

XX 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 18 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	
<i>John H. Hensley</i>	
CIRCUIT COURT CLERK	
SEVIER COUNTY, TENN.	

GENERAL INDEX
VOLUME 18

	<u>VOLUME</u>	<u>PAGE</u>
LINDA DELLINGER		
Cross Examination (Schmutzer)	18	1706
Redirect	18	1726
Recross (Daniel)	18	1727
Recross (Schmutzer)	18	1728
 BILL COGDILL		
Direct Examination	18	1729
Cross Examination (Daniel)	18	1734
Cross Examination (Schmutzer)	18	1736
 JOYCE TIPTON		
Direct Examination	18	1737
Cross Examination (Daniel)	18	1742
Cross Examination (Schmutzer)	18	1748
Redirect	18	1751
Recross (Daniel)	18	1752
Recross (Schmutzer)	18	1752
Recross (Daniel)	18	1756
 ANGELA GRAY		
Direct Examination	18	1759
Cross Examination (Daniel)	18	1760
Cross Examination (Schmutzer)	18	1767
Recross (Daniel)	18	1770
 CAROLYN WEAVER		
Direct Examination	18	1771
Cross Examination (Daniel)	18	1774
Cross Examination (Schmutzer)	18	1795

1 Q. You stated that sometime Sunday -- that morning,
2 that Gary left the house with Carolyn?

3 A. Yes, he did.

4 Q. And would he have been driving your car, or would
5 he have been driving the truck?

6 A. He drove my car.

7 Q. He drove your car. And he went to -- that would
8 have been on Sunday?

9 A. Yes, sir.

10 Q. And you said he was going to his house and get some
11 clothes, and stuff, and also went by the store?

12 A. Yes, he did.

13 Q. And this would have been sometime up around 10:00
14 or 11:00 in the morning?

15 A. Yes.

16 Q. And they came back, what, sometime later that --
17 around 12:00 or that afternoon, or whenever?

18 A. Yes, sir, I believe it was around dinner time.

19 Q. And I believe you stated in your earlier testimony
20 that someone had called the house, and I'm not sure if I got
21 that name -- had called your house on Sunday hunting Gary --
22 some girl?

23 A. Yes, that was Amy Franklin.

24 Q. Amy Franklin.

25 A. Or Amy Hanes.

1 Q. Okay. I believe at this time Gary was separated
2 from his wife?

3 A. Yes, sir.

4 Q. Was his wife living somewhere out of state or
5 somewhere?

6 A. Yes, sir, she lives in Georgia.

7 Q. And he had one child by her, is that correct?

8 A. Yes, he does.

9 Q. And so he had dated Carolyn some, is that correct?

10 A. Yes, sir.

11 Q. And had also dated Amy some -- at least they were
12 friends?

13 A. Well, yes, they were friends.

14 Q. So she called your house, and did she sometime that
15 day talk to Gary -- that morning talk to Gary on the phone?

16 A. Yes, she did. On two different occasions she
17 called and talked with Gary.

18 Q. Now, Mrs. Dellinger, you know Bill Cogdill?

19 A. Yes, sir.

20 Q. You've seen him over at your house, and also at
21 Tommy Griffin's house, and up and down in that hollow, so to
22 speak?

23 A. Yes, sir.

24 Q. Have you ever seen him shooting some guns over
25 there with your husband, and with some other people?

1 A. Yes, sir.

2 Q. And I believe your husband trades guns, is that
3 correct?

4 A. Yes, he does.

5 Q. Do you know, and isn't it a fact that he traded -
6 - and sold Bill Cogdill a gun?

7 A. Yes, sir.

8 Q. And he also sold guns to other people, is that
9 correct?

10 A. Yes, sir, he did.

11 Q. Did you also see some people out in Tommy's yard,
12 and also in your all's yard shooting a rifle at times?

13 A. Yes, sir.

14 Q. Now, did you ever see any cars over there that had
15 Blount County license plates on them?

16 A. Yes, sir.

17 Q. And where were those cars?

18 A. Well, different places, but I have seen them at
19 Tommy's house and up at Boyd and Connie's house.

20 Q. Do you know who those cars that had the Blount
21 County tags on at Tommy's house -- who those people were?

22 A. I didn't know them directly myself, no.

23 Q. And I say people -- it was boys or men, is that
24 correct?

25 A. Yes, sir.

1 Q. Of course, that would be back before this incident
2 occurred. How soon before this fire and all this occurred would
3 that have happened that you saw those cars there, approximately?

4 A. Maybe as soon as a month before. That's just a
5 guess, I really don't know.

6 Q. Did you ever see those people out there shooting
7 guns and -- or people there when guns were being shot, when they
8 were there at Tommy's or there in that area?

9 A. Yes, sir, I have.

10 Q. And I believe that the shells that was picked up
11 there around there, they was just shot gun shells and rifle
12 shells strung around there everywhere on everybody's property,
13 would that be correct?

14 A. Yes, sir.

15 Q. Mr. Alvin Henry, do you know him?

16 A. Yes, sir, I do.

17 Q. Did your husband have a problem with Alvin Henry
18 over something where his dog killed a goat -- your all's goat?

19 A. Well, yes, sir.

20 Q. And as a result of that did Mr. Henry tell you that
21 he got rid of his dog?

22 A. Yes, sir.

23 Q. And he had gotten rid of it at that time, is that
24 right?

25 A. He had two dogs.

1 Q. He got rid of both of them?

2 A. Yes, sir, he did.

3 Q. And told your husband that -- you overheard him say
4 that because -- so they wouldn't have no more over the dogs, is
5 that correct?

6 A. Well, his dogs killed the goat the same night that
7 James brought it home, and he told James that he would give his
8 dogs away, and pay him the money back for the goat, which he
9 came up to our home the next day, and told James that he had
10 gave the dogs away, and James told him that he really didn't
11 want him to give the dogs away because we had gave the dogs to
12 his children in the first place, and he said that since he had
13 done that, he didn't want the money. He told him to keep it.

14 Q. But he did tell you the dogs -- the dogs has
15 disappeared, and they were not longer around there, is that
16 correct?

17 A. Yes.

18 Q. You know also that Boyd Branum and him were pretty
19 good friends, isn't that correct? Mr. Henry, I believe his name
20 is, isn't that correct?

21 A. Yes, sir.

22 MR. DANIEL: Your Honor, when the General is
23 through cross examining, I might think of something
24 else.

25 THE COURT: Okay. General Schmutzer?

26 **

1 CROSS-EXAMINATION

2 BY GENERAL SCHMUTZER:

3 Q. Mrs. Dellinger, Mr. Henry then was, I take it, also
4 a friend of your all's? You had given him dogs, you say, for
5 his kids?

6 A. Yes, sir.

7 Q. And as far as this goat business was concerned,
8 that was settled. He got rid of the dogs, and your husband told
9 him to forget it -- he was willing to even pay for the goat, and
10 your husband told him no, just to forget about it?

11 A. Yes, sir.

12 Q. And that was pretty well taken -- that was the end
13 of that, wasn't it?

14 A. Yes, sir.

15 Q. Wasn't any big to do over the goat, was there?

16 A. No.

17 Q. Now, Bill Cogdill. He was a friend of your alls,
18 also, wasn't he?

19 A. Yes, sir.

20 Q. And I believe it would be fair to say that --
21 characterize him -- the man is about crazy, isn't he?

22 A. Well, he pretends that he's crazy sometimes. He's
23 really not that crazy.

24 Q. Do you remember talking to the officers, and
25 telling them that, "Yes, he's a friend, but you know, I don't

1 know how well you know Bill or not, but about anybody can tell
2 you that he's crazy." Did you not tell Officer Hutchinson that?

