, the shell casings -- I'll hand you this
12 and see if you can identify those.

13 A. Yes, sir.

14 GENERAL SCHMUTZER: Your Honor, may these two be
15 filed as exhibits?

16 THE COURT: Yes, they may.

17 (EXHIBIT #24 - Shell casing; marked and filed.)

18 (EXHIBIT #25 - Shell casing; marked and filed.)

19 BY GENERAL SCHMUTZER:

20 Q. Where were they located in relation to the body?

21 A. They were found up on the bank up on Manning Lane
22 between the Hard Ball Road and the edge of bank.

23 Q. Were they found in close proximity of the body or
24 some distance away?

25 A. They were found probably within 10 to 12 feet of

1 the body.

2 Q. The shells themselves, were they both -- or did you
3 see them both readily, or once you got to looking for them,
4 or...

5 A. Yes, sir. They were up on top of the leaves and
6 the grass. They weren't...

7 Q. Okay. Now after you found these shells I take it
8 you packaged them, and then who did you give them to?

9 A. The shells were packaged by myself, and were given
10 to crime tech Larry Munsey. He is a crime tech, one of the two
11 crime techs for our department.

12 Q. During the course of your investigation into the
13 this, did you determine who this body was?

14 A. Yes, sir, I did.

15 Q. And who was that?

16 A. Mr. Tommy Griffin.

17 Q. Did you determine also where he lived?

18 A. Yes, sir.

19 Q. Did you begin an investigation, I take it,
20 immediately that afternoon of Monday, the 24th?

21 A. Yes, sir.

22 Q. Into his death?

23 A. Yes, sir.

24 Q. During the course of your investigation did you
25 have an opportunity to talk to these two defendants?

1 A. Yes, sir, I did.

2 Q. And where was the first time that you talked to
3 them?

4 A. It was the Sevier County Sheriff's Department on
5 the day of the 25th.

6 Q. All right. And when you talked to them there on
7 the day of the 25th, just tell the Court and jury how you came
8 about to talk to them.

9 A. Well, we worked pretty late Monday night, and had
10 gone home to take a nap, and come back in early Tuesday. When
11 we came back in we had received a phone call, and I talked to
12 Mr. Dellinger, and he had called asking to talk to us to give
13 us some information, according to him, about the person we'd
14 found.

15 Q. Okay. So they came down voluntarily?

16 A. They called us, and we agreed to meet them at the
17 sheriff's department up here.

18 Q. In Sevier County?

19 A. Yes, sir.

20 Q. And did you do that?

21 A. Yes, sir.

22 Q. When you got with them did you talk to them
23 together or separately?

24 A. Separately, sir.

25 Q. Who did you talk to first, if you remember?

1 A. I believe I talked to Mr. Dellinger first, sir.

2 Q. Did you -- did they tell you anything -- beginning
3 first with Mr. Dellinger, did he tell you anything about being
4 with Tommy at all on Friday the 21st?

5 A. On the 21st, yes.

6 Q. All right, sir. And what did he tell you?

7 A. That they -- according to him, they had gotten
8 together earlier that morning, himself, Mr. Sutton, and Tommy,
9 and had gone out drinking and shooting pool. They had shot some
10 pool at Pugsey's on Chapman Highway, and according to him, when
11 they left they drove back down through Blount County and stopped
12 at a Citgo station, a station that sells beer out on Walnut
13 Highway, as it was referred to. There was the last time they
14 said that they had seen Tommy.

15 Q. Now at this time were you talking to them together
16 or separately?

17 A. Separately, sir.

18 Q. Okay. Were they taken one at a time in a room?
19 Was the other one sitting there nearby or are they separated?

20 A. No, sir. We were in the squad room over at the
21 sheriff's department, and we set up some tables in the squad
22 room, and the one that we didn't talk to was outside where the
23 Coke machines are at, and the door was closed.

24 Q. All right. So Dellinger told you that they --
25 where is Pugsey's on Chapman Highway? What county is that in?

1 A. That's in Knox County, sir. It's -- you go down
2 Chapman Highway past John Sevier, and just before you start
3 getting into the really built up area there's a new McDonald's
4 on the right, and Pugsey's is across the road there.

5 Q. All right. And after they say that they came to
6 Maryville -- or Dellinger said this about coming to Maryville,
7 what did they say happened when they stopped at the Citgo
8 station?

9 A. They just stopped there to get some beer, and
10 according to Mr. Dellinger, they met up with a girl, they didn't
11 know her. They described her as a short, heavy set, dark haired
12 girl, and they met up with her outside the store, and she began
13 talking to them, and talking to Tommy in particular.

14 Q. All right. And what did he say happened then?

15 A. Tommy left with the little dark haired, short, fat
16 girl, and they were driving, according to Mr. Dellinger, I
17 believe, and older model Falcon.

18 Q. Who was?

19 A. The girl was.

20 Q. Okay. And he said that Tommy left with her?

21 A. Yes, sir.

22 Q. Did he say anything at all about being in Howie's
23 Hideaway Lounge there in Blount County on Friday?

24 A. On the day -- when we interviewed him that day?

25 Q. This time?

1 A. No.

2 Q. Did you talk to the defendant, Gary Sutton, about
3 this?

4 A. Yes, sir, we did.

5 Q. What did he tell you? Did he tell you essentially
6 the same thing?

7 A. According to Mr. Sutton, his story followed pretty
8 much what Mr. Dellinger had said with a few minor differences.

9 Q. All right. What did they say they did after they
10 left Tommy there with this girl at the Citgo station?

11 A. Well, according to Mr. Dellinger they had started
12 back home. They thought about going back to Pugsey's to shoot
13 some more pool, but had decided that they had drank a little too
14 much to be out on the roads back around Pugsey's, so they
15 continued on back home.

16 Q. What way did they say they went back home?

17 A. The back way, I believe, up through the valley.

18 Q. Did they -- did you ask them about the fire, how
19 they learned about the fire -- Tommy's trailer fire?

20 A. Yes, sir, I did.

21 Q. All right, sir. And what did Dellinger tell you?

22 A. Well, according to Mr. Dellinger, I believe that
23 he said that Connie had called him to alert him to the fire, and
24 the first that they knew about it was when they got this phone
25 call, and they jumped up, and went over and looked out the

1 window.

2 Q. He said that Connie Branum had called him?

3 A. I believe so, sir.

4 Q. Now, the -- what about Sutton, what did he tell
5 you? The same thing?

6 A. Essentially the same thing about being notified
7 that the fire was burning, and they had gotten up, and went over
8 to the window there in the living room, and saw the fire.

9 Q. Going back to Dellinger, did he tell you how it was
10 that they happened to go back to Blount County and get Tommy
11 Griffin out of jail?

12 A. Well, according to Mr. Dellinger, he said that
13 Connie had called him to tell him that Tommy was in jail in
14 Blount County, and has asked him to go get him.

15 Q. How many times did he say he called?

16 A. Between Connie and him?

17 Q. Yes. You said that Mr. Dellinger said that she
18 called and told him about the fire.

19 A. Right.

20 Q. Did she tell him at that time?

21 A. No, sir. According to his statement there was a
22 total of about three or four calls made very quickly right in,
23 say, a 20 or 30 minute time period, something like that.

24 Q. All right, sir. And who was calling whom?

25 A. Connie was calling him.

1 Q. Each time?

2 A. Yes, sir. I believe there was only -- he only had
3 a question of one call, and he couldn't quite remember if he had
4 called her or she had called him.

5 Q. Did -- what did she say to him? When was it that
6 she asked him to go get Tommy, and what did she say -- he says
7 that she said?

8 A. She had called him back -- this was after the fire
9 and after the trailer was burning and everything. She had
10 called him back telling him that Tommy was in jail in Blount
11 County, and that none of the family will go get him, and she
12 asked him if he would go get him out of jail.

13 Q. Now what did Sutton tell you in regards to these
14 telephone calls when you talked to him?

15 A. Well, he had also said that Connie had called to
16 tell about the trailer being on fire, but according to him,
17 Connie had called back wondering where Tommy was at, and it was
18 during this time that they told Connie about the little short,
19 dark haired girl, and Connie had supposedly had asked them to
20 call around...

21 MR. DANIEL: Your Honor, please, I'm going to
22 object to this type of -- supposedly -- what he
23 thinks somebody said. And we have a tape that we
24 move at this time, Your Honor, that they play the
25 tape and let the jury hear the tape.

1 THE COURT: As to how he is examined, that will be
2 up to each of you.

3 BY GENERAL SCHMUTZER:

4 Q. Let me ask you this, sir, since they object over
5 the use of "supposedly." Did he, in fact, tell you that?

6 A. Yes, sir.

7 Q. Now, what you're saying is what Mr. Sutton is
8 telling you, is that correct?

9 A. Yes, sir.

10 Q. Now what did he say after the first call when they
11 were alerted. You said she called back a second time, and
12 wanted to know where Tommy was.

13 A. Correct, sir.

14 MR. DANIEL: Your Honor, may we just approach the
15 bench on one point?

16 THE COURT: Okay.

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

18 MR. DANIEL: Your Honor, please, at this time --
19 this is the Bruton situation. He's got a statement
20 made by one defendant out of the presence of the
21 other, and it goes both ways. This is one reason -
22 - one of the reasons we asked for a separate trial,
23 and we'd like to also renew our motion at this time
24 and ask that they not...

25 THE COURT: I understand.

1 MR. DANIEL: He's trying to play one statement
2 against the other. Our client wasn't there...

3 THE COURT: I understand that. The Court's already
4 ruled.

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

7 BY GENERAL SCHMUTZER:

8 Q. You may continue, sir. The second time -- we're
9 talking about Gary Sutton.

10 A. Yes, sir.

11 Q. You said that Connie called the first time, and
12 told them the trailer was on fire, and then called back a second
13 time, and asked them where he was?

14 A. Right, trying to find out where Tommy was.

15 Q. What did he do then?

16 A. That was when, according to Gary, they told her
17 about the little short girl with the dark hair that Tommy had
18 left with.

19 Q. What did he say happened then?

20 A. They received another call from Connie, and she was
21 concerned about trying to find Tommy, and had asked them to
22 check and see if they could locate him. And they began to call
23 -- to make phone calls to try to find Tommy.

24 Q. He said that she asked them to...

25 A. To call and try to locate Tommy.

1 Q. All right. Did he say that he did that?

2 A. Yes, sir.

3 Q. Okay. And did he tell you where they called?

4 A. Yes, sir. The first call was to Blount Memorial
5 Hospital. The second call was to our headquarters dispatch
6 number which is listed as "Sheriff's Department," I think, in
7 the phone book. And from the headquarters dispatch they were
8 directed to the jail number, and they called the jail.

9 Q. Did he -- after he had gotten this information what
10 did he say that he did?

11 A. They made the phone calls and located Tommy, and
12 there was another phone call from Connie where she was told
13 where Tommy was located, that he was in the Blount County Jail.

14 Q. Did they say how come it was they went to get him?

15 A. They were asked to go get him because the -- Connie
16 had told them the family -- there was no one in the family that
17 would go get him.

18 Q. Okay. I take it they -- did they tell you what car
19 -- did either one of them tell you what car they'd went in to
20 get him?

21 A. To pick Tommy up it was Linda's car that they went
22 in. Both of them told me that.

23 Q. Did they tell you what kind of car she had?

24 A. I think it was gray Oldsmobile.

25 Q. Who -- did they both say they'd left together?

1 A. Yes, sir.

2 Q. And did they tell you that they'd gotten him out
3 of jail?

4 A. Yes, sir, they did.

5 Q. Had they told you anything at all about going back
6 -- going there to the jail earlier that evening and trying to
7 get him out?

8 A. No, sir.

9 Q. When they -- what did they say happened when they
10 got him out of jail?

11 A. As they walked out of the lobby, according to both
12 Tommy and James -- Gary and James, the same little lady that had
13 met them at the store earlier was waiting outside the front door
14 to the courthouse, and she met up with them again there, and
15 Tommy left with her.

16 Q. Did they say -- did either one of them say they
17 told her anything -- told him anything?

18 A. They told him that his trailer had burned down.

19 Q. That's what they told you?

20 A. Yes. According to them, they told him that his
21 trailer had burned down.

22 Q. What was he supposed to have told them?

23 A. Well, according to them, he said, "Oh, you're just
24 joshing. You're just trying to get me back."

25 Q. All right. When they -- what did Sutton say they

1 did then?