3 A. I may have.

4 Q. Okay. And of course, you told him that -- you
5 meant it. You wouldn't be lying to Officer Hutchinson about it,
6 would you?

7 A. No, sir, I wouldn't, but it depends on exactly how
8 you're taking it when I say, "He's crazy."

9 Q. Well, I believe you also told him that Bill was not
10 too good about telling the truth?

11 A. I really don't remember.

12 Q. I don't remember telling him, "Well, the thing is,
13 Bill is not too good about tell the truth about anything
14 either?"

15 A. No, sir, I really don't remember, but I may have.

16 Q. Well, that's true, isn't it? He's not real good
17 about telling the truth?

18 A. Sometimes.

19 Q. In fact, you told the officers about several times
20 that he's called you and other members of your family in the
21 middle of the night, and told you that he was in jail, that he
22 was in a wreck, and things like that, and it turned out there
23 wasn't any truth to it at all?

24 A. Sometimes, yes.

25 Q. Right. And you said, "He'd tell us these things

1 only to find out it was not so."

2 A. Yes, sir, he just did it for our attention.

3 Q. Okay. And he also had really -- you told them that
4 he'd -- Bill had really gotten worse about being crazier. You
5 said, "Bill had really gotten worse -- I mean much worse about
6 everything. Crazier, I guess you would put it, in the last
7 little while." You told him that, too, didn't you?

8 A. Yes, sir, I believe I did.

9 Q. And you also told him that, "Since he'd been living
10 by himself he just -- I don't know, just went crazy, and he does
11 things now that's just outrageous?"

12 A. Yes, sir, I was speaking of very strange things -
13 - mean things that he had really started doing.

14 Q. When the officer was talking to you all you told
15 him about was his being crazy, didn't you? You didn't mention
16 anything to the officer about -- anything about being mean, did
17 you?

18 A. I didn't put it in that way, I don't believe, but
19 that's what I was talking about.

20 Q. Now, these two defendants, your husband and Gary
21 Sutton, are related?

22 A. Yes, sir.

23 Q. And what's the relationship?

24 A. Gary is my husband's nephew.

25 Q. On Friday, February the 21st, you testified they

1 had been out that day in the Camaro -- Gary's Camaro, along with
2 Tommy Griffin, out drinking?

3 A. Yes, sir.

4 Q. And -- but they were in Gary Sutton's Camaro, were
5 they not?

6 A. Sir, at that time I didn't know what they were in.

7 Q. Well, they later told you that was the car they
8 were in, didn't they?

9 A. Yes, sir.

10 Q. But when they came home that night they came home
11 in a truck?

12 A. Yes, sir, they did.

13 Q. They didn't come in in that Camaro, did they?

14 A. No, sir, they did not.

15 Q. They came in a white truck?

16 A. Yes, sir.

17 Q. And when they came home, Tommy wasn't was with
18 them?

19 A. No, sir, he was not.

20 Q. And, of course, you asked them about that?

21 A. Yes, sir.

22 Q. And they told you that he was over in Maryville
23 with some girl?

24 A. Yes, sir.

25 Q. Now, it wasn't long after they were in the house

1 that little Jenny Branum come over, and knocked on the door, and
2 told you all about the fire?

3 A. Yes, sir.

4 Q. And Connie Branum never called you to tell you
5 about the fire, did she? It was Jenny that came over there?

6 A. Jenny came over to the house. Connie called later
7 on that night.

8 Q. Connie didn't call until way later that night, did
9 she, ma'am?

10 A. It wasn't way later. It was while the trucks were
11 still at the fire.

12 Q. Well, in fact, the only person that called was
13 Sandy Branum called -- the other daughter that called, and
14 talked to James?

15 A. That's possible, sir. I didn't answer the phone,
16 I...

17 Q. So you don't know who called?

18 A. Not at that time, no.

19 Q. No, you don't know -- did you answer the phone when
20 Connie Branum called?

21 A. Yes, sir, I did.

22 Q. And when you were talking to the officers about
23 them coming in that evening, you never once told the officer
24 that Carolyn Weaver was with them, did you?

25 A. I really can't remember.

1 Q. Well, you talked to them on the -- February the
2 25th?

3 A. Yes, sir.

4 Q. And they took a tape recorded statement?

5 A. Yes.

6 Q. And they were very interested in everything that
7 had happened that night, and everything that had gone on?

8 A. Yes, sir.

9 Q. And you were telling them -- you were cooperating
10 with them, and telling them everything that happened?

11 A. Yes, sir.

12 Q. And you only told them that these two defendants
13 came home together that night, didn't you? You never mentioned
14 anything about Carolyn Weaver coming in with them?

15 A. I honestly don't remember.

16 Q. You're not saying that you didn't tell them that,
17 then?

18 A. No.

19 Q. You could have told them -- you could have left
20 that out, is that not true?

21 A. It's very possible, yes.

22 Q. And in fact, the officers then came back again,
23 another group of officers, and talked to you on March the 5th?

24 A. Yes, sir.

25 Q. And at that time you never told them that Carolyn

1 Weaver had come in with them either, did you?

2 MR. DANIEL: Your Honor, please, I object to the
3 form of that question. They may not have asked her
4 about it.

5 THE COURT: I believe you've asked...

6 BY GENERAL SCHMUTZER:

7 Q. They basically were asking you what happened,
8 wasn't it, ma'am? They had no way of knowing -- they asked you
9 what happened, and what occurred?

10 A. I spoke of Carolyn being with us the whole time.
11 Whether I actually said she came in with them or not, I do not
12 remember that.

13 Q. Now, the -- how long had the fire truck -- how long
14 had it been from the time that you had -- Jenny Branum had come
15 over until you say Connie Branum called you?

16 A. I really -- I wasn't timing anything, so I really
17 don't know. I could just give you a guess.

18 Q. Okay, and what's that?

19 A. I would say about 30 minutes, possibly, after Jenny
20 had came over.

21 Q. So it was -- anyway, it was some time. Some time
22 had elapsed. It wasn't immediately after Jenny came over?

23 A. No, it wasn't immediately, no.

24 Q. And I take it 30 minutes is an estimate on your
25 part?

1 A. Yes, sir.

2 Q. In any event, again, when you talked to these
3 officers, you never mentioned anything about Connie Branum
4 calling, did you?

5 A. To my knowledge, I believe I did, yes, sir.

6 Q. The fact of the matter is you told them -- I'm
7 talking about, now, not later up that evening -- after they had
8 come back that evening that she called over, I'm talking about
9 during this fire?

10 A. Yes, sir, I believe I did.

11 Q. All right. And when did you tell them that?

12 A. Whenever I was talking with them.

13 Q. Do you remember telling them that Jenny had come
14 over and told you all about the fire, and that you all watched
15 it from out the windows?

16 A. Yes, sir.

17 Q. And then you told them that James got concerned,
18 and he asked you all to look up the numbers for the hospital and
19 everything, and then you all made the calls? You didn't tell
20 them anything about Connie Branum calling?

21 A. Sir, I believe I did mention that Connie called.

22 Q. Do you remember telling them that it was her middle
23 daughter that came over, that she thought Tommy was home, and
24 you told her that he wasn't there, that he was in Maryville, or
25 so we thought? You told him you'd called the fire department,

1 and the told you the fire department had already answered the
2 call, and you watched out the window?

3 A. Yes.

4 Q. And you said -- and the fire truck came, and they
5 were talking about Tommy. "James was starting to get worried
6 because by this time -- you know, it was pretty well after dark,
7 and he said that he figured that Tommy would have called by then
8 -- you know, wanting somebody to come and get him, and he
9 hadn't." Do you remember telling that to the officers?

10 A. Yes, sir, I believe I do.

11 Q. "And -- you know, Tommy's trailer was on fire, and
12 they were all headed in that direction, and so we started
13 calling around to Maryville."

14 A. We did call to Maryville, yes.

15 Q. "And he had us, or James did, had us look up the
16 numbers for the hospital and everything -- you know, trying to
17 see if we could find, maybe, where Tommy got to."

18 A. Yes, we did that.

19 Q. All right, so what you said right there, you never
20 once mentioned Connie Branum calling you all before you did
21 this, did you?

22 A. Well, sir, if you've got it down that way, then
23 evidently I was wrong.

24 Q. Now when they came back that evening, you really
25 couldn't be sure what time they came back other than it was

1 sometime after 12:00, could you?

2 A. No, sir, I'm positive that it was around 12:00, not
3 10 minutes past.

4 Q. Of course, the officers asked you about that. Do
5 you remember that?

6 A. I believe they did, yes, sir.

7 Q. And you told them, "I have no idea. I want to
8 think it was maybe a little bit after 12:00 when they came back
9 from the jail, but in all honesty, I can't say what time exactly
10 they came." Do you remember telling them that?

11 A. Honestly, no, I don't.

12 Q. If you did tell them that, that would be -- you're
13 not saying you didn't tell them that, are you?

14 A. No, sir.

15 Q. You certainly never told them that you could be
16 absolutely sure what time they got back?

17 A. I don't remember.

18 Q. And isn't it true, ma'am, that you told them after
19 they got back that you all sat around and talked about it a
20 while, and then you watched T.V. and went to bed?

21 A. Yes, sir, I believe I said that, yes.

22 Q. You never once told them anything at all about
23 going to the Huddle House to eat?

24 A. Well, sir, they were asking me to try and remember
25 things that would help find Connie Branum, and me going to eat

1 or not going to eat, I didn't think had anything to do with it.

2 Q. They were asking you all everything that you had
3 done that evening, and that's why you were giving this whole
4 narrative about the fire and everything else, and you're telling
5 them all about who called and told you this, and when through
6 all this...

7 MR. DANIEL: I object to the form of that question.
8 That's argumentative.

9 GENERAL SCHMUTZER: I'm cross examining, Your
10 Honor.

11 THE COURT: It's cross exam, gentlemen.

12 BY GENERAL SCHMUTZER:

13 Q. Let me ask you, ma'am, they were going through
14 everything you had done that evening?

15 A. For the most part, yes.

16 Q. And you told them that after they came back you all
17 simply sat around and talked, and watched T.V., and went to bed?

18 A. Yes, sir, I may have.

19 Q. All right. Now, that evening you saw Connie
20 Branum, she told you that she was going to Maryville to go to
21 the jail to look for her brother, and she had a picture to take,
22 didn't she?

23 A. Well, I didn't see a picture. I believe that she
24 did mention that she had a picture, or had gotten a picture.

25 Q. And I believe she told you that the reason why she

1 was taking it over there, they weren't sure it was the same
2 Tommy, and she wanted to make sure that that was the person they
3 had in jail over there that night before was Tommy?

4 A. Yes, sir, that's what she said.

5 Q. And that's the last time you ever saw her alive?

6 A. Yes, sir.

7 Q. And she was missing through Sunday and never
8 showed?

9 A. Yes.

10 Q. Monday, Tommy Griffin's body was recovered?

11 A. Yes.

12 Q. You learned about that?

13 A. Yes.

14 Q. Connie still hadn't showed, had she?

15 A. No, not to my knowledge.

16 Q. And you were getting really concerned about it?

17 A. Yes, sir, I was.

18 Q. And I believe you, in fact, told the officers that
19 you were really scared to death that something might have
20 happened to her?

21 A. I might have said it that way, I'm not really sure.

22 Q. Well, you were?

23 A. Yes, I was worried.

24 Q. I mean, it was obvious that -- you know, something
25 bad had happened. I mean, you were concerned about it?

1 A. Yes, I was concerned that she hadn't come home yet.

2 Q. And you'd talked about this with your husband and
3 Gary on a number of occasions about where could she be, what
4 could have happened?

5 A. Yes.

6 Q. In fact, you'd even talked with him about Tommy,
7 what could have happened to Tommy -- you know, what could have
8 possibly come on him -- you'd talked to him about that, hadn't
9 you?

10 A. No, sir, we knew Tommy, and he would stay gone
11 several days at a time, and we weren't really worried about
12 Tommy.

13 Q. Well, his trailer had burned down, and these men
14 had told you that they left him with some girl over there?

15 A. Yes, sir.

16 Q. Right. In any event, isn't it true, ma'am, that
17 these defendants, neither one of them, your husband or Gary
18 Sutton, had ever told you, even after -- of course, after
19 Tommy's body was found it was obvious he hadn't just left with
20 a girl, wasn't it?

21 MR. DANIEL: Your Honor, I object...

22 BY THE WITNESS:

23 A. Well, sir, I wasn't...

24 Q. It was obvious he wasn't coming back, so you knew
25 then that something very bad had happened to him. You found

1 A. Yes.

2 Q. And you remember that they wrote out a statement
3 that you signed?

4 A. Yes, they wrote out a statement, yes.

5 Q. And before you signed that statement, they gave you
6 an opportunity to read it, and you did, and in fact, even
7 initialed each of the pages, and initialed any changes that were
8 made, is that not correct?

9 A. I don't remember whether changes were made or not.
10 I do remember initialing pages, and no, sir, I did not really
11 read it.

12 Q. Let me show you here, ma'am, did you -- I'll show
13 you a copy, and ask you if this is your signature right here?

14 A. Yes, that's my signature.

15 Q. Are these your initials on page one?

16 A. Yes.

17 Q. Both the top and the bottom?

18 A. Yes.

19 MR. DANIEL: Your Honor, may we be furnished a copy
20 of that, please?

21 GENERAL SCHMUTZER: When I get through.

22 THE COURT: Sure.

23 MR. DANIEL: We can't have one now?

24 THE COURT: Well, he's asking her about it now.
25 Is that the only copy you.

1 that out on the 24th -- that he was murdered?

2 A. I can't be sure of the day. I just know that Boyd
3 Branum called our house, and he started speaking, and then all
4 of the sudden his daughter, Sandy, was on the phone, and she
5 told me that they had found Tommy.

6 Q. That would have been before you talked to the
7 officers either time?

8 A. Yes, sir.

9 Q. And isn't it true, ma'am, that -- obviously, at
10 that point it was -- you became concerned, and began talking
11 with each other about what could have happened to Tommy, where
12 he could have gone, what could have occurred -- you and your
13 husband, and Gary Sutton?

14 A. Yes, we discussed what could have happened to him.

15 Q. And the truth is they never once told you that they
16 had been at Howie's Hideaway Lounge over there with him on the
17 Friday that he turned up missing?

18 A. I really can't remember if they had or not.

19 Q. Ma'am, to refresh your recollection, do you
20 remember giving a statement on March the 5th to Agent David
21 Griswald of the T.B.I.?

22 A. I remember talking with someone. I don't remember
23 the name.

24 Q. And you remember talking to an officer -- you
25 talked to someone, but don't remember his name?

1 GENERAL SCHMUTZER: That's the only copy I have,
2 Your Honor.

3 THE COURT: Okay.

4 BY GENERAL SCHMUTZER:

5 Q. On page two...

6 MR. DANIEL: I'd just like to see what he's reading
7 from.

8 GENERAL SCHMUTZER: Well, you can come up here and
9 watch.

10 BY GENERAL SCHMUTZER:

11 Q. On page two, your initials again?

12 A. Yes.

13 Q. There's a word here that's struck through, and you
14 initialed that?

15 A. Yes, that's my initials.

16 Q. Okay, and I believe it says, "I don't," and they've
17 written in "think" between "don't" and "they" about five or six
18 lines down, and you've initialed that?