2 A. They left the courthouse, James and Gary, and
3 traveled back home.

4 Q. Did they say how long it took them to get back
5 home?

6 A. Yeah, he went, "30, 35, 40, 45 minutes."

7 Q. Did he say what -- then what did he say he did?

8 A. Well, according to both Gary and James, once they
9 got back home they left home, and went to eat, I believe, in
10 Pigeon Forge. It's a Huddle House or restaurant that hadn't
11 been open too long. They went to get them something to eat.

12 Q. And then what did they say?

13 A. When they got something to eat they came back home,
14 and set up for a little while and talked, and went to bed.

15 Q. Did they ever say anything about when they got back
16 getting in touch with Connie and telling her about her brother?

17 A. I don't believe so, sir.

18 Q. When -- this period of time you're talking to them,
19 this is on the 25th of February?

20 A. This is on the day after we found the body, the
21 25th.

22 Q. Tommy Griffith?

23 A. Yes.

24 Q. At this point had Connie Branum's body been found?

25 A. No, sir.

1 Q. During the course of your talking to these men did
2 -- were there any questions asked about Connie Branum?

3 A. Yes, sir. We did inquire as to Connie, and if they
4 had seen or heard from her or anything.

5 Q. All right. When you asked Dellinger -- the
6 defendant Dellinger about Connie what did he tell you?

7 A. According to Mr. Dellinger the last time any member
8 of the family had had contact with Connie was on a Saturday --
9 Saturday the 22nd, I believe.

10 Q. And what did he tell you that contact was?

11 A. That was his wife speaking with Connie and meeting
12 her, I believe, en route to look for her brother.

13 Q. Did he at any time tell you about being with Connie
14 that Saturday afternoon?

15 A. No, sir, he did not.

16 Q. At Howie's Hideaway?

17 A. No, sir.

18 Q. What did the defendant Sutton -- what did you ask
19 him about Connie?

20 A. I believe his answer paralleled that of James.
21 They were together that day. They neither one had seen Connie.
22 They had left home, according to them, prior to Linda meeting
23 Connie.

24 Q. Was either one of them asked anything about --
25 specifically about Howie's?

1 A. Yes, sir.

2 Q. Who was that?

3 A. Both Mr. Dellinger and Mr. Sutton.

4 Q. What was Mr. Sutton's response?

5 A. Mr. Sutton, according to him, had been at Howie's
6 two or three weeks ago. He gave me a definite answer...

7 Q. Well, let me ask you this. Let me go back, sir.
8 Specifically, was either one of them asked about being with
9 Connie at Howie's Hideaway?

10 A. Yes, sir, I believe so.

11 Q. And who was that?

12 A. That was Mr. Sutton.

13 Q. And what was his response?

14 A. He had been there with Connie before, but it had
15 been two or three weeks in the past.

16 Q. Did he at any time tell you that he had been with
17 her just a few days before -- the Saturday before?

18 A. No, sir.

19 Q. Now at the time you were talking to them were they
20 suspects at all, or just people giving you what you thought was
21 information?

22 A. No, sir. They called me up that morning, and told
23 me they had some information they thought might help me, and
24 they were witnesses as far as I was concerned.

25 Q. After you talked to them, I take it you continued

1 your investigation?

2 A. Yes, sir.

3 Q. And after that did you have an opportunity to
4 interview the ladies that work at the Howie's Hideaway Lounge?

5 A. Yes, sir, I did.

6 Q. And when was that?

7 A. That would have been on the 26th.

8 Q. That would have been the following day?

9 A. The following day.

10 Q. After getting that information and developing other
11 information, did you have an opportunity to see these defendants
12 again?

13 A. Yes, sir, I did.

14 Q. Where was this?

15 A. That was also here at the Sevier County Sheriff's
16 Department, sir.

17 Q. And what day was that?

18 A. I believe that was the 28th.

19 Q. When you saw them on the 28th, what did they tell
20 you?

21 A. When I came in to talk to them on the 28th, sir,
22 I mirandized both of them at that time, and they agreed to give
23 me a statement.

24 Q. All right. When you say mirandized, for us lay
25 people, what does that mean?

1 A. Okay. They had become suspects at that time, and
2 I always mirandize suspects, read them their rights -- their
3 constitutional rights prior to interviewing them.

4 Q. And you did that with both of them?

5 A. Yes, sir, I did.

6 Q. What was the first they told you about once you did
7 that?

8 A. They both, according to them, told me right up
9 front that they had been with Connie on Saturday.

10 Q. Okay. Did they tell you why they hadn't told you
11 that on the 25th?

12 A. Well, according to them, Connie had asked them not
13 to, and told them to keep it a secret.

14 Q. But now Sutton had told you he had been with Connie
15 before that time?

16 A. Yes, sir, a couple of weeks or more before.

17 Q. In any event, sir, did you have any further
18 discussion with them about Tommy? Did either one of them tell
19 you at that time that they had been with Tommy on Friday at
20 Howie's Hideaway Lounge?

21 A. According to Mr. Dellinger, Mr. Dellinger never did
22 tell me that he was with Tommy Friday at Howie's Hideaway. Mr.
23 -- Gary, at one point, told me that he had told me at the last
24 interview. He said, "Yes, I was -- it was me, James, and Tommy
25 Friday at Howie's." When I looked back over my notes I could

1 find nowhere where he had mentioned being with Tommy at the
2 first interview on that Friday.

3 Q. What did they tell you this time as to what
4 happened with regard to Connie Branum when they saw her on
5 Saturday?

6 A. According to them, they had met Connie driving down
7 as they were up in Townsend getting ready to cross the bridge
8 and come back through the valley. They had spoke with her, she
9 had asked their assistance in checking for her brother, and they
10 had her drive -- according to them, they had had a little too
11 much to drink, and didn't want to come back down the highway,
12 so she agreed to drive. And she had parked her car at the
13 Townsend Shopping Center, and they drove back down, and wound
14 up at Howie's.

15 Q. And did they tell you anything in detail about what
16 went on at Howie's?'

17 A. She had questioned the bar maids, and they had,
18 also. They drank some beer, set around, danced, I think, and...

19 Q. What did they tell you happened then?

20 A. They left together, the three of them, along about
21 7:00.

22 Q. And where did they say they went?

23 A. They left Howie's and headed back up to Townsend.

24 Q. And what did they do when they got to Townsend?

25 A. When they got back up to Townsend where Connie had

1 her car parked she got in her car, and they remained in their
2 vehicle. They went back up, according to them, back toward home
3 through the valley, and she turned and headed back toward
4 Maryville.

5 Q. They said that was the last time they saw her?

6 A. Yes, sir.

7 Q. Now during the course -- without going into detail,
8 during the course of that interview, after they had told you
9 this, I believe that with both of them you began to press them
10 on it, is that correct?

11 A. Yes, sir, I did.

12 Q. And they continually denied it?

13 A. Yes, sir.

14 Q. Being involved.

15 A. You said they were suspects at that time?

16 A. Yes, sir.

17 Q. Did you then -- subsequently, did you go out to the
18 trailer of James Dellinger located up on Bluff Heights Road for
19 the purpose of conducting a search?

20 A. Yes, sir. I left probably within the hour or so
21 after interviewing Mr. Dellinger and Mr. Sutton here.

22 Q. And did you conduct a search inside the home?

23 A. Yes sir.

24 Q. And did you find any firearms, and if so, what?

25 A. Yes, sir. I found a barrel off a .12 gauge

1 Mossberg.

2 Q. Is that over here?

3 A. It's inside the box, sir.

4 Q. A Mossberg has an interchangeable barrel, is that
5 correct? Are they sold with two barrels?

6 A. These are normally sold with two barrel kits, sir.

7 Q. And you found the barrel?

8 A. Yes, sir.

9 Q. Okay.

10 GENERAL SCHMUTZER: May it be filed, Your Honor?

11 THE COURT: Yes.

12 (EXHIBIT #26 - Mossberg barrel; marked and filed.)

13 BY GENERAL SCHMUTZER:

14 Q. Did you ever find the shotgun itself?

15 A. No, sir, I never did.

16 Q. Did you get any other weapon or firearm?

17 A. Yes, sir. I found that rifle over there.

18 Q. I'll hand this to you, sir, and ask if you
19 recognize that?

20 A. Yes, sir. This is a rifle I found in Mr.
21 Dellinger's trailer.

22 GENERAL SCHMUTZER: May it be filed, Your Honor?

23 THE COURT: Yes.

24 (EXHIBIT #27 - Rifle; marked and filed.)

25 BY GENERAL SCHMUTZER:

1 Q. Did you also conduct a search around the premises?

2 A. Yes, sir, I did.

3 Q. And during that time did you find any shells?

4 A. Yes, sir. I found some shell holes out around the
5 yard and driveway.

6 Q. All right. And I'll show you first, sir, what's
7 marked as three shotgun shells. Were these spent shells that
8 you found?

9 A. Yes, sir, all these were fired shell casings.

10 Q. All right. And those three, where were they found?

11 A. These three in particular, sir, were found right
12 in front of Angel Gray's trailer in the grass right in the yard.

13 Q. All right. Now who is Angel Gray?

14 A. Angel is Mr. Dellinger's, I believe, stepdaughter
15 who lives in the trailer adjacent to his.

16 Q. You say adjacent -- you go up the hollow...

17 A. You come to it first, and then immediately past it
18 you come to his.

19 GENERAL SCHMUTZER: Your Honor, may these be filed
20 as Exhibits?

21 THE COURT: Yes.

22 MR. MILLER: Your Honor, so not to confuse anybody,
23 do those have exhibit numbers or the lab numbers
24 on them? If we could have those when they
25 introduce them, that may help us keep everything...

1 THE COURT: Okay.

2 (EXHIBIT #28 - Three (3) shell casings; marked and
3 filed.)

4 THE COURT: So what's the last exhibit filed --
5 that's just be filed?

6 COURT REPORTER: 28.

7 THE COURT: It's 28.

8 BY GENERAL SCHMUTZER:

9 Q. Now, the shotgun shell -- did you find any shells
10 there at the Dellinger residence?

11 A. Yes, sir, we did.

12 Q. And I'll show you this, sir, and ask if you can
13 identify it.

14 A. Yes, sir. This is a .12 gauge shotgun shell that
15 was found in the yard of Mr. Dellinger's trailer right next to
16 the garbage can.

17 Q. All right. I'll show you this photograph, and ask
18 you if you can identify that.

19 A. Yes, sir. That's -- I guess you would call it a
20 fire barrel instead of a garbage can. They burned trash in it.
21 It's right outside Mr. Dellinger's trailer there.

22 GENERAL SCHMUTZER: Your Honor, may these be filed
23 as exhibits?

24 THE COURT: So ordered.

25 (EXHIBIT #29 - .12 gauge shotgun shell; marked and

1 filed.)

2 (EXHIBIT #30 - Photograph of fire barrel; marked
3 and filed.)

4 BY GENERAL SCHMUTZER:

5 Q. Would you -- taking this, can you circle -- first,
6 looking at the picture of the trailer, can you put an arrow down
7 to where the can is located?

8 A. Yes, sir. (Witness complies.)

9 Q. Now looking at the large picture of the can itself,
10 can you circle the shell where you found it?

11 A. Yes, sir. (Witness complies.)

12 THE COURT: General Schmutzer, may I see that,
13 please?

14 GENERAL SCHMUTZER: Yes, Your Honor.

15 THE COURT: If you've got a red marker it might
16 show up a little better on that trailer picture.
17 I can't...

18 GENERAL SCHMUTZER: I do have one, Your Honor.

19 BY GENERAL SCHMUTZER:

20 Q. If you will, take a red pen, and maybe we can get
21 a little bit better, and again show the location of this can by
22 circling it red.

23 A. (Witness complies.) It's not showing up here good
24 either, sir.

25 THE COURT: Okay. That's fine.

1 GENERAL SCHMUTZER: May it be passed, Your Honor.

2 THE COURT: It sure may.

3 BY GENERAL SCHMUTZER:

4 Q. Now you packaged these items up, also?

5 A. Yes, sir, I did.

6 Q. And what did you do with them? Who did you turn
7 them over to?

8 A. Those items were turned over to Mr. Munsey, our
9 crime tech, who hand carried them to the T.B.I. lab in
10 Nashville.