19 A. Yes.

20 Q. Okay. Where they made a change?

21 A. Yes.

22 Q. And you also initialed where they had struck
23 through your husband's name down here at the end for something?

24 A. Yes, I see that.

25 Q. And on page three you initialed again at the top?

1 A. Yes.

2 Q. And here was just where they'd marked out a word,
3 and you initialed that on that same page?

4 A. Yes.

5 Q. And here there was -- you wanted "them" rather than
6 "her." They struck through -- someone struck through "her" and
7 put "them," and you initialed that in the middle of that page?

8 A. Yes, sir.

9 Q. And also at the bottom of the page you initialed
10 it, also?

11 A. Yes, sir, I see that.

12 Q. And I believe the same, without going through it
13 all, the same is on the last page, is that correct?

14 A. Yes, it is.

15 Q. Now, I want you, if you will, please, ma'am, to
16 read on page one what I have outlined in yellow.

17 A. "From what I understand, James and Gary did not go
18 to the Gateway -- Howie's Hideaway that Friday. I say this
19 because when James told me about taking Connie there on
20 Saturday, the waitress remembered James, Tommy and Gary from a
21 couple of months back, about them wearing earrings in their
22 ears. James, Gary, and Tommy had gone in the Gateway -- Howie's
23 Hideaway having pierced their ears, clowning around. From what
24 I know, I don't think they were in Howie's Hideaway on the day."

25 Q. All right. And that was given on March the 5th?

1 A. Yes, sir.

2 Q. The statement you signed. So, in fact, up until
3 March the 5th they had never told you they were in Howie's
4 Hideaway, had they?

5 A. Sir, I didn't even know the name of it. The
6 officers are the ones that told me the name of this bar.

7 Q. The bottom line is, ma'am, whether you knew the
8 name or not, you told -- they had never told you that they were
9 in Howie's or Gateway either one with him, did they? They told
10 you they had been some months before with earrings on, and
11 clowning around?

12 A. That's not entirely true.

13 Q. So you're telling what you told the officer that
14 day was not entirely true?

15 MR. DANIEL: We object to that, Your Honor, she
16 trying to explain her answer.

17 BY THE WITNESS:

18 A. No, sir, that's not what I said...

19 THE COURT: She may explain, sure.

20 BY THE WITNESS:

21 A. What I said was that I did not know whether they
22 were in the Hideaway or not. They told me the name of this
23 place was the Hideaway. I did not know that name, and I was
24 just trying to explain to them that if they were in the bar,
25 then I didn't know what bar it was.

1 Q. Ma'am, did you not tell them that Gary and Tommy
2 had gone to the Hideaway along with James having pierced ears
3 on. You told them that?

4 A. So they told me the Gateway.

5 Q. In fact, you told them that James came back, and
6 told you that he expected the waitress to recognize them because
7 they had been in there some months before. Your own husband had
8 told you that...

9 A. Yes.

10 Q. You told them that right here, didn't you?

11 A. Sir, you're getting me confused. My husband told
12 me that the waitress would recognize him in this same bar that
13 him and Tommy was in because they had been in before with their
14 ears pierced.

15 Q. All right, that bar -- whatever the name of the bar
16 was was the bar he claimed he, and Gary, and Connie had been in
17 on Saturday?

18 A. Yes, sir.

19 Q. All right. Now on Saturday, I believe your husband
20 also talked to Tommy that day, didn't he?

21 A. On Saturday?

22 Q. Yes, ma'am.

23 A. He may have earlier in the morning. I really don't
24 remember. We talked to a lot of people that whole weekend.

25 Q. Do you remember telling the officers -- I'm sure

1 your memory was much better then that it would be now, but James
2 -- this is talking about the next day. "Connie and I talked
3 several times. James and Gary left one time in the early
4 afternoon to check his mail, but were at the house a couple of
5 times when Connie called. James talked to her a couple of
6 times."

7 A. Yes, sir, I do believe I remember that.

8 Q. All right. When the officers came out there on -
9 - you may not remember the date, it was the 28th. But when they
10 came out to your trailer and searched, you were there, were you
11 not?

12 A. Pardon me. Could you repeat that?

13 Q. When the officers came out and searched your
14 trailer on the 28th, I believe you drove up when they were
15 there, and let them in?

16 A. They were there when I drove up, yes.

17 Q. Okay. And you were there when they searched the
18 inside of your house -- your trailer?

19 A. Yes, sir.

20 Q. And while they were searching it, they went in the
21 closet, and found this rifle right here?

22 A. They found a rifle, yes.

23 Q. One that looked like that -- I take it you can't
24 recognize the exact one, but they did take a rifle out of the
25 closet?

1 A. Yes.

2 Q. And they also found a barrel, didn't they?

3 A. Yes.

4 Q. And they asked you about that barrel, did they not,
5 which has been filed here as Exhibit #26 -- they asked you about
6 that?

7 A. They probably did.

8 Q. And isn't it true that you told them that was an
9 extra barrel that went to a shotgun, but you don't know where
10 the shotgun was now?

11 A. I'd say I said that, yes.

12 Q. That's all.

13 THE COURT: Any further questions of this witness?

14 MR. MILLER: Yes, Your Honor.

15 **

16 REDIRECT EXAMINATION

17 BY MR. MILLER:

18 Q. On Friday night at 12:00 was Mr. Dellinger at your
19 house -- at your trailer?

20 A. On Friday night?

21 Q. Yes.

22 A. Yes, sir.

23 Q. And then on Saturday between 7:30 and 8:00,
24 somewhere between there, did Mr. Dellinger...

25 GENERAL SCHMUTZER: This is repetitious, Your

Honor. This is his witness.

THE COURT: Sustained on both grounds.

BY MR. MILLER:

Q. This barrel, do you know where the rest of the gun is, or the other part of the gun?

A. Yes, sir.

Q. What was done with it?

A. It was sold to James Griffin.

Q. Back before all this took place?

A. Yes, sir.

MR. MILLER: That's all I have, Your Honor.

THE COURT: Anything further?

MR. DANIEL: Just a moment, Your Honor.

**

RECROSS-EXAMINATION

BY MR. DANIEL:

Q. General Schmutzer asked you some questions about these officers telling you -- did you know the names of these places over there, or were they telling you and supplying you those names?

A. They told me the name. I did not know them, no.

Q. And he also asked you about telling about the Huddle House. You say they were interested in what you knew about where Connie Branum was at that time?

A. Yes, sir. They specifically asked me to remember

1 anything that I could that I thought would help to find Connie.

2 Q. Where you had eaten or what you had eaten you
3 didn't feel like was too important to that, did you?

4 A. No, I figured if she was in that restaurant, then
5 she wasn't lost.

6 MR. DANIEL: No further questions, Your Honor.

7 **

8 RE CROSS-EXAMINATION

9 BY GENERAL SCHMUTZER:

10 Q. By the same token, you told them about all -- about
11 Jenny Branum coming over there, and telling you about the fire,
12 and about the phone calls that were made by your husband. You
13 certainly -- you didn't expect her to be in your house, did you?

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

15 Q. All right. Thank you.

16 THE COURT: You may step down. Next witness.

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

18 THE COURT: Yes.

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

20 MR. MILLER: Your Honor, the next two witnesses
21 that we call I expect to be lengthy.

22 MR. DANIEL: Can we see if Bill Cogdill's here?

23 THE COURT: If Mr. Cogdill's here, I would really
24 like to go ahead and get that out of the way.

25 GENERAL SCHMUTZER: Do you want to put Bill Cogdill

1 on, and then break?