11 GENERAL SCHMUTZER: You may cross examine.

12 BY GENERAL SCHMUTZER:

13 Q. You said you turned these over to Munsey?

14 A. Yes, sir.

15 Q. Did you also turn the rifle over to him, and the
16 shotgun barrel?

17 A. Yes, sir.

18 Q. Thank you, sir.

19 **

20 CROSS-EXAMINATION

21 BY MR. MILLER:

22 Q. Detective Widener, as you told us, Mr. Sutton and
23 Mr. Dellinger both came in voluntarily, is that correct?

24 A. Yes, sir.

25 Q. They weren't suspects in anything?

1 A. Yes, sir, they did.

2 Q. They talked with you on the 25th for how long, each
3 of them?

4 A. It was a good amount of time, sir. It was at least
5 an hour, probably over an hour.

6 Q. And they were giving you information about being
7 with Tommy, is that correct?

8 A. Yes, sir.

9 Q. And I take it that was important since the was the
10 last time he was seen was on Friday?

11 A. Yes, sir.

12 Q. And they told you -- they told you that they were
13 at Pugsey's or whatever, and they also told you they went down
14 to Blount County, is that correct?

15 A. That's correct, sir.

16 Q. And I believe you testified they never told you
17 about being with Tommy at Howie's on Friday night?

18 A. That's correct, sir.

19 Q. But what they did tell you is that they just hit
20 all the bars down there on that strip, is that correct?

21 A. Yes, sir. I think "we hit them all," was an
22 answer.

23 Q. Which would include Howie's or could have included
24 Howie's?

25 A. Yes, sir, it's the only bar that the county has

1 outside the city limits going on 321.

2 Q. And Mr. Dellinger told you he just couldn't
3 remember by the names, but he might have been in there, he hit
4 them all?

5 A. Hit them all.

6 Q. I believe you characterized the statements on the
7 25th as -- of Dellinger and Sutton that they were essentially
8 the same, and tracked one another with a few minor differences?

9 GENERAL SCHMUTZER: I object, Your Honor. That
10 calls for a conclusion. There's obviously obvious
11 differences, the telephone calls, and everything
12 else.

13 MR. MILLER: He already testified to that, Your
14 Honor, on direct examination, and they were similar
15 with minor...

16 THE COURT: I understand that part, but as to the
17 question just asked that's, I think, a fair
18 representation.

19 BY MR. MILLER:

20 Q. Now, you -- they told you about finding out about
21 the fire. They talked with Connie, is that correct?

22 A. Yes, sir.

23 Q. And they told Connie that Tommy was over in Blount
24 County with a short, fat girl. They told you that in their
25 statements, didn't they?

1 A. Yes, sir.

2 Q. And you talked about the phone calls made to the
3 Blount County Hospital and Sheriff's Department, and to the
4 jail. Those were made, were they not?

5 A. Yes, sir, I think that was according to Mr. Sutton
6 they had made those phone calls.

7 GENERAL SCHMUTZER: Your Honor, I object to him
8 asking if those calls were, in fact, made. There's
9 no way he can know if they were made or not.

10 THE COURT: He can ask him what Mr. Sutton said.

11 BY MR. MILLER:

12 Q. In fact, Detective Widener, when you were
13 interviewing one or both of these men, particularly Mr.
14 Dellinger, and he was telling you about these calls, you said -
15 - back on the 28th when you were interrogating him as a suspect,
16 you said, "We've checked those records, Mr. Dellinger. We have
17 your records, and those calls were never made." Do you remember
18 telling him that?

19 A. On the 28th, maybe so.

20 Q. Okay. Is it your testimony you don't know whether
21 or not those calls were made?

22 A. At this time, today, I do know.

23 Q. You knew it at that time, too?

24 A. No, sir, I don't believe so. We didn't have the
25 phone logs at that time. That was part of an interview

1 technique.

2 Q. Part of your interrogation techniques. You lied
3 to him, in other words?

4 A. Yes, sir.

5 Q. They, I think, told in their statements, didn't
6 they, sir, that they called the hospital and the jail because
7 any time Tommy wanders and doesn't come back home he either gets
8 hurt and ends up in the hospital or he ends up in jail?

9 A. I don't believe so, sir.

10 Q. You don't remember him telling you that?

11 A. Mr. Sutton told me it wasn't nothing unusual,
12 according to him, for Tommy to wander off for four or five days.
13 I can't recall Mr. Dellinger telling me that.

14 Q. Mr. Dellinger told you that he had to go bond Tommy
15 out of jail on more than one occasion?

16 A. Yes, sir, I believe he distinctly mentioned Cocke
17 County -- bonding him out of Cocke County.

18 Q. Paid \$600 to bond him out of Cocke County?

19 A. Yes, sir.

20 Q. And bond him out of Jefferson County. You remember
21 that, too, don't you?

22 A. He may have said that, sir.

23 Q. He told you that nobody in Tommy's family would
24 ever go to bail him out because nobody cared about him so he
25 would have to go. You remember him telling you that, don't you?

1 A. Accordingly to Mr. Dellinger, yes, sir.

2 Q. And these boys told you that the reason they went
3 and got him, and in particular, Mr. Dellinger, on that night was
4 because nobody else in his family would go get him out of jail?

5 A. According to him, yes, sir.

6 Q. And they told you that when they walked out of the
7 jail that the little lady was there, and that Tommy again left
8 with her?

9 A. Yes, sir.

10 Q. And they had attempted to get him to come back with
11 them by telling him that his trailer was burned?

12 A. That's correct, sir.

13 Q. And he didn't believe that. He thought it was just
14 a ploy to get him to go back?

15 A. Yes, sir.

16 Q. And you can't say whether or not Tommy left with
17 a fat lady? You have no video tapes or anything like that?

18 A. That's correct. At the time I was taking what they
19 were telling me as information, and that it was true.

20 Q. In fact, you told these boys that you've got video
21 tapes out there at the jail that will show that Tommy didn't
22 leave with a fat girl. You told them that?

23 A. That was on the 28th. Yes, sir, I did.

24 Q. That was another one of your investigation
25 techniques?

1 A. During the interrogation, yes, sir, it was.

2 Q. You lied? It was a lie.

3 A. That's correct, sir.

4 Q. There's no video tapes over there at all?

5 A. No, we had monitor cameras, but they don't have
6 tapes tied to them.

7 Q. They told you they left the courthouse, and they
8 were back home in 30 to 35 minutes -- I think you said, "30,
9 35...

10 A. 30, 35, 40, 45.

11 Q. Put them back home about midnight?

12 A. Yes, sir.

13 Q. And then they went and ate?

14 A. Yes, sir.

15 Q. They came back home -- you mentioned that they
16 didn't call Connie about Tommy's whereabouts when they came back
17 from the Huddle House?

18 A. I don't think they did, sir, as I can recall.

19 Q. Do you remember them telling you about having a
20 conversation with Connie, maybe Connie called them?

21 A. That could have been, sir.

22 Q. Okay. And they told Connie that he was over there
23 with that short, fat girl?

24 A. Yes, sir.

25 GENERAL SCHMUTZER: I'd have to ask, Your Honor,

1 which one he is referring to because the defendants
2 did not say the same thing as to who called whom,
3 and what was said.

4 THE COURT: If you'll direct his attention to
5 which...

6 BY MR. MILLER:

7 Q. Was it Mr. Dellinger that told you that he talked
8 to Connie, and he told Connie that he was over in Blount County
9 with a shirt, fat girl?

10 A. After they got back from the Huddle House?

11 Q. Yes.

12 A. I'm not real sure on that, sir, which one said
13 that..

14 Q. Okay. Now, they didn't mention being with Connie
15 in Blount County on Saturday night -- on the 25th, is that
16 correct?

17 A. That's correct, sir.

18 Q. They told you why they didn't do that, didn't they?

19 A. On the 28th they told me why they didn't.

20 Q. They told you that Connie wanted that kept a
21 secret, and she didn't want anybody to know she was over there,
22 and that's why they didn't tell you?

23 A. According to both James and Gary, yes, sir.

24 Q. And in fact, there's other witness over there in
25 Blount County who would say the same thing, that Connie didn't

1 want them to know she was over there? You don't know of any?

2 A. Specifically, sir?

3 Q. Do you know Ron Drinnon? Did you interview him?

4 A. Never talked to him, sir.

5 Q. Never talked to him. And the 25th, that was a
6 Tuesday, and they also told you -- on Tuesday they didn't tell
7 you about Connie not only because she said to keep it a secret,
8 but because they didn't know anything had happened to her. Mr.
9 Dellinger told you that, didn't he?

10 A. Yes, sir.

11 Q. In fact, it was not until Friday that everybody
12 figured out something had happened to Connie, that she had died?

13 A. I don't know, sir. We were looking for her during
14 the whole week.

15 Q. Well, nobody knew what happened to her until
16 Friday?

17 A. That's correct, sir. She was not found until
18 Friday.

19 Q. And you mirandized them as suspects on February the
20 28, I believe you testified. They had come in again
21 voluntarily, hadn't them?

22 A. Yes, sir, I believe both of them showed up
23 voluntarily.

24 Q. They both told you they met Connie over in
25 Townsend?

- 1 A. Yes, sir.
- 2 Q. And she parked her car at the shopping center?
- 3 A. Yes, sir.
- 4 Q. And you verified that, and that was true?
- 5 A. That's true.
- 6 Q. How long was that second statement on the 28th?
- 7 A. Mr. Dellinger's was quite a bit longer than Mr.
- 8 Sutton's. I'd say Mr. Sutton, probably 15 or 20 minutes, and
- 9 Mr. Dellinger, about 45 minutes to an hour.
- 10 Q. Okay. And that was the interview where you were
- 11 using all your investigative techniques...
- 12 A. That was the interrogation, sir.
- 13 Q. And trying to get him to confess to some
- 14 involvement in this crime, is that right?
- 15 A. Yes, sir.
- 16 Q. Another technique you'd call an investigative
- 17 technique, you told him, in regards to Mr. Dellinger's statement
- 18 that they were down there at this store, and went in and bought
- 19 some beer, and Tommy met the short, fat girl there, you told Mr.
- 20 Dellinger that you had the video tapes from that store, and he
- 21 wasn't on them on that day?
- 22 A. That's correct, sir.
- 23 Q. That was a lie, wasn't it?
- 24 A. Video tapes turn over every 24 hours.
- 25 Q. So on the 28th...

1 A. That video tape would have been...

2 Q. And you didn't have a video tape at that time
3 excluding him?

4 A. No, sir.

5 Q. That was a lie?

6 A. Yes, sir.

7 Q. And when you were getting desperate down there in
8 your investigation and your interrogation on the 28th of Mr.
9 Dellinger, and you couldn't get him to confess, you told him
10 that somebody was wanting to make a deal. Do you remember that?

11 A. Yes, sir.

12 Q. And further inferring that, I guess, that Gary
13 Sutton was going to make a deal, and he was going to come in and
14 point his finger at Mr. Dellinger?

15 A. Yes, sir.

16 Q. That was a lie?

17 A. No, sir, I hadn't talked to Gary Sutton at that
18 time. I didn't know what he was going to do.

19 Q. Well, you knew he wasn't going to make a deal?

20 A. I didn't know that, sir. I didn't know what he was
21 going to say...

22 Q. Well, let's put it this way. You didn't know he
23 was going to make a deal?

24 A. No, I was hoping.

25 Q. You didn't know, though?

1 A. Didn't know it.

2 Q. But you told Mr. Dellinger that someone was wanting
3 to make a deal?

4 A. Yes, sir.

5 Q. And that was a lie?

6 A. I didn't know what Mr. Sutton was going to do, sir.

7 Q. You went up on Mr. Dellinger's property pursuant
8 to the authority of a search warrant you obtained from the trial
9 justice judge here in Sevier County, is that correct?

10 A. Yes, sir.

11 Q. From Judge Sexton. In swearing out that search
12 warrant and the affidavit in that, you go before that judge, and
13 swear -- hold you hand up and swear to that judge that you had
14 information that Tommy Griffin, James Dellinger, and Gary Sutton
15 were in a fight in Blount County? You swore that out in your
16 search warrant, didn't you?

17 A. Yes, sir, I did.

18 Q. And that was a lie. You did not know or have
19 anybody that could identify Tommy Griffin, James Dellinger, and
20 Gary Sutton in a fight?

21 A. The information that I had at that time was about
22 a fight taking place and the vehicle seen at the scene, and the
23 people involved led me to believe that Gary Sutton and James
24 Dellinger and Tommy Griffin were, in fact, involved in the
25 fight. But as far as -- someone who could say -- someone who

1 knew them could say that was them on Alcoa Highway, no, we
2 didn't have anybody.

3 Q. But that's what you swore under oath to the judge?

4 A. Yes, sir.

5 Q. The barrel that was introduced that you found at
6 Mr. Dellinger's, you say it is sold in two barrel sets?

7 A. Generally, sir, Mossbergs.

8 Q. Yeah. You can buy them, though, one at a time at
9 any gun stores, Wynn's here in Sevierville...

10 A. You can go to a flea market or a pawn shop and buy
11 a barrel.

12 Q. And they sell them retail one at a time, too?

13 A. Probably do.

14 Q. Okay. And these Mossberg barrels just don't fit
15 on Mossberg shotguns, they can fit other guns?

16 A. To my knowledge I'm not aware of any other guns
17 they can fit, sir.

18 Q. You don't know if they can -- never tried?

19 A. I don't know.

20 Q. On the 28th, again, when you were interrogating Mr.
21 Dellinger you told him that you'd found some beer cans out there
22 where the Griffin body was, is that correct?

23 A. Yes, sir, two Budweiser beer cans.

24 Q. And you told him that you had his finger prints on
25 them?

1 A. No, sir, I didn't tell him I had his finger prints
2 on them.

3 Q. You implied that, did you not?

4 A. No, sir, I said that we might have some finger
5 prints on it.

6 Q. Do you remember telling him that these cans,
7 they're his prints on them, and what that's going to make him
8 look like? Do you remember making a statement similar to that?

9 A. Would put him at the scene if those cans had his
10 prints on them.

11 Q. And still at that time he didn't admit to any
12 involvement in any crime, is that correct?

13 A. That is true, sir.

14 MR. MILLER: I believe that's all at this time,
15 Your Honor.

16 THE COURT: Mr. Daniel?

17 **

18 CROSS-EXAMINATION

19 BY MR. MILLER:

20 Q. Mr. Widener, you stated the first time regarding
21 Gary Sutton he came up to see you voluntarily, and came in and
22 told you he wanted to see if they could give you any information
23 about Tommy's Griffin's death on the 25th of February, is that
24 correct?

25 A. That's right, sir.

1 Q. And how body was found on the 25th, is that right?

2 A. 24th, sir. The day before.

3 Q. So the day before. So he came up to talk to you,
4 and wanted to give you information, and tell you what he knew
5 about it?

6 A. Yes, sir.

7 Q. He told you he had been with Tommy Griffin the day
8 before -- the day before he was found -- I mean, on Friday, he
9 told you he had been with Tommy Griffin on a Friday, is that
10 correct?

11 A. Yes, sir.

12 Q. And he told you then that he'd gone back, and
13 bailed Tommy Griffin out of jail?

14 A. I think he told me that James had -- James actually
15 paid the money.

16 Q. Well, but they both went over there and bailed him
17 out of jail, and was taking him -- going to bring him back to
18 Sevierville?

19 A. Yes, sir.

20 Q. And told you that the reason they were going --
21 they went to get him is that they wanted to get him out, and his
22 family wouldn't help get him out, isn't that right?

23 A. That's right, sir.

24 Q. And they also told you that when they got him out
25 of jail that they told him about his trailer had burned, and he

1 needed to come back to Sevierville. And they also told you that
2 this girl who they'd left him with earlier was standing outside
3 -- was outside the jail out there?

4 A. Yes, sir.

5 Q. Now when you questioned him you told him you had
6 video tapes that would show that he wasn't out there with that
7 girl -- nobody was out there. Didn't you tell him that?

8 A. That was on the 28th.

9 Q. On the 28th. But you told him that on the 28th?

10 A. Yes, sir.

11 Q. And that wasn't true, that was a lie?

12 A. Yes, sir. Our video cameras only catch the lobby,
13 sir.

14 Q. And you told him that you had video tapes that
15 showed that no girl was out there?

16 A. Yes, sir.

17 Q. And you didn't have that?

18 A. On the 28th when I told him that, no, sir, I
19 didn't.

20 Q. And he told you if you had video tapes you'd see
21 her out there, didn't he?

22 A. Yes, sir, I believe he did.

23 Q. He said -- you told him then -- you asked him where
24 had he been, and they told you that when they didn't tell you
25 anything about Connie on the 25th when -- he came back to

1 voluntarily see you on the 28th, isn't that right?

2 A. I don't understand the question, sir.

3 Q. He came back again on the 28th voluntarily to give
4 you a statement?

5 A. Yes, sir, he did.

6 Q. And on the 28th he told you the reason that he
7 hadn't told you about Connie, they didn't think there was any
8 problems with Connie at that time, and that she had told them
9 not to say anything about her being over there in that bar?

10 A. That's right, sir.

11 Q. And that's the reason they didn't mention her on
12 the 25th?

13 A. That's the reason he told me, sir.

14 Q. And her body had not been found at that time?

15 A. That's correct.

16 Q. Now, when he came in on the 28th, and you got to
17 talking to him, and you asked him about some things, he told you
18 that Tommy was taking drugs?

19 A. I believe he did, sir.

20 Q. Told you that he had even had carried drugs in his
21 wooden leg, and used it to transport drugs in his leg, didn't
22 he?

23 A. According to Gary, yes, sir.

24 Q. And he said that there was a gentleman by the name
25 of Bobby Floyd that had been dealing and fooling with drugs with

1 Tommy, isn't that correct?

2 A. That's correct.

3 Q. And he told you that Tommy had a drug connection
4 either there in Townsend or Maryville, and one out next to the
5 airport?

6 A. Yes, sir.

7 Q. And that the boys out at the airport, in that area,
8 had gotten busted? You knew that -- they'd been a bust that
9 came down -- did Bobby Floyd get busted out there?

10 A. According -- well, if my memory serves me correct,
11 sir, he was busted back in toward town in Alcoa.

12 Q. Okay. But anyway, Bobby Floyd was busted, and what
13 we mean by that, he was arrested for dealing or selling or
14 possessing drugs, that's the terminology we use, isn't that
15 right?

16 A. It is.

17 Q. And he told you that he thought there might be some
18 Cubans involved?

19 A. Could be some Cubans involved, he did say that.

20 Q. And that they had accused Tommy, and Tommy had been
21 accused of being what they call a "narc?"

22 A. According to Gary, yes.

23 Q. And what we mean by a narc, so everybody will
24 understand it, that's a person who either tells on somebody
25 doing drugs or is either a narcotics agent or a narcotics

1 informant, isn't that correct?

2 A. That's correct, sir.

3 Q. And since he wasn't working for the police
4 department you knew what he meant was that they thought Tommy
5 was a narcotics informant?

6 A. That was the inference he was making, sir.

7 Q. And you asked him one time if he thought what could
8 have happened to Tommy, and he said, "Well, it might have been
9 those boys over them drugs that done something to him," isn't
10 that correct?

11 A. Yes, sir, among other things.

12 Q. Among other things that he thought could have
13 happened?

14 A. Yes, sir.

15 Q. He said that some of his own family was against
16 him, didn't he?

17 A. He did, sir.

18 Q. And you knew that -- they told you that when Gary
19 got a charge over having a fight with his brother that Tommy
20 came to the court to testify for Gary, didn't he? Did he tell
21 you that?

22 A. I believe he showed up in court, sir. I can't
23 recall as to who testified, but he came.

24 Q. So Gary told you that he and Tommy were close
25 friends?

1 A. Yes, sir.

2 Q. Said that they were like brothers?

3 A. Yes, sir.

4 Q. Said that he had taken him and bought him a
5 waterbed, and given him a place to stay at times -- let him stay
6 with him?

7 A. Yes, sir.

8 Q. Told you that he had taken him when he was drinking
9 or drunk, and took him home, and fixed the fire for him so he
10 wouldn't get cold, didn't he?

11 A. Both Gary and James.

12 Q. Both had done that for him?

13 A. Yes, sir.

14 Q. So they told you that they were friends, and he had
15 no reason whatsoever to kill Tommy Griffin, and didn't kill him.
16 He told you that, didn't he?

17 A. That's what he told me, sir.

18 Q. Now he told you that when -- you started asking
19 about where he came home -- how he came home, and he told you
20 when they came home that the last time they saw him on this
21 Friday, before they went back to get him out of jail earlier in
22 the afternoon, that they let him out at a store up there, and
23 that they were buying some beer?

24 A. That's correct, sir.

25 Q. And at that store is where he met this girl, isn't

1 that correct?

2 A. That's correct.

3 Q. And they described the girl. Both of them
4 described her the same, didn't they?

5 A. Described her -- not exactly the same, sir. There
6 was...

7 Q. Well, she was short and heavy set?

8 A. Yes, sir.

9 Q. Thick glasses?

10 A. Mr. Dellinger did not mention glasses.

11 Q. Tommy told you she had thick -- Gary told you...

12 A. Yes, sir.

13 Q. Like the bottom of a Coca-Cola bottle or something
14 like that?

15 A. Something or another. A person couldn't hardly to
16 wear them.

17 Q. And told you that she was dark headed?

18 A. Yes, sir.

19 Q. And tried to describe her as best he could?

20 A. Yes, sir.

21 Q. And then he said that she -- they gave him some
22 money?

23 A. Yes, sir.

24 Q. Both him and James gave him some money?

25 A. I believe Gary said five one dollar bills.

1 Q. Okay. Counted them out for him, and gave it to
2 him, is that right?

3 A. Yes.

4 Q. And then she said -- and he said they were -- Tommy
5 said they were leaving and going to get some blow or toot or
6 snort, or what was it?

7 A. Something or other, sir.

8 Q. Meaning either cocaine or some kind of illegal
9 drug?

10 A. That's the inference.

11 Q. That was the inference. And they tried -- and he
12 went on with that girl, is that correct?

13 A. That's correct.

14 Q. And they told you they didn't see him anymore until
15 they went back to get him out of jail later that night?

16 A. According to Gary, that's correct, yes.

17 Q. And when they got him out of jail that James gave
18 him a shirt to put on?

19 A. Uh-huh (affirmative.)

20 Q. Gave him his shirt?

21 A. Yes, sir. According to both James and Gary, James
22 gave him his blue checked shirt to wear.

23 Q. And then you found him -- they day you found him
24 he had a blue checked shirt on, is that correct?

25 A. Blue checked shirt, sir.

1 Q. And they told you when they came out of the jail
2 that this girl was out there waiting?

3 A. Yes, sir.

4 Q. And he wanted to go with her -- Tommy did?

5 A. Yes, sir.

6 Q. And that they told him, said, "Tommy, you've got
7 to come on. You're trailer is burned."

8 A. Yes, sir, according to both James and Gary.

9 Q. Both of them told you that?

10 A. Yes, sir.

11 Q. And he said, "Ah, you're kidding me," and thought
12 they was kidding him or lying to him?

13 A. Yes, sir.

14 Q. And said that he saw him go toward the girl, and
15 it looked like there was somebody else in the car, but he
16 couldn't tell who it was in the car?

17 A. I believe Gary said there were some shadows in the
18 car. It was the same Ford Falcon.

19 Q. That he left in -- she left in?

20 A. Yes, sir.

21 Q. Then when they came -- going back to the afternoon
22 or earlier that night when they said they came home, they came
23 by what they told you "The big 'Y'," is that correct?

24 A. Yes, sir.

25 Q. And...

1 MR. DANIEL: May I approach?

2 THE COURT: Sure.

3 BY MR. DANIEL:

4 Q. Mr. Widener, you follow me here so there's no
5 misunderstanding. I believe this is Maryville right in here,
6 is that correct?

7 A. Yes, sir.

8 Q. And this is 321 that goes out, and goes up through
9 into Townsend, and goes on up into Wears Valley, and comes
10 around up in there where these people all live, is that correct,
11 sir?

12 A. I believe so, sir.

13 Q. And this red mark here is an area that goes out to
14 -- we call it the red line -- it runs into Chapman Highway?

15 A. Yes, sir, I believe in Blount County it's Ellijoy
16 Road.

17 Q. They call it the Ellijoy Road?

18 A. Yes, sir.

19 Q. Is there a "Y" out here -- where they call a "Y"
20 where you cut off and go to Maryville from Sevierville to
21 Chapman Highway? Is that the big "Y" they call it?

22 A. It may be, sir. I've never referred to it, but you
23 can get from Maryville by going Ellijoy Road up to Chapman
24 Highway.

25 Q. You can also take 441 that runs into Chapman

1 Highway?

2 A. Yes, sir.

3 Q. And you'll agree with me that the red and even the
4 green is the most direct route up here to where these boys live,
5 isn't that correct?

6 A. Yes, sir. The Wears Valley route is kind of long.

7 Q. They told you on the afternoon of Friday, after he
8 had taken off with this girl, that they left there at the beer
9 store -- package store -- it's not a beer store, it's a
10 convenience store, is that right -- Citgo?