2 THE COURT: Yes. Is Mr. Cogdill here?

3 SHERIFF OGLE: Yes, sir, he is, Your Honor.

4 THE COURT: Okay. If you'll get him, I'll be back
5 in just a moment, gentlemen.

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

8 **

9 BILL COGDILL was called, and being duly sworn, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MILLER:

13 Q. Would you tell us your name, please, sir?

14 A. Bill Cogdill.

15 Q. Where do you live, Mr. Cogdill?

16 A. I've been staying with my brother, and been staying
17 over where I work.

18 Q. Okay. How long have you lived here in Sevier
19 County?

20 A. All my life.

21 Q. Do you know James Dellinger?

22 A. Yeah, I know him.

23 Q. Have you known him for a while?

24 A. Yeah, I sure have.

25 Q. Do you ever go up around his trailer and target

1 practice, and shoot guns up there?

2 A. I sure have.

3 Q. Trade guns with James ever?

4 A. Well, I bought one -- I bought three or four off
5 of him, yeah.

6 Q. Did you ever buy a .12 gauge off of him?

7 A. I don't remember, but I bought a .20 gauge off of
8 him back off, I'd say a year or two years ago.

9 Q. Do you know Joyce Tipton and Jack Sutton?

10 A. Yeah, I sure do.

11 Q. Are they friends of yours?

12 A. Jack been working for me.

13 Q. Is Joyce a friend of yours also?

14 A. Well, her been helping her old man.

15 Q. Okay. I'll direct your attention back to February
16 25, 26th -- that week of 1992, about a year ago, and ask you if
17 you remember talking to Jack Sutton and Joyce Tipton, and in
18 particular, whether or not you...

19 GENERAL SCHMUTZER: Object, Your Honor, to leading
20 him. It's his witness, and he needs to ask the
21 question.

22 THE COURT: Sustained as to form, Mr. Miller

23 BY MR. MILLER:

24 Q. I want to ask you whether or not you made this
25 statement to Joyce Tipton and/or Jack Sutton. "I believe" --

1 excuse me. "When they find Connie she'll be found burned, and
2 her car, too." Do you remember making that statement to Joyce
3 and Jack?

4 A. A woman come up and talked to me there -- come up
5 on one Saturday evening, and asked me, said what kind of shape
6 would that woman be in if they find her. Something come up out
7 of my mind, and I said, "Well, her might be in the water, her
8 might be buried, her might be charred or might be burned one."
9 And that's all I said. He come up there, and my mind -- and I
10 did not tell Joyce Tipton or Jack Sutton nothing like that.

11 Q. You didn't tell Jack or Joyce Tipton that she's be
12 found burned in her car?

13 A. I did not. No, I did not, buddy. There's been
14 people lying on me for over a year, and I'm getting tired of it.

15 Q. Also, back in that same time period, February 25th,
16 26th, that week, did you tell Joyce Tipton and/or Jack Sutton
17 that, "She was shot like Tommy, with a .12 gauge shotgun?"

18 A. No, I didn't.

19 Q. You didn't tell Jack Sutton or Joyce Tipton that?

20 A. No, I didn't.

21 Q. Back at that time did you also make this statement
22 to Joyce Tipton? "Joyce, you sure are a pretty woman. I'd hate
23 to see anything happen to you like it did to Connie?"

24 GENERAL SCHMUTZER: Your Honor, this would be --
25 I don't think that has anything to do at all.

1 THE COURT: Overruled. He may ask that.

2 BY MR. MILLER:

3 Q. Did you make that statement to...

4 A. I told her one time I'd hate to see anything ever
5 happen to her, yeah, but I didn't put it, "I'd hate to see
6 anything happen to you like Tommy."

7 Q. Okay. So you deny making any of these statements
8 to either Jack Sutton or Joyce Tipton?

9 A. I didn't say none of them.

10 GENERAL SCHMUTZER: Your Honor, he's...

11 THE COURT: He's already answered that.

12 BY MR. MILLER:

13 Q. Do you know a Janice Reed?

14 A. God, everybody knows that lying thing, if you want
15 the truth. If you want it, I'll give it to you.

16 Q. Back in April of 1992, did you make any threats to
17 her?

18 A. No, I didn't make no threat to her.

19 GENERAL SCHMUTZER: Your Honor, this is totally out
20 of -- I object to this. He's knows it's not
21 competent.

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

23 GENERAL SCHMUTZER: What he said to Janet -- what
24 he said to this Reed girl is not competent, Your
25 Honor, in April of '92.

1 MR. MILLER: He said, and we'll establish through
2 her that she would be the next one found with her
3 house burned down or her head blowed off.

4 GENERAL SCHMUTZER: Well, that's got nothing to do
5 with this, Your Honor. That's in April of '92...

6 MR. MILLER: Let's let the jury decide that.

7 GENERAL SCHMUTZER: This is remote in time. It's
8 not directed towards these...

9 THE COURT: I will sustain as to that person. I
10 have let the others questions in that relate or
11 have mention of Connie Branum or Tommy Griffin or
12 any of those, but insomuch as this one does not
13 specifically say either of the others, I will
14 sustain it.

15 MR. MILLER: Your Honor, since he mentions burning
16 of the house, and the head blowed off, both of
17 which he mentioned about Connie, then...

18 GENERAL SCHMUTZER: During the year 1992, about
19 somethings...

20 THE COURT: Yeah, I will sustain it.

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

23 BY MR. MILLER:

24 Q. I'll ask you, Mr. Cogdill, back at the time period
25 I previously talked about, February the 25th, 26, and around

1 that time period, did you have occasion to make this statement
2 to Jack Sutton? "Mine and your problems is over. I'll have to
3 live with this the rest of my life."

4 A. Do what now?

5 Q. "Mine and your problems is over, but I'll have to
6 live with it the rest of my life."

7 A. No, I did not say that.

8 Q. You didn't make that statement to...

9 A. No, I did not.

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

11 THE COURT: Mr. Daniel?

12 **

13 CROSS-EXAMINATION

14 BY MR. DANIEL:

15 Q. Mr. Cogdill, I'm going to ask you a couple of
16 questions, sir. What you're talking about -- did you make any
17 statements to Connie Griffin or to Jack Sutton before -- this
18 would be before Connie's body was ever found -- that she would
19 be burned, and be found in a car dead up in Happy Hollow?

20 A. The only thing I told that woman, Loretta, her come
21 up there, and...

22 Q. I'm not asking -- I'm talking about -- did you tell
23 Joyce Tipton or Jack Sutton that?

24 A. No, I did not tell them nothing like that.

25 Q. You never made those statements to them?

1 A. No, I did not.

2 Q. Before her body was ever found?

3 A. No, I did not.

4 Q. And you did not tell Jack Sutton before her body
5 was ever found that your and his problems were over, but that
6 you'd have to live with it the rest of your life?

7 A. No, I did not.

8 Q. I'm just asking you -- did you say that to...

9 A. No, I did not.

10 Q. Mr. Cogdill, I want to ask you this, sir. Did you
11 tell, and I'm just asking you -- did you make this statement to
12 Jack Sutton that you was going to -- who is Danny, by the way?
13 Is that Danny Sutton?

14 A. Danny Sutton.

15 Q. Is that who Danny is?

16 A. Yeah, I know Danny Sutton.

17 Q. Said that you was going to take Danny up in Clear
18 Fork...

19 GENERAL SCHMUTZER: Object, Your Honor.

20 BY MR. DANIEL:

21 Q. ...and burn him in his van...

22 GENERAL SCHMUTZER: I object to this.

23 BY MR. DANIEL:

24 Q. ...and tell him you was going to burn...

25 GENERAL SCHMUTZER: I objected, Your Honor, twice.

1 THE COURT: When was that allegedly...

2 MR. DANIEL: Said to Jack Sutton.

3 THE COURT: When?

4 MR. DANIEL: At the same time when he gave this
5 other statement -- before -- sometime before her
6 body was found, after she was missing.