11 A. Yes, sir.

12 Q. And they came the route that's either shown on this
13 -- I'm not too familiar with it -- either the red or the green,
14 is that correct, to the big "Y"?

15 A. They come out the back roads, the best I can
16 remember is what they said.

17 Q. Came the back roads. And the second time which was
18 to be on the Saturday, when they dropped her off at her car in
19 Townsend, they came around on up through the valley, and that
20 would be Wears Valley, is that correct?

21 A. Yes, sir. I believe that they stated "back on
22 through the valley," both of them.

23 Q. Yes, sir. And Mr. Widener, you told them not only
24 then that you had video tapes there at the store of them, and
25 that you'd looked at the video tapes, and they weren't on them,

1 and they were not there, and Gary told you that if the video
2 tapes were there, and if you had video tapes, you would see
3 them. Isn't that what he said, basically, something to that
4 effect?

5 A. I believe he may have, sir.

6 Q. Okay. And you also told him you had cash register
7 receipts that showed that they didn't buy any beer, isn't that
8 right?

9 A. Yes, sir.

10 Q. And he told you if you had cash register receipts
11 it would show that they bought the beer because they did?

12 A. During that time period, sir, that they were
13 telling me there was no case of beer bought.

14 Q. Well, was there some beer bought?

15 A. A six pack -- twelve pack.

16 Q. Not a case?

17 A. Not a case, sir.

18 Q. But in any event you did not have any cash register
19 tapes that would indicate one way or the other whether that beer
20 had been bought, did you, sir?

21 A. We had the cash register tapes provided by the
22 owner of the store.

23 Q. But when you told them that the tapes would verify
24 that they weren't there, and didn't buy any beer, both the video
25 tape and the cash register tape, that was just a total untruth,

1 and that was not true, was it?

2 A. No, sir. If they bought less than a case of beer
3 it would have showed up on the tape as being less than a case.
4 We were looking for a case of beer bought around 7:00 -- between
5 6:00 and 8:00, and there was no case of beer.

6 Q. Did he tell you they bought a case, or how much did
7 they buy?

8 A. A case of beer.

9 Q. Case of beer?

10 A. Yes, sir.

11 Q. And he told you if your tapes was right that they -
12 - that it would show that they did buy the beer there?

13 A. Said if the tapes is right, I believe they'd show.

14 Q. And then you told them -- on the 28th while talking
15 to him you told them another falsehood. You told them that
16 there was two shots fire...

17 GENERAL SCHMUTZER: Your Honor, I would object to
18 another falsehood. He just -- what he told -- he
19 apparently told the truth -- there were no tapes
20 showing he bought a case of beer.

21 MR. DANIEL: Okay, I'm sorry.

22 BY MR. DANIEL:

23 Q. You told them a falsehood or a lie, whichever you
24 want to call it, that when there was four -- they said there was
25 two shots fired on Friday night, and that there was two shots

1 fired on Saturday. You told them that, didn't you?

2 A. I told them that there was two shots fired on
3 Friday night.

4 Q. Didn't you tell them there was two shots fired on
5 Saturday night, also?

6 A. I can't recall the two shots fired on Saturday
7 night right off hand, sir.

8 Q. Now, they also told you that Tommy had a bottle of
9 Xanex when he was down there when he left with that girl, didn't
10 he?

11 A. Yes, sir.

12 Q. And you know from checking the records at the jail,
13 when Tommy went to the jail he did not have any Xanex on him,
14 did he?

15 A. That's correct, sir.

16 Q. And when he left the jail no Xanex were turned over
17 to him as part of the property -- property receipts. You
18 checked that?

19 A. That's correct, sir.

20 Q. He told you that -- of course, he was separated
21 from his wife at the time -- he told you that?

22 A. Gary?

23 Q. Gary.

24 A. Yes, sir.

25 Q. Now, on the 28th -- when he came to see you on the

1 28th you read him what we call his miranda rights?

2 A. Yes, sir.

3 Q. And he signed those rights, did he not, sir?

4 A. Yes, sir, he did.

5 Q. And the miranda rights is a form that when a person
6 wants to waive their rights to having a lawyer present they can
7 do so, and just go ahead and talk with you, is that correct?

8 A. Yes.

9 Q. And he did that?

10 A. Yes, sir, he did.

11 MR. DANIEL: May I approach the witness?

12 THE COURT: Yes.

13 BY MR. DANIEL:

14 Q. I don't have the original, but I believe we have
15 a photocopy here, and you'll tell me if that's not the miranda
16 rights that you read him on the 28th, and he signed?

17 A. Yes, sir, the 28th of February at 11:35.

18 Q. And that's witnessed by you and also Mr. Davenport,
19 is that correct?

20 A. Yes, sir, it is.

21 MR. DANIEL: Your Honor, I'd like to offer that as
22 an exhibit.

23 THE COURT: Okay.

24 (EXHIBIT #31 - Rights waiver; marked and filed.)

25 MR. DANIEL: May I pass it to the jury?

1 THE COURT: Yes, sir.

2 BY MR. DANIEL:

3 Q. And when you -- and you also tape recorded that
4 statement?

5 A. Yes, sir, I did.

6 Q. Which is a full tape recording of what all was
7 said?

8 A. Yes, sir.

9 Q. And you tape recorded the one on the 25th?

10 A. Yes, sir.

11 Q. Now, let's go back to the 25th. You said there was
12 some things that wasn't told you. Did I understand that your
13 statements was basically that he didn't tell you some things on
14 the 25th that he told you on the 28th?

15 A. He didn't tell me some things on the 25th, sir,
16 that we subsequently found out up to the 28th.

17 Q. Okay. Let me ask you, now. You recall -- you cut
18 the tape off at 3:31 p.m., is that correct? The tape was shut
19 down...

20 A. Whatever it indicates on the transcript.

21 Q. On February the 25th, 1992 at Sevier County
22 Sheriff's Department, is that right?

23 A. If it so indicates, sir.

24 Q. I'll ask you at that time when you cut the tape off
25 he was still talking, wasn't he?

1 A. Mr. Sutton?

2 Q. Yes, sir.

3 A. I don't know, sir.

4 Q. Do you remember the last words that's on that tape
5 after you told him you were -- "Well, let's cut this tape off,"
6 at approximately 3:31 p.m. on February 25th, 1992 at the Sevier
7 County Sheriff's Department, and Gary Sutton says, "But anyway,
8 I...", and the tape was shut off, wasn't it?

9 A. That's the end of the record, sir, yes.

10 Q. And isn't it true he was trying to tell you
11 something else when you actually cut him off and shut the tape
12 off, wasn't he?

13 A. Sir, Mr. Sutton had done a lot of talking on the
14 25th.

15 Q. He talked for over an hour to you, didn't he?

16 A. Yes, sir, he sure did.

17 Q. Never one time ever admitted to you that he had
18 anything to do with the murder?

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

20 Q. And when he came back to see you on the 28th, a few
21 days later, he told you -- they told you at that time that --
22 strike that. When you went back the 25th, you said the last
23 thing, you said, "If you think of anything, will you get back
24 in touch with me?" You told them that, didn't you?

25 A. Yes, sir.

1 Q. And he started telling you right at the end of the
2 tape about Bill Cogdill, do you remember that?

3 A. I believe he actually talked to me some about Bill
4 Cogdill, yes, sir.

5 Q. And you know now from your investigation...

6 GENERAL SCHMUTZER: I object, Your Honor, to what
7 he knows from the investigation.

8 THE COURT: Sustained as to the form.

9 MR. DANIEL: Okay.

10 BY MR. DANIEL:

11 Q. You know now from reading the statements of the
12 various witnesses...

13 GENERAL SCHMUTZER: That would be hearsay, Your
14 Honor. He can't testify from reading -- that would
15 be hearsay.

16 THE COURT: Sustained as to form, Mr. Daniel.

17 BY MR. DANIEL:

18 Q. Have you taken -- have you read a statement that
19 was made by Joyce Tipton?

20 A. No, sir, I have not.

21 Q. You have not read a statement that was taken in
22 this investigation by her?

23 A. No, sir.

24 Q. Have you read a statement, a transcribed or tape
25 recorded statement taken of Jack Sutton?

1 A. No, sir, I have not.

2 Q. You haven't read either one of those?

3 A. No, sir.

4 Q. Well, do you recall him telling you on the 25th
5 about Bill Cogdill, that Bill Cogdill had been making some
6 statements, or had made a statement to somebody?

7 A. I remember he referred to a Mr. Cogdill or
8 something there. I know he made reference to him, sir.

9 Q. Talking about that he had seen -- that Cogdill said
10 that he had seen Connie?

11 A. Had seen, I believe, Connie the day before when we
12 were sitting there talking, yes, sir.

13 Q. And that was -- that was on page 47, and then the
14 very next thing, you said, "Let's cut this tape off." That's
15 the next thing you do is cut the tape off when he started
16 talking about that, wasn't it?

17 A. Yes, sir. If it so indicates, that's when we cut
18 the tape off.

19 MR. DANIEL: May I approach the witness, Your
20 Honor?

21 THE COURT: Sure.

22 BY MR. DANIEL:

23 Q. I don't want to mislead you. Right here is the
24 statements about Bill Cogdill, and the last statement made by
25 Gary Sutton was regarding Bill Cogdill -- that's on page 47, is

1 that correct?

2 A. Yes, sir, he's making reference to what Bill told
3 James.

4 Q. Okay. Let's flip to the next page which is page
5 48, and what's the next -- first thing -- after you said that,
6 what did you say, and what did you do?

7 A. Mr. Gorley said, "Let's cut this tape off" at
8 approximately 3:31 p.m.

9 Q. And then what did Gary say?

10 A. "But anyway, I..."

11 Q. So you never heard the rest of what Gary wanted to
12 tell you, did you?

13 A. I don't know what he wanted to tell me after that
14 point, sir.

15 Q. All right. He came back on the 28th, and he wanted
16 to tell you some more, didn't he?

17 A. Yes, sir, he did.

18 Q. He told you he'd been trying to get in touch with
19 you?

20 A. Yes, sir.

21 Q. Told you that you'd given him some phone numbers,
22 and he'd called over there at the jail, and they tried to beep
23 you, and they set and waited on the phone for a period of time,
24 and nobody ever came to the phone, didn't he?

25 A. That's what he stated, sir.

1 Q. And that would have been either on the 26th or the
2 27th because that statement was made to you on the 28th?

3 A. That's correct, sir.

4 Q. And I believe I understood you stating that he --
5 he was at the front door of the courthouse over there when he
6 came out -- there's nowhere in his statement anywhere he told
7 you that he was at the front door of the courthouse, was there --
8 - in Blount County?

9 A. Do what, sir?

10 Q. Didn't you testify earlier that he said that he was
11 at the front door of the courthouse in his statement -- that
12 when he left Blount County that he parked at the front door of
13 the courthouse?

14 A. No, sir, I didn't say that.

15 Q. You didn't make a statement about something about
16 the front door of the courthouse in Blount County?

17 A. When they left going out of the lobby through the
18 front door.

19 Q. Through the front door?

20 A. Yes, sir.

21 Q. But you are not indicating then that he ever told
22 you he parked there at the front door, did he?

23 A. Sir, I've not said anything about where he parked
24 at.

25 Q. Maybe I misunderstood you, and I apologize, but I

1 was thinking you stated that he parked there at the front door.
2 But you said he left...

3 A. Exited the front door.

4 Q. And he told you when he came back on the 28th that
5 the reason they hadn't told you anything about Connie is that
6 they didn't know -- that wasn't even an issue at the time, and
7 that she had told them not to say anything about her being over
8 there at that bar?

9 A. That they had promised her not to say anything.

10 Q. They promised her not to say nothing?

11 A. Yes, sir.

12 Q. And nobody knew at that time, isn't it true, Mr.
13 Widener, nobody knew at that time what had happened to Connie,
14 whether she had just gone off or left or what, did they?

15 A. The only thing they knew, sir, was that she was
16 missing. They didn't know anything.

17 Q. Missing. And you knew that she had been in a --
18 went kind of off, and had to be committed to a mental
19 institution about a week or so before that? You knew that,
20 didn't you?

21 A. I didn't know that on the 25th, sir.

22 Q. You didn't know that on the 25th?

23 A. No, sir.

24 Q. And I believe you answered the question -- to get
25 the search warrant you said you didn't -- you actually told --

1 came over here and swore, and took an oath to the judge, and
2 gave him a statement that you had eye witnesses who would
3 identify these three boys as being out there at that Hunt Road
4 area, didn't you?