7 THE COURT: I will allow that one in because it is
8 prior in time for the same...

9 BY MR. DANIEL:

10 Q. Did you tell him that, Mr. Cogdill?

11 A. No, I did not tell him nothing like that, buddy.

12 Q. Okay.

13 MR. DANIEL: No further questions.

14 THE COURT: General Schmutzer?

15 **

16 CROSS-EXAMINATION

17 BY GENERAL SCHMUTZER:

18 Q. Mr. Cogdill, you -- I think the sheriff and
19 officers have questioned you about all this early, didn't they?

20 A. Yes.

21 GENERAL SCHMUTZER: That's all. You may come down.

22 THE COURT: You may step down, Mr. Cogdill. Thank
23 you.

24 **

25 THE COURT: Ladies and gentlemen, the Court will

1 break for lunch. Do not discuss the case, and we'll see you
2 approximately 1:00 p.m.

3 (COURT STOOD IN RECESS FOR LUNCH)

4 THE COURT: Anything to be done before the jury
5 comes in? Bring the jury in, sheriff.

6 (JURY IN)

7 THE COURT: Waive the call for the State?

8 GENERAL SCHMUTZER: Yes, Your Honor.

9 THE COURT: For the defense?

10 MR. DANIEL: Yes, Your Honor.

11 MR. MILLER: Yes, Your Honor.

12 THE COURT: You may be seated. Mr. Miller, you may
13 call your first witness.

14 MR. MILLER: Joyce Tipton.

15 THE COURT: Joyce Tipton.

16 **

17 JOYCE TIPTON was called, and being duly sworn, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MILLER:

21 Q. Would you state your name, please, ma'am?

22 A. Joyce Ann Tipton.

23 Q. And where do you live, Ms. Tipton?

24 A. 1239 New Airy Road West.

25 Q. Do you know a gentleman by the name of Bill

1 Cogdill?

2 A. Yes.

3 Q. How long have you known Mr. Cogdill?

4 A. I can't say exactly.

5 THE WITNESS: Your Honor, I was wanting to take the
6 fifth amendment if I could. I've already made
7 tapes almost a year ago.

8 THE COURT: I'll have to ask the jury to step out
9 just a moment.

10 (JURY OUT)

11 THE COURT: You may be seated. Any time a person
12 testifies who could incriminate themselves as a consequence of
13 their testimony, of course, you do have a right to invoke your
14 privilege against self incrimination. And so that has been
15 explained to you, ma'am?

16 THE WITNESS: No.

17 THE COURT: It has not been explained to you. Do
18 you understand that -- what the Court has just told you, that
19 you do -- if you feel that your testimony could implicate you
20 in a crime, then absent other circumstances, of course, you do
21 have the right to take the fifth amendment, and to plead the
22 fifth amendment, and choose not to testify. Do you understand
23 that?

24 THE WITNESS: Yes. The reason I wanted to take it
25 is because I don't know anything.

1 THE COURT: Well, now, that's not a basis for
2 taking the fifth amendment. Simply because you might or might
3 not know anything about it -- everyone is presumed competent to
4 be a witness. Now, I might, if objections are made, and I
5 determine that you have no testimony that is relevant for the
6 issue in this trial, then I might say it's improper to ask you,
7 but the purpose of someone invoking the fifth amendment is if
8 they feel that by giving testimony it could incriminate you in
9 a crime. Do you understand that? Based on what I've told you,
10 ma'am, do you still invoke your fifth amendment privilege?

11 THE WITNESS: No.

12 THE COURT: Do you agree to testify then?

13 THE WITNESS: Yeah, I'll testify.

14 THE COURT: All right.

15 (JURY IN)

16 THE COURT: You may be seated.

17 BY MR. MILLER:

18 Q. Ms. Tipton, I'll ask you, ma'am, if back on March
19 the 4th, 1992, if you had occasion to give some statements to
20 T.B.I. Investigator David Davenport, along with Deputy Mike
21 VonCannon and Sheriff Don Ogle?

22 A. Yes.

23 Q. And did you come up here to the sheriff's
24 department to give that statement?

25 A. Yes.

1 Q. What was your reason for coming to the sheriff's
2 department to talk to them?

3 A. I believe I was asked to come up here.

4 Q. Did you tell them that you had some information
5 about what Bill Cogdill had told you?

6 A. Yes.

7 Q. And is that why they wanted to talk to you? Did
8 they talk to you about Bill Cogdill?

9 A. Yes.

10 Q. Specifically, in reference to those conversations
11 you had with officers and T.B.I. agents, did you tell in that
12 taped interview that Bill...

13 GENERAL SCHMUTZER: This is his witness, Your
14 Honor, and I think the best thing to do is just ask
15 what...

16 MR. MILLER: I need to back up a little bit, Your
17 Honor. I'll try to make it proper.

18 BY MR. MILLER:

19 Q. Back on February the 25th, 1992, do you recall
20 talking to Bill Cogdill regarding information he had about
21 Connie Branum?

22 A. Did I talk to him about it?

23 Q. Did you talk to Bill Cogdill?

24 A. He talked to me about it.

25 Q. Okay. He talked to you back on February the 25th,

1 1992. And to your knowledge, was that before Connie Branum's
2 body was found?

3 A. Yes.

4 Q. Did Bill Cogdill tell you back at that time before
5 her body was found that they would find Connie, and "she'll be
6 burned, and her car, too?"

7 A. Yes.

8 Q. Did he also tell you back at that time that she
9 would be found "...like Tommy, shot with a .12 gauge shotgun?"

10 A. Well, on different occasions he told me that she
11 was shot. Once he told me she was shot in the shoulder, another
12 time he told me she was shot in the face, and that she was
13 burned. And on another occasion he told me where the car was,
14 and where her body was.

15 Q. Where did he tell you where the car was?

16 A. He called it Sunshine -- something Fork.

17 Q. Clear Fork, ma'am?

18 A. Yes.

19 Q. During that time frame do you also remember Bill
20 Cogdill -- did he tell you, "Joyce, you sure are pretty. I'd
21 hate to see anything happen to like happened to Connie?"

22 A. Yes, he did.

23 Q. Did Mr. Cogdill also tell you that he had bought -
24 - that he owned a .12 gauge shotgun?

25 A. Yes.

1 Q. Did he tell you he had bought guns from James
2 Dellinger up there?

3 A. He said he had bought -- he had sold James guns,
4 and he had bought them back, then he sold them back to him, and
5 he'd bought them back.

6 MR. MILLER: That's all I have, Your Honor.

7 THE COURT: Mr. Daniel?

8 **

9 CROSS-EXAMINATION

10 BY MR. DANIEL:

11 Q. Ms. Tipton, as I understand it, you came up here
12 and talked to the officers, and one of them was with the T.B.I.,
13 and the other one was with the Sevier County Sheriff's
14 Department, is that correct, ma'am?

15 A. I've been up here quite a few times.

16 Q. The first time I want to talk to you about is when
17 they talked to you on March the 4th of 1992. Do you recall
18 that? That was when they taped -- and did they tape your
19 conversation that you gave them -- you gave a tape recorded
20 statement?

21 A. Yes.

22 Q. You recall that, don't you?

23 A. I recall making a tape, but I don't remember
24 exactly what was said.

25 Q. Well, let me ask you, then, if you said this. This

1 was on March the 4th, and didn't you tell them that the past
2 Tuesday morning, which would have been the 26th of February,
3 1992, that you had had a conversation with Bill Cogdill about
4 Connie? Do you recall that?