5 A. We had eye witnesses that identified the car, and
6 the fact that three people were there.

7 Q. But you told the judge that you had eye witnesses
8 that would identify the three people, didn't you?

9 A. Yes, sir, among other things.

10 Q. And you knew that wasn't true, but you swore that
11 to that judge, didn't you?

12 A. We didn't have anyone out there that knew Gary or
13 James or Tommy, no.

14 Q. But you told him you had three eye witnesses -- or
15 an eye witness that would identify those three people out there,
16 that was just not true?

17 A. That's not true, sir.

18 Q. The same oath that you took when you swore to that
19 judge to get that search warrant is the same oath you swore
20 here. You raised your hand to God, and swore to tell the truth,
21 isn't that correct?

22 A. The truth, yes, sir.

23 Q. And they also told you that they called the
24 hospital trying to hunt Tommy that night, isn't that correct?

25 A. I believe Gary told me that they made the phone

1 calls, sir, yes.

2 Q. And you checked that out, didn't you?

3 A. Yes, sir, that was checked out.

4 Q. And there was a phone call made to the Blount
5 Memorial Hospital, wasn't there? You know that number?

6 A. Right now, sir, I do know that that took place.

7 Q. And you also know the next place they called was
8 not the jail, but was a number where you try to check and find
9 out -- if you want to find out about something, you can call the
10 sheriff's information center -- law enforcement information
11 center. Would that be the correct terminology?

12 A. I think some of the phone books list that as the
13 sheriff's department number, but it goes straight into dispatch.

14 Q. Okay. And then the next number they called after
15 that would be the call to the jail?

16 A. Yes, sir.

17 Q. And he told you that they called the hospital and
18 also called the jail, didn't he?

19 A. According to Mr. Sutton, yes, sir.

20 Q. And you'll agree with me, and you have no objection
21 to these jurors listening to these tapes, do you?

22 A. No, sir.

23 Q. You'll agree with me that these tapes just ramble,
24 and it's hard to put everything in every little square, and
25 focus it like we're talking about it, isn't that correct?

1 A. Especially the tapes on the 25th.

2 Q. They just ramble around and around, don't they?

3 A. Yes, sir.

4 Q. Now, what happened on the 28th? You were taking
5 a statement from Gary, and this was when you started telling him
6 these things that you had -- that you said -- you told him you
7 had finger prints -- implied that there was finger prints that
8 would be found on the shells or hulls out there were Tommy's
9 body was found, didn't you, sir?

10 A. Inferred that, yes, sir.

11 Q. And he told you he hoped it was because it would
12 show that it wasn't there?

13 A. Yes, sir, that's correct.

14 Q. You told him -- you didn't have no finger prints,
15 and you still don't have no finger prints, do you?

16 A. There was no identifiable, according to the lab
17 examination, no identifiable prints.

18 Q. You told him there would be finger prints on them
19 Budweiser cans that was out there, and you didn't have no finger
20 prints at that time, and you knew at that time you didn't have
21 any, didn't you, sir?

22 A. Didn't have the lab results back yet. We had
23 checked them preliminarily for prints, and we had smudges.

24 Q. Now, you did get some finger prints off of some
25 cans, some Budweiser cans, that were identifiable, and you

1 identified two sets of finger prints that was off of some beer
2 cans, is that correct?

3 A. The beer cans found at the scene, sir.

4 Q. Were they the beer cans found at the scene where
5 Tommy's body was found, or were they found up there where the
6 car was?

7 A. No identifiable prints were found at our murder
8 scene, sir.

9 Q. At yours -- you are talking about your Blount
10 County?

11 A. Yes, sir.

12 Q. But we're talking about what we're here to talk
13 about today, the Sevier County situation with Connie Branum's
14 car. Wasn't it true that you found some finger prints -- and
15 there was some finger prints found on the cans, Budweiser cans,
16 up there where her car was found? Isn't that true?

17 A. Sir, I did not work that crime scene.

18 Q. Aren't you familiar and aware that there was finger
19 prints determined, but they were not the finger prints of either
20 one of these defendants?

21 A. No, sir, I'm not.

22 Q. You were interested in that -- and you were up
23 there at the scene yourself?

24 A. I had gone up -- I went that evening that the car
25 was found up to the perimeter where it was at. Yes, sir, I did.

1 Q. You was there at the scene?

2 A. And I drove back to the perimeter that was set up
3 the next day while they were working on the car.

4 Q. And then you saw them gathering evidence there at
5 the scene?

6 A. Yes, sir. I was a spectator to the scene.

7 Q. But you can't tell us at this time who those finger
8 prints belonged to, can you?

9 A. Sir, all the lab results for that particular crime
10 scene went to Sevier County.

11 Q. But you're reviewed them, haven't you, Mr. Widener?
12 You're interested in your case over in Blount County -- tell
13 this jury...

14 GENERAL SCHMUTZER: Your Honor, this is all
15 hearsay. We have Sevier County officers if he
16 wants to go into that. We'll be prepared to go
17 into that.

18 THE COURT: He doesn't know...

19 MR. DANIEL: Okay. Yes, Your Honor.

20 BY MR. DANIEL:

21 Q. You were there when they took some tire prints --
22 what we call a tire print there at that scene, weren't you?

23 A. No, sir.

24 Q. You don't know that? Tell this jury what a tire
25 print is, and what you can do with a tire print.

1 A. In my own experience?

2 Q. Yes. I mean, basically, scientifically -- what the
3 purpose of a tire print is, and what it's for.

4 A. If you find a tire print in dirt or mud, dried mud,
5 and you lay a plaster of paris or a rubber compound down on top
6 of it and let it dry, you can lift the print.

7 Q. Is it the same as lifting a foot print?

8 A. It's done very similar to it, sir.

9 Q. Similar to finger prints except you use a different
10 method. You're lifting something off...

11 A. You're lifting a latent impression off the ground.

12 Q. Right. You know also that there was -- you have
13 never -- in your investigation with the Blount County matter you
14 have never found anywhere that that tire print matched either
15 one of these vehicles that these boys said they were in or on,
16 have you? You don't know...

17 A. Sir, we never examined any tire prints. We had an
18 asphalt road there at Manning Lane. I believe in Sevier County
19 it was a dirt, fire trail.

20 Q. But you don't know what the results of the Sevier
21 County tests were regarding the tire prints, is that right?

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

23 Q. What about -- were you there when they gathered mud
24 or dirt from the area around the car?

25 A. I did not participate in the crime scene.

1 Q. Did you observe them do this?

2 A. I don't recall. They were different people doing
3 different things.

4 Q. When you came over here then, and followed up on
5 your investigation, isn't it true you took dirt samples from Mr.
6 Dellinger's truck, both at the tires, the inside on the floor
7 mats, and the undercarriage, and all of that truck -- wasn't
8 dirt or soil samples taken from that?

9 A. Sir, I do not know. I did not take any.

10 Q. Did you see anybody take them?

11 A. No, sir, I did not.

12 Q. You know they checked all vehicles for blood
13 splatters or what we call blood samples or where the splatters
14 of blood is, you know that?

15 A. Sir, they may have, but I'm not familiar to that
16 part of the investigation.

17 Q. Checked them for hair samples? You know they...

18 GENERAL SCHMUTZER: Your Honor, he's already said,
19 I don't know how many times, that he doesn't know
20 anything about that investigation, and he needn't
21 ask him about that investigation. I object.

22 BY MR. DANIEL:

23 Q. Let me ask you this. Do you know from the
24 statement that was given you that according to their statement
25 they had driven over in Gary's car, and then -- anyway, the

1 Camaro came back, and it was left over here, and they used
2 another vehicle to go get Tommy after he got out of jail? Do
3 you know that?

4 A. According to Gary.

5 Q. According to statements that was made.

6 A. Only according to Gary's statement -- only
7 according to James' statement did they drive Gary's car.

8 Q. Well, what I'm saying -- I'm talking about after
9 they got Tommy out of jail.

10 A. Yes, sir.

11 Q. Was -- didn't they say they drove Mr. Dellinger's
12 wife's car over there?

13 A. Yes, sir, Linda's car.

14 Q. And that's the car. So if Tommy left in that car
15 from the courthouse, then his finger prints could be in that
16 vehicle because that would be the only time that he would have
17 been riding in that vehicle that day?

18 A. Sir, according to Mr. Dellinger and Mr. Sutton they
19 rode around in different cars all the time.

20 Q. Now, listen to my question. You know from what
21 they told you and what you've determined that after they got
22 Tommy out of the jail over there, and made his bond that they
23 told you he left and went with somebody else?

24 A. Yes, sir.

25 Q. That had he had gotten in that car which belonged

1 to Mrs. Dellinger, that there would be a possibility, at least,
2 of finger prints -- Tommy's finger prints in that car?

3 A. I agree there would have been a possibility of
4 finger prints.

5 Q. There would be a possibility of hair samples and
6 clothing samples in there, wouldn't there, that you all
7 could...?

8 A. There could have been a possibility.

9 Q. And you'd have no evidence whatsoever that Tommy
10 was ever in that car from a scientific standpoint that you could
11 show this Court and jury, do you, sir?

12 A. As far as physical evidence, no, sir.

13 Q. Did you even dust it for finger prints?

14 A. Yes, sir, we did.

15 Q. Okay. No further questions.

16 **

17 REDIRECT EXAMINATION

18 BY GENERAL SCHMUTZER:

19 Q. Did you get any finger prints at all?

20 A. We looked at several smudges, sir.

21 Q. A smudge is something you can't compare?

22 A. That's correct, sir.

23 Q. Is it common when you try to get finger prints that
24 rather than being readable prints they are smudges?

25 A. That's correct, sir.

1 Q. It was asked of you about Gary Sutton saying that
2 they were in a Camaro on Friday night, but changed vehicles...

3 MR. DANIEL: I object to that. May we approach the
4 bench?

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

6 THE COURT: Yes?

7 MR. DANIEL: Your Honor, this is exactly what we
8 excluded by your...

9 GENERAL SCHMUTZER: You opened the door.

10 MR. DANIEL: No, I did not. I very carefully asked
11 him after he left the jail -- "When they left the
12 jail, wasn't it true that they left in the Buick
13 car," and he tried -- "No, he told us he was
14 driving a Camaro." I said, "I'm not asking you
15 earlier. I'm asking you after they left the jail."
16 Your Honor, I'd be glad to check the record because
17 I've been careful on this, and I've watched it.
18 My questions was after they went to get him out of
19 jail, and there's no questions about this before
20 that.

21 GENERAL SCHMUTZER: The question before that, Your
22 Honor, was -- before he asked about the jail he
23 asked him, he said, "Isn't it true that they told
24 you they drove around in the Camaro, and then they
25 changed cars, and came back in another car to get

1 him out of jail?" And then he said, "No, he never
2 told me..." He said, "Dellinger told me they were
3 in the Camaro, and then he...

4 **THE COURT:** Miss Court Reporter, can you locate on
5 the tape there what Mr. Daniel was asking about the
6 car? Is that the last set of questions he asked?

7 **GENERAL SCHMUTZER:** The last set of questions.

8 **COURT REPORTER:** Yes, sir.

9 **MR. DANIEL:** He answered that, but my questions
10 were after they got him out of jail.

11 **GENERAL SCHMUTZER:** Let's listen to it.

12 **(TAPE PLAYED BACK BY COURT REPORTER)**

13 **THE COURT:** ...Dellinger's car, and drove to get
14 him out of jail.

15 **MR. DANIEL:** Well, Judge, here's the reason.
16 They've agreed -- the State agreed that they were
17 in a Camaro, and then when -- the only statement
18 that says that there was any other car was our
19 client's, and that is their theory, and...

20 **THE COURT:** I understand.

21 **GENERAL SCHMUTZER:** Your Honor, quite frankly I
22 lived up to an agreement that even, like it turned
23 out later, was probably material. I shouldn't
24 have, but I made that statement to the Court, and
25 I've stood by it.

1 THE COURT: He came dangerously close.

2 MR. DANIEL: And I meant to dead end it after...

3 THE COURT: He hasn't opened the door yet. I
4 understand where you're going, and I don't blame
5 you for trying to ask him. And if -- his question
6 could be taken any number of ways is the reason I
7 won't let you go into it, but I understand where
8 you're going, and I don't blame you for that. But
9 I will give you the benefit of that doubt.

10 MR. DANIEL: I didn't mean to, Your Honor, and if
11 I did, it was stupidity. Judge, I have a few more
12 questions I want to ask of him, but I'll wait on
13 that.