5 A. Is that the day after...

6 Q. After Tommy was found.

7 A. Yes.

8 Q. That's when the conversation you had -- I know it's
9 kind of hard to remember dates, but you know, Tommy was found,
10 and that came out over the news, and then that next day is the
11 day you had your conversation with Mr. Cogdill, is that correct?

12 A. He came to the house that morning, and he said that
13 sure -- he said, "That sure was bad about Tommy, wasn't it?"

14 Q. Okay. Let me ask you this. At that time isn't it
15 true that he told you that they would find her burned in her car
16 up in Clear Fork or Happy Hollow area?

17 A. Yes.

18 Q. And he said she would be dead in her car burned?

19 A. Yes.

20 Q. And said that she'd have a shot to her arm, is that
21 correct?

22 A. Yes.

23 Q. And then you recall, also, that -- I'm not sure if
24 it was this time or just a day or so there later you were with
25 Jack Sutton, and you had a conversation with him, is that

1 correct, up at your house?

2 THE COURT: The conversation with Mr. Cogdill?

3 BY MR. DANIEL:

4 Q. With Mr. Cogdill -- is that correct?

5 A. Yes.

6 Q. And isn't it true at that time that Mr. Cogdill
7 made the statement -- that's when he made the statement that
8 he'd hate to see anything happen to you like happened to Connie,
9 that you sure were a pretty woman?

10 A. No, that happened down where he works at the dump.

11 Q. That's where he told you that. Would that have
12 been the next day?

13 A. I went by myself.

14 Q. You were by yourself on that day?

15 A. I don't remember what day it was. Anyway, I pulled
16 in there and was going to throw my trash away, and he walked up
17 to the car window, and he said, "You sure a pretty woman." He
18 said, "I'd hate to see something happen to you like happened to
19 Connie." And I asked him if it was a threat.

20 Q. And that kind of scared you, didn't it, Ms. Tipton?

21 A. Yes, I went straight and told Jack, and Jack went
22 down there, and he told him what's what. He said he better
23 never threaten me again.

24 Q. And that was all in the statement that you told the
25 officers, and that was right after Tommy had been found, isn't

1 that correct?

2 A. Yes, sir.

3 Q. And before Connie had been found, wasn't it?

4 A. Yes.

5 Q. And he also -- were you present when he told --
6 made a statement to Jack Sutton that, "Your problems are
7 over..." -- "Mine and your problems are over, but I'll have to
8 live with it as long as I live." Did he make that statement to
9 Jack that you overheard -- Mr. Cogdill said that?

10 A. Yes.

11 Q. Now so we'll understand, Jack Sutton is no relation
12 to Gary Sutton, is he? They are not related?

13 A. Well, if they are, it's way off.

14 Q. It's not close relation -- you don't know of any
15 close relationship?

16 A. No.

17 Q. They've got the same last name, but that's about
18 it?

19 A. Yes.

20 Q. Did you know that Jack Sutton had had a problem
21 with Connie Branum where he had hit her, and she had to go to
22 the doctor -- see a doctor about the injury to her jaw about six
23 months to a year before this incident -- before he made that
24 statement?

25 A. Well, the day it happened I was at home. He went

1 over there, and then when he came back, he told me about it.
2 He was bloody all over.

3 Q. And that was Mr. Jack Sutton, is that correct?

4 A. Yes.

5 Q. So then when Mr. Cogdill told you that, "Mine and
6 your problems are over, but I'll have to live with it for the
7 rest of my life," he was talking about Connie Branum, wasn't he?

8 GENERAL SCHMUTZER: Of course, Your Honor, she
9 wouldn't know that.

10 THE COURT: I would have to sustain that question.

11 MR. DANIEL: Okay.

12 BY THE WITNESS:

13 A. Bill's made so many statements, and they've been -
14 - each one a lot different, and I don't know what to believe
15 about him.

16 Q. Okay. You do know that Connie Branum's body was
17 found burned in a car up in Clear Fork, wasn't it?

18 A. Yes, but the day it happened he brought a mess of
19 deer meat to my house at 15 till 9:00.

20 Q. Well, ma'am, I'm just asking...

21 GENERAL SCHMUTZER: Well, he's not letting her
22 answer, Your Honor.

23 MR. DANIEL: It's not responsive, Your Honor. I
24 didn't ask her about...

25 THE COURT: As to that issue, I'll certainly...

1 BY MR. DANIEL:

2 Q. I just want to ask you about statements that he's
3 made. And those statements that he made to you were true
4 because they did find -- you understand they did find her body
5 up in Clear Fork?

6 GENERAL SCHMUTZER: I object to her offering an
7 opinion. This jury will decide that.

8 THE COURT: Sustained as to that question.

9 BY MR. DANIEL:

10 Q. And don't you know that Mr. Cogdill had had a fight
11 with Tommy Griffin? Were you aware of that?

12 A. No.

13 Q. You're not aware of that. You know that he had
14 had...

15 A. It might have been mentioned, and I forgot about
16 it.

17 Q. Okay. You know that Mr. Cogdill had had a problem
18 -- an argument with Connie Branum, hadn't he?

19 A. Yes.

20 MR. DANIEL: No further questions.

21 THE COURT: General Schmutzer.

22 **

CROSS-EXAMINATION

BY GENERAL SCHMUTZER:

Q. I take it -- you had mentioned that Bill had made so many statements about this, and you were beginning to tell the Court and jury about some time he made some statements when he brought some deer meat up there. What was that?

A. The day -- the night she was supposed to have got killed he brought a mess of deer meat to our house at 15 till 9:00 -- it was on Saturday. He asked me to fix it, and he said he would be back for supper, which he gets off from work at 6:00. And he came up about 10 after 6:00, and he stayed until about 6:30, 15 till 7:00.

Q. At your house?

A. Yes.

Q. Okay. But as far as him making statements, I believe he's also -- what did he tell -- what other ways did he tell you they'd find her dead?

A. Well, about four or five months after that he started saying that...

MR. WEBB: Your Honor, object to what's after that.

THE COURT: Sustained at this juncture.

BY GENERAL SCHMUTZER:

Q. I believe back this time he also told you they would find her drowned under water, did he not?

A. No, he didn't tell me that.

1 Q. He didn't tell you they would find her in the
2 water?

3 A. He said it in my presence.

4 Q. Okay, he said it in your presence.

5 A. I heard him say it.

6 Q. And that was, obviously, before she was found, and
7 he said they'd find her under water?

8 A. No, it wasn't before she was found, it was after
9 she was found.

10 Q. That he said they'd find her under water -- but
11 then she'd already been found?

12 MR. DANIEL: Your Honor, I object to him arguing
13 with the witness.

14 THE COURT: Well, he can ask her to explain.

15 BY THE WITNESS:

16 A. After she was found he started saying that he made
17 those statements, and he said they would find her burned or
18 under water or underground, but now at the beginning, when he
19 told me what he asked me a minute ago, he told me that they
20 would find her shot and burned, and where they'd find her.

21 Q. Okay.

22 A. I was concerned about it, so I came up here, and
23 I made -- I talked to Davenport, and then I agreed to make a
24 tape.