14 THE COURT: That's fine.

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

17 THE COURT: You may go ahead, General Schmutzer.
18 And either of you may, after this is over, hear the tape as this
19 Court heard it. Either of you or all of you may listen to the
20 tape I just listened to.

21 BY GENERAL SCHMUTZER:

22 Q. In the course of talking to these defendants did
23 they tell you anything about the Camaro -- having any problems
24 with the Camaro on Friday night?

25 A. On Friday, no, sir.

1 Q. And I'll ask you, sir, at the time -- let me get
2 this straight. They had gone over some things, and they said,
3 of course, you were telling them that you didn't have, and one
4 of those, you said you had a video tape at the Citgo station
5 where they bought this case of beer?

6 A. Yes, sir, this was on the 28th during the
7 interrogation.

8 Q. All right, sir. And they told you -- you said that
9 wasn't true, but then they asked you -- you also told them that
10 you had checked the record receipts to see if a case of beer was
11 sold during this period of time, and that that -- they had not
12 sold a case of beer during that period of time, is that right?

13 A. That is correct, sir.

14 Q. Was that telling them the truth or a lie?

15 A. That was the truth, sir.

16 Q. Now, when they came in on Friday, and told you for
17 the first time about being with Connie at Howie's Hideaway, you
18 stated on cross examination that they told you the reason why
19 was because one, she had asked them not to, and the second was
20 that at that time they didn't know anything had happened to her,
21 she was just missing, is that right?

22 A. Yes, sir.

23 Q. Well, isn't it true, sir, that when they talked to
24 you on the 28th she still hadn't been found?

25 A. That's correct, sir.

1 Q. When was her body found on the 28th, before or
2 after you had talked to these men and interrogated them?

3 A. After I'd talked to both of them, sir.

4 Q. So at the time you talked to them the second time
5 her whereabouts still wasn't known, her death still wasn't
6 known?

7 A. That's correct, sir. We didn't find her body until
8 some hours after I'd interviewed both of these men.

9 Q. It was mentioned about Dellinger telling you about
10 hitting all of these places. Was that what he told you on the
11 25th or on the 28th when you were pressing him about Friday?

12 A. It was on the 28th, sir.

13 Q. All right. On the 25th what did he tell you
14 specifically about where they'd been that day?

15 A. He said they'd come from Pugsey's on Chapman, and
16 according to him, drove over through Maryville and then out to
17 the Citgo station.

18 Q. At no time -- at any time did he tell you that they
19 had been hitting every bar around?

20 A. No, sir, on the 25th he did not.

21 Q. That's all.

22 THE COURT: Mr. Daniel, you indicated you had...

23 MR. DANIEL: I just have a few questions -- very
24 few when he's done.

25 THE COURT: Okay.

26 **

1 CROSS-EXAMINATION

2 BY MR. MILLER:

3 Q. At the time when you talked to them down there at
4 the market about the tape on the beer sales, that was Mr.
5 Huffsteader, is that correct?

6 A. Yes, sir.

7 Q. Did he not tell you, and try to emphasize to you
8 when you were trying to find that tape that they do \$1500 worth
9 of beer sales a day, and it's next to impossible to try to find
10 -- to pin down what you were wanting?

11 A. No, sir. I just asked him to check during those
12 hours. He could not find a case of beer sold.

13 Q. And you deny that he emphasized to you that it's
14 almost impossible to...

15 A. He told me they do a lot -- I know they do a lot
16 of business, sir.

17 Q. He told you it would be hard to find that?

18 A. No, sir, I don't think he told me that.

19 Q. That's all.

20 **

21 RECROSS-EXAMINATION

22 BY MR. DANIEL:

23 Q. Regarding that question, I meant to ask you, or did
24 ask you a while ago pertaining to one shot or two shots being
25 fired, are you telling us now that you did not make that

1 statement to either one of these defendants that there was two
2 shots fired on Friday night, and two shots fired on Saturday
3 night?

4 A. Sir, if I could refer to the record, I can
5 ascertain whether I did or not. I do not recall.

6 Q. I've lost it after you gave it to me, and -- one
7 other matter while he's finding that to save us some time. If
8 there's two 12 packs, that would be a case, and you found a
9 whole bunch of 12 packs, didn't you?

10 A. Oh, yes, sir. There were 12 packs sold, six packs.

11 Q. Now, getting back to this 28th at the end of the
12 conversation that you had with Gary Sutton on the 28th. Isn't
13 true that what happened at the end of that tape -- at the end
14 of your questioning -- he said -- he asked you if you were
15 trying to accuse him of something, and were you trying to point
16 a finger at him, and that's when you all got into an argument?

17 A. That's when I told him we were looking for the
18 truth.

19 Q. You was pointing the finger at him?

20 A. Yes, sir.

21 Q. You told him if he wanted to get a lawyer he could
22 get one, and he said, "Well, if you're going to do that, I'm
23 going to call a lawyer?

24 A. That's correct, sir.

25 Q. All right, sir. And he called David over here, Mr.

1 Webb, didn't he?

2 A. No, sir, I did.

3 Q. You called him for him?

4 A. Yes, sir.

5 Q. And you quit questioning him then, didn't you?

6 A. I did, sir.

7 Q. And it's also your procedure that if somebody asks
8 for an attorney, and by law, you're not supposed to question
9 them, are you?

10 A. That's correct, sir.

11 Q. So he had invoked his right to his attorney at that
12 time?

13 A. That's correct.

14 Q. You were not a party at a later when David
15 Davenport came over here, and attempted to elicit a statement
16 from the defendant Sutton, were you?

17 A. Sir, that was the last time I attempted to question
18 Mr. Sutton.

19 Q. You never came back over here?

20 A. I never came back, and talked to him.

21 Q. Okay, sir. And if person asked, and said he did
22 not want to waive his rights, you wouldn't question him, would
23 you, Mr. Widener?

24 A. Sir, at the point Mr. Sutton requested his
25 attorney, I ceased questioning him.

1 Q. And if you started to question him like you did at
2 the very beginning, and this waiver that he signed, if he said,
3 "I don't want to sign that, and I don't want to waive my
4 rights," you would never question him, would you?

5 A. Myself personally, sir, when a person asks for his
6 attorney, from that point on I only talk to him through his
7 attorney.

8 Q. Do you know why that anyone else would have
9 attempted to talk to him without through his attorney -- any
10 other law enforcement officer?

11 A. Sir, I can only speak for myself.

12 Q. Do you know he was arrested, is that correct?

13 A. Yes, sir.

14 Q. And was in jail on at least the 7th or 8th of
15 March?

16 A. I believe so, sir.

17 MR. DANIEL: May I approach the witness, Your
18 Honor?

19 THE COURT: Sure.

20 BY MR. DANIEL:

21 Q. I'll show you a statement here, and ask you where
22 the questions was made, and...

23 GENERAL SCHMUTZER: I don't...

24 MR. DANIEL: It's on page 31, General, of Mr.
25 Dellinger's statement.

1 BY MR. DANIEL:

2 Q. Could you read that to the jury, please, sir?

3 A. Yes, sir. "Two shots were fired Saturday night
4 just like two shots were fired Friday night."

5 Q. That's your wording?

6 A. Yes, sir.

7 Q. And that's not true. You had no proof whatsoever,
8 and did not have any proof that two shots were fired on Saturday
9 night, did you?

10 A. Sir, that's a statement I made during his
11 interrogation.

12 Q. And you don't even have any proof -- you don't know
13 or have any proof as to how this woman died. You don't know how
14 she died, do you?

15 GENERAL SCHMUTZER: Your Honor, I'm -- this man is
16 not a...

17 THE COURT: He said he wasn't. He didn't do that.

18 MR. DANIEL: No further questions.

19 THE COURT: Anything further?

20 GENERAL SCHMUTZER: Nothing for the State, Your
21 Honor.

22 THE COURT: Well, we went an hour longer, didn't
23 we. Are you mad at me? You're not mad at me?

24 GENERAL SCHMUTZER: Your Honor?

25 THE COURT: Yes?

1 GENERAL SCHMUTZER: Your Honor, we have a
2 stipulation.

3 THE COURT: I'm sorry. Yes, you do. Go ahead.

4 **

5 GENERAL SCHMUTZER: If the Court please, it is
6 stipulated that if Dr. Eric Ellington, a pathologist from Blount
7 County were to testify that he performed an autopsy upon the
8 body of one identified as Tommy Griffin on February the 25th at
9 8:00 a.m., and that he found that the death was due to a gun
10 shot wound to the head, and there was extensive damage to the
11 brain, soft tissue in the skull, and that he removed from inside
12 the skull shot pellets and wadding, and turned them over to
13 Officer Munsey of the Blount County Sheriff's Department.

14 THE COURT: Okay. As stated, ladies and gentlemen,
15 the parties have agreed that if Dr. who?

16 GENERAL SCHMUTZER: Dr. Ellington.

17 THE COURT: ...Ellington were called that he would
18 testify as to what he found, and that you may consider that as
19 if it had been testified to in open court. By this stipulation
20 and by agreeing to this stipulation, the defendants do not agree
21 that they did it or that they had anything to do with that.
22 They only agree that if this doctor were called, he would
23 testify as stated by General Schmutzer.

24 MR. DANIEL: Your Honor, while we're at it, one
25 other thing that might save the General some time, and save us

1 all some time. We understand there's some question about her
2 identity through some dental records through a dentist that you
3 have called...

4 GENERAL SCHMUTZER: That's correct.

5 MR. DANIEL: And with the same understanding that
6 we're not -- we can't say it is her or isn't her, but I'm just
7 saying that's -- we won't question that, and take up a lot of
8 time on that, and make the same proffer if you want to, General,
9 as long as the Court and jury understands that by that we don't
10 admit anything.

11 GENERAL SCHMUTZER: Right. Zane?

12 MR. DANIEL: Yes?

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

14 GENERAL SCHMUTZER: To save some time, and get out
15 of here. We've got Officer Munsey. He's just in
16 the chain of evidence. He got all this stuff and
17 took it to the laboratory. Can we stipulate that
18 he took all this stuff up to...

19 MR. DANIEL: I don't think...

20 MR. MILLER: He did some print examinations
21 himself.

22 MR. DANIEL: He did, Al, that's right.

23 GENERAL SCHMUTZER: Well, I'll stipulate he tried
24 to get forensic, and didn't get anything.

25 MR. DANIEL: He got some.

1 MR. MILLER: Yeah, he...

2 GENERAL SCHMUTZER: No, he didn't either. He got
3 smudges.

4 MR. MILLER: We don't want to stipulate...

5 MR. DANIEL: We can't stipulate him. We won't ask
6 a lot of questions, but we can't stipulate him.

7 GENERAL SCHMUTZER: I'd like to put him on then,
8 Your Honor, and get him out of the way.

9 MR. DANIEL: Why don't you go ahead and read that
10 stipulation on that other. I'm not trying to tell
11 you how to run your case, but there's no need to
12 bring him in to prove her identity...

13 GENERAL SCHMUTZER: I'm not to that one yet.

14 MR. DANIEL: Well, when it happens...

15 GENERAL SCHMUTZER: Yeah, okay. I'd like to go
16 ahead and put Mr. Munsey on because we need to...

17 THE COURT: How long will he take?

18 GENERAL SCHMUTZER: They said they weren't going
19 to question him too long.

20 THE COURT: How long are you going to question him?

21 GENERAL SCHMUTZER: Not very long.

22 THE COURT: Okay.

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

25 THE COURT: We'll hear one more witness.

1 GENERAL SCHMUTZER: Call Larry Munsey.

2 **

3 LARRY MUNSEY was called, and being duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY GENERAL SCHMUTZER:

7 Q. Officer Munsey, state your full name.

8 A. Larry K. Munsey.

9 Q. And your position?

10 A. Deputy Sheriff, Blount County Sheriff's Department.

11 Q. And what is your duty and responsibility there?

12 A. I'm termed as a crime scene technician, and respond
13 to crime scenes, and process them for evidence.

14 Q. All right. And the process of that includes, I
15 take it, collecting evidence, dusting for finger prints, and
16 things of that nature?

17 A. That is correct, sir.

18 Q. I'll ask you, sir, did you assist in the
19 investigation surrounding the death of Tommy Griffin?

20 A. Yes, sir, I did.

21 Q. Did you -- first of all, did you receive two shells
22 that have previously been filed here as exhibits into this
23 court, Exhibits #25 and #24, identified as being two shotgun
24 shells found at the scene there at Tommy Griffin?

25 A. Yes, sir, I do.

1 Q. And I'll ask you, sir, if you would take a look at
2 those and tell us what is the gauge?

3 A. I'm removing from the bag marked Exhibit #25, this
4 is a Remington Peters .12 gauge expended shot shell hull.

5 Q. And what size shot did it hold?

6 A. Well, it has embossed on it "00 Buck".

7 Q. Okay. And did you attempt to get finger prints off
8 these shells?

9 A. Yes, sir, I did.

10 Q. And were you able to do that?

11 A. No, sir, no identifiable prints.

12 Q. All right. Nothing that you could match to someone
13 else's print, I take it?

14 A. That is correct, sir. You could not match it with
15 any particular individual.

16 Q. Anyone.

17 A. That is correct, sir.

18 Q. Did you later take this evidence to the crime
19 laboratory?

20 A. Yes, sir, I did.

21 Q. Over to the firearms section?

22 A. Yes, sir. Everything was submitted to the T.B.I.
23 laboratory in Donelson, I believe, on March the 2nd.

24 Q. All right. And I'll ask you, sir, if you also --
25 I'll show you also a rifle here that's marked as Exhibit #27,

1 and ask you sir, did you also transport that to the laboratory?

2 A. Yes, sir, I did. This is another item transported
3 to the T.B.I. lab the same day.

4 Q. All right. And did you also receive three shotgun
5 shells found at Angel Gray's trailer, and a shotgun shell found
6 in the trash can at Dellinger's trailer?

7 A. Yes, sir. These were all submitted to T.B.I. at
8 one time.

9 Q. All right. And those, for the record, are Exhibits
10 #29 and #28. You submitted those, also?

11 A. Yes, sir.

12 Q. Did you also find -- were there also collected a
13 couple of Budweiser beer cans out there on Manning Lane?

14 A. Yes, sir. Two beer cans were collected.

15 Q. Okay. Did you try to get any prints off of those,
16 also?

17 A. Officer Hamilton, who does the same type of work
18 as I do with Blount County, he did most of the processing, but
19 I examined them also, and they too had no identifiable prints.

20 GENERAL SCHMUTZER: That's all. You may cross
21 examine.

22 **

CROSS-EXAMINATION

BY MR. MILLER:

Q. Officer Munsey, were you involved in dusting the Oldsmobile of Mrs. Dellinger's for prints?

A. Yes, sir, I did.

Q. Okay. What were you able to pick up on that?

A. There were a few latent prints there. I started the comparisons on them. I hadn't made anyone, and anyhow, I never did get back to it because it was determined that possibly that Oldsmobile, even if we had identified either Mr. Sutton or Mr. Dellinger's prints on the car, it really had no bearing on the case.

Q. You didn't find any prints of Mr. Griffin on the car?

A. No, sir.

Q. The prints that were found, did you compare them to Mr. Griffin's?

A. Yes, sir.

Q. And none of the prints were his?

A. No, sir.

Q. And the cans, you said you couldn't find any identifiable prints on. I take it you found some print, but you just couldn't identify it?

A. No, sir, no -- well, let me explain this. There are identifiable prints, and prints that are no identifiable.

1 Some people refer to the nonidentifiabes as smudges or
2 whatever. But, in fact, you only have two types. Now, anything
3 that is not identifiable is just as if there was nothing there.
4 You cannot identity it to a particular individual.

5 Q. Well, let me ask you this. If there's not a print
6 that's identifiable because there's not enough of it there,
7 sometimes it's enough to exclude an individual. You would agree
8 with that?

9 A. No, sir, I do not agree with that.

10 Q. You do not agree with that. So this is clear, you
11 cannot exclude somebody based on partial prints?

12 A. When we're talking about a -- well, let me back up
13 on this. Are you familiar with a finger print type, sir?

14 Q. No, and it may not be necessary to educate me. My
15 question is, do you agree -- do you not agree that you can
16 exclude somebody based on less than a full print?

17 A. It's possible. It depends on the finger print
18 types of the -- the types of patterns on all 10 fingers of an
19 individual versus what part of the latent you have.

20 Q. And likewise, on the shells you didn't find what
21 you would call any identifiable prints?

22 A. No, sir.

23 Q. Was there enough to possibly exclude people, or
24 do...?

25 A. I think it would exclude anyone -- a finger print

1 type of a plain arch, but only that particular type of pattern.

2 Q. And what about the cans?

3 A. There were no prints at all on the cans, not even
4 partials.

5 Q. What other -- was there any evidence you collected
6 out there at the crime scene?

7 A. No, sir. I was there along with everyone else.

8 Q. That's all.

9 THE COURT: Mr. Daniel, do you have any questions?

10 MR. DANIEL: Yes, sir.

11 **

12 CROSS-EXAMINATION

13 BY MR. DANIEL:

14 Q. Mr. Munsey, tell this Court and jury -- you have
15 to have a certain number of points, as we call them, in order
16 to arrive at a finger print, is that correct, sir?

17 A. Yes, sir, points of identification.

18 Q. How many points do you say or do most people say
19 that are experts that are necessary in order to identify
20 someone?

21 A. The number that is generally used is 12. It all
22 depends on the individual examiner. Some prefer to go with
23 more, but some examiners will go with fewer.

24 Q. But basically, 12 is a good sound number, is that
25 correct?

1 A. Yes, sir.

2 Q. What that means in every day language is that if
3 you've got 12 identifiable marks that's comparable to another
4 finger print, you can say, in your opinion, that finger print
5 is the same as that -- those finger prints are the same, is that
6 correct?

7 A. That's correct, sir.

8 Q. But if you have 10 -- you've got at least 10
9 points, but you don't have enough to make a positive
10 identification?

11 A. Well, sir, that all depends on where those 10 are,
12 and how close they are together, and what types of
13 characteristics they are.

14 Q. Let's say you've got five. Nobody would make one
15 on five, would they?

16 A. I wouldn't make one on five.

17 Q. Same way with other types of evidence where experts
18 use, you can have one -- maybe one thing that identifies --
19 that's identifiable markings, but there was other things that
20 are as important -- equally as important in order to make a
21 determination?

22 A. What field are you speaking of, sir?

23 Q. Well, let's take ballistics.

24 A. I'm not a ballistics expert, sir.

25 Q. Okay. What about hairs, for example -- your head

1 hair. You can exclude a certain or a type of person with a
2 hair, although you can't link it to some person.

3 GENERAL SCHMUTZER: Well, Your Honor, I would
4 object to this. There's not going to be any
5 evidence in here of hairs.

6 MR. DANIEL: Well, I was just asking him...

7 GENERAL SCHMUTZER: Object. It's immaterial.

8 THE COURT: It's not relevant

9 MR. DANIEL: That's all. Thank you very much, Your
10 Honor.

11 **

12 REDIRECT EXAMINATION

13 BY GENERAL SCHMUTZER:

14 Q. I forgot to ask you, sir, did you also receive from
15 Dr. Ellington some wadding -- shot wadding and pellets taken
16 from the body of Tommy Griffin?

17 A. Yes, sir, I did.

18 Q. And did you transport those to the crime --
19 Tennessee Crime Laboratory, also?

20 A. Yes, sir, I did. All were delivered on the same
21 day, March 2nd.

22 GENERAL SCHMUTZER: Thank you, sir.

23 MR. DANIEL: No further questions.

24 THE COURT: You may step down.

25 GENERAL SCHMUTZER: I'd like to file those as

1 exhibits, Your Honor.

2 THE COURT: Sure.

3 (EXHIBIT #32 - Wadding from body of Tommy Griffin;
4 marked and filed.)

5 THE COURT: Ladies and gentlemen, that's it for
6 today. We'll start at 9:00 Monday morning. As I told you each
7 day, do not read any newspapers, do not watch any T.V. news, do
8 not listen to any radio broadcast news, or let anyone talk to
9 you about this case whatsoever.

10 We will try our best to start at 9:00 Monday
11 morning. I hope you all have a good Sunday. Thank you.

12 **

13 THE COURT: I want to ask counsel a question. Let
14 the jury go ahead.

15 (JURY OUT)

16 THE COURT: What do you propose to do with the
17 exhibits over the weekend, gentlemen?

18 GENERAL SCHMUTZER: Your Honor, I don't care, but
19 if the Court wants me to I can have the officers take them back
20 to the sheriff's office.

21 THE COURT: Counsel, approach please.

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

23 THE COURT: On the exhibits and the evidentiary
24 items -- well, all exhibits, what do you propose
25 to do with those -- I'll tell you. The Court

1 reporter can keep the document exhibits, can't you?
2 MR. DANIEL: She can take them home with her.
3 THE COURT: Or store them someplace?
4 COURT REPORTER: I can put them in the vault.
5 THE COURT: If you want to put them in the vault
6 in here, the Circuit Court Clerk...
7 GENERAL SCHMUTZER: They're going to lock this
8 place up, I take it, and they would be secure...
9 THE COURT: In here?
10 GENERAL SCHMUTZER: Why, yeah.
11 THE COURT: Okay, if everybody agrees, that's fine.
12 Very good.
13 (Said bench conference being completed, the
14 following proceedings are had in open court.)
15 GENERAL SCHMUTZER: You hadn't ruled on those two
16 statements. Do you want to just do that Monday -- bring them
17 in Monday?
18 THE COURT: Yeah, let me do that on Monday. Yeah.
19 (COURT STOOD IN ADJOURNMENT THIS DATE)

1 THE COURT: You may be seated. Anything that needs
2 to be brought to the Court's attention before we start? All
3 right. Bring the jury in, please, sir, Sheriff Ogle.

4 (JURY IN)

5 THE COURT: Waive the call for the State?

6 GENERAL SCHMUTZER: Yes, Your Honor.

7 THE COURT: For the defense?

8 MR. MILLER: Yes, Your Honor.

9 THE COURT: You may be seated. General Schmutzer,
10 you may call your next witness.

11 GENERAL SCHMUTZER: Thank you, Your Honor. The
12 State recalls Officer Larry Munsey.

13 **

14 LARRY MUNSEY was recalled, and being duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY GENERAL SCHMUTZER:

18 Q. For the record, sir, you are the same Larry Munsey
19 that testified here on Saturday, is that correct?

20 A. That is correct, sir.

21 Q. And sir, during that time -- during that testimony
22 you had stated that you had found a partial print on one of the
23 two shotgun shells found at the scene of Tommy Griffin's murder?

24 A. That is correct, sir.

25 Q. But you said there was not enough of a print to

1 identify anyone -- there wasn't enough there, is that correct?

2 A. That is correct, sir.

3 Q. You also mentioned that there might be enough to
4 eliminate someone?

5 A. Yes, sir, it is possible.

6 Q. But did you attempt, during the course of your
7 investigation, to eliminate these two defendants?

8 A. Yes, sir.

9 Q. Were you able to?

10 A. No, sir.

11 MR. DANIEL: Your Honor, please, I object to that.
12 That's negative testimony. That's not any
13 positive...

14 THE COURT: His testimony is, ladies and gentlemen,
15 as I understand it, he wasn't able to identify or
16 exclude anyone as a consequence of that finger
17 print.

18 GENERAL SCHMUTZER: Yes, Your Honor. He was not
19 able -- he said that it's possible that there was
20 enough there that you could exclude certain people,
21 but he was not able to exclude these defendants.

22 THE COURT: Right, and he couldn't identify these
23 defendants.

24 GENERAL SCHMUTZER: That's right.

25 THE COURT: Right. So -- okay. Thank you.

1 Anything...?

2 MR. MILLER: No questions, Your Honor.

3 THE COURT: Mr. Daniel?

4 MR. DANIEL: One question, Your Honor.

5 **

6 CROSS-EXAMINATION

7 BY MR. DANIEL:

8 Q. You took some prints -- there were some prints
9 lifted off of some Budweiser cans, is that correct, sir?

10 A. No, sir, there was not.

11 Q. You didn't get any prints -- any finger prints at
12 all of any Budweiser cans?

13 A. No, sir, I did not.

14 Q. Do you know whether or not any prints were gotten
15 off any Budweiser cans or beer cans over here at the scene of
16 the fire?

17 A. I have no idea, sir.

18 Q. You didn't have anything to do with that?

19 A. No, sir, I did not.

20 Q. So you were never shown any prints over there, or
21 never asked to see if you could compare or identify prints that
22 was taken over at the scene of the fire?

23 A. No, sir, I was not.

24 Q. Okay. Thank you, sir.

25 THE COURT: You may step down.