25 Q. Okay. And that was sometime later, wasn't it?

1 That was after she was found, is that correct?

2 A. Yes.

3 Q. Now, was Jack Sutton there when he made this
4 statement to you -- when he told you this -- Bill Cogdill?

5 A. Yes.

6 Q. He was there down at the dump?

7 A. When he talked about...

8 Q. I thought you said it was at the house where he
9 came up there and told you this.

10 A. He said it down there, and he said it up at the
11 house. He said it different places.

12 Q. Now Bill Cogdill is a friend of James Dellinger,
13 isn't he?

14 A. Yes.

15 Q. You've seen them run around together?

16 A. We've all run around together.

17 Q. You've run around with James Dellinger, too -- a
18 friend of his, too?

19 A. Yes.

20 Q. And you also know that, quite frankly, Cogdill is
21 a liar, isn't he?

22 MR. DANIEL: I object to that. That would be an
23 opinion, Your Honor.

24 GENERAL SCHMUTZER: I've got the right to ask her,
25 Your Honor.

1 THE WITNESS: He's told a lot on me.

2 THE COURT: Hold on a minute. You may ask her
3 opinion as to his reputation, I believe.

4 BY GENERAL SCHMUTZER:

5 Q. Ma'am, does he have the reputation of being a liar?

6 A. Yes, sir, he does.

7 Q. And I believe you stated he's told a lot of things
8 on you that wasn't true, hasn't he?

9 A. Yes.

10 Q. And, of course, you don't like that, do you?

11 A. No.

12 Q. Don't like it at all. Nobody likes for somebody
13 lie on them. Has he told some pretty bad things about you?

14 A. Yes.

15 Q. That's all I have.

16 **

17 REDIRECT EXAMINATION

18 BY MR. MILLER:

19 Q. I take it back at the time Mr. Cogdill told you
20 she'd be found burned in her car up in Clear Fork before her
21 body was found, you probably thought that was a lie, too, didn't
22 you?

23 A. Yes, I thought it was a lie.

24 Q. But when you found out later that it was true,
25 that's when you came forward to talk to these policemen?

1 A. Yes.

2 MR. MILLER: That's all I have.

3 **

4 RE CROSS-EXAMINATION

5 BY MR. DANIEL:

6 Q. Asking you about Mr. Cogdill saying stuff, he's
7 also a pretty violent person, isn't he, Ms. Tipton?

8 A. Well, I've seen him real violent when he's drunk,
9 but now when he's sober, I've never seen him violent.

10 Q. But when he gets drunk he can be an awful mean
11 person, can't he?

12 A. Yes. Yes, when he's drunk, he is.

13 THE COURT: Anything further?

14 MR. DANIEL: Nothing, Your Honor.

15 **

16 RE CROSS-EXAMINATION

17 BY GENERAL SCHMUTZER:

18 Q. I believe, ma'am, that Bill Cogdill had a lawsuit
19 some time ago, is that right?

20 A. Yes.

21 Q. And lawyer...

22 MR. WEBB: Your Honor, I'm going to object to the
23 relevance about a lawsuit he had some time ago.

24 THE COURT: Well...

25 GENERAL SCHMUTZER: May we approach the bench, Your

1 Honor?

2 THE COURT: Yes.

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

4 THE COURT: Yes?

5 GENERAL SCHMUTZER: We're going to show, Your
6 Honor, that basically, Bill Cogdill had a lawsuit,
7 and her lawyer -- she was a witness for...

8 THE COURT: I'm sorry. Start over.

9 GENERAL SCHMUTZER: Bill Cogdill had a lawsuit...

10 GENERAL GREEN: Personal injury suit.

11 THE COURT: Against who?

12 GENERAL GREEN: Another lady, a third party.

13 GENERAL SCHMUTZER: That Mr. Greenlee -- that she
14 was a witness for Bill Cogdill, and she said -- she
15 told him that before she'd be a witness for Bill
16 Cogdill she first wanted a contract where she would
17 get a portion of the proceeds.

18 MR. DANIEL: When in time are we looking at, Judge?

19 GENERAL GREEN: Was that three to four months ago?

20 GENERAL SCHMUTZER: Three to four months ago.

21 MR. DANIEL: Your Honor, that's after all this
22 happened. That would be totally irrelevant.

23 GENERAL SCHMUTZER: It goes to credibility.

24 MR. DANIEL: Not to the statements she made back
25 in March of 1992.

1 THE COURT: It would to her -- let's see here --

2
3 608(b).

4 MR. WEBB: Your Honor, I'd ask for a jury out on
5 that...

6 THE COURT: This is your jury out.

7 MR. WEBB: Well, let them present -- what's their
8 proffer then? Something that happened...

9 THE COURT: He can ask her about it. He's bound
10 by her answer, at least to...

11 MR. DANIEL: And what if she says no, he's stuck
12 with it?

13 THE COURT: It says that the -- "Specific instances
14 of conduct of a witness will go credibility, except
15 a conviction cannot be proved by extrinsic
16 evidence. They may, however ... probative or
17 truthfulness or untruthfulness...concerning the
18 character of another witness." Yeah, he may ask
19 her that.

20 MR. WEBB: Well, Your Honor understands it's a
21 civil lawsuit that has nothing to do with this
22 case.

23 MR. DANIEL: And it's after all of this is over
24 that she gives the statement.

25 THE COURT: That or any other conduct that goes to

1 her truthfulness or untruthfulness may be shown
2 under the rule -- 608(b).

3 **GENERAL SCHMUTZER:** Thank you, Your Honor.

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

6 **BY GENERAL SCHMUTZER:**

7 Q. Did Mr. Cogdill have a lawsuit for some personal
8 injuries, I believe, is that right?

9 A. Yes.

10 Q. And you talked to his attorney about testifying on
11 Mr. Cogdill's behalf, is that right?

12 A. Yes.

13 Q. And that was Mr. Greenlee?

14 A. Yes.

15 Q. And isn't it true, ma'am, that you told Mr.
16 Greenlee that before you would testify you wanted a contract
17 saying that you would get a portion of the proceeds, didn't you?

18 A. Bill told me to go in there, and tell Greenlee that
19 draw up a piece of paper stating that he would pay me what he
20 owed me out of his settlement. He presumed that he would get
21 \$5,000.

22 Q. The bottom line is you did go to his attorney, and
23 told him that before you would testify, you wanted that
24 contract?

25 **MR. MILLER:** Your Honor, she's already explained

1 that.

2 GENERAL SCHMUTZER: No, she hasn't explained it,
3 Your Honor.

4 THE COURT: She may answer.

5 BY GENERAL SCHMUTZER:

6 Q. Is that not right? You did go into his attorney,
7 and tell him that before you'd testify you wanted that contract
8 that you'd get a portion of those proceeds?

9 A. Yes, but I went ahead and testified.

10 GENERAL SCHMUTZER: That's all.

11 **

12 RE CROSS-EXAMINATION

13 BY MR. DANIEL:

14 Q. Ms. Tipton, as I understand it, what General
15 Schmutzer has asked you about, that's something that's happened
16 just here recently, not back when this incident happened
17 regarding when Connie Branum was missing, is it -- isn't it,
18 ma'am?

19 A. It's recent.

20 Q. None of that had even brought up or even discussed
21 at any time when you gave this statement on March the 4th to
22 these police officers, had it, ma'am?

23 A. No.

24 Q. And what you're saying is, if I understand it
25 correctly, is that he owed you some money, and that he was

1 wanting Mr. Greenlee to draw up something we call an assignment,
2 where that he would -- if he got his money, he would pay you
3 what he owed you out of it?

4 A. Yes.

5 Q. And that wasn't to get you to swear a lie or
6 testify or anything, was it?

7 A. No.

8 Q. And you wouldn't swear a lie, would you, Ms.
9 Tipton?

10 A. No.

11 Q. And what you've told this Court and jury here about
12 what he said back before her body was found, and these
13 statements he made is the truth, isn't it, ma'am?

14 A. Yes, it is.

15 Q. You've been friends with Mr. Tipton over the -- I
16 mean, Mr. Cogdill over the years?

17 A. Yes, I've been friends with him, and I've had
18 falling outs with him. Sometimes I feel sorry for him. He's
19 just not all here.

20 Q. But what you're telling us about what he told you
21 is the truth, about before Connie Branum's body was ever found?

22 A. Yes.

23 Q. And it scared you, and that's the reason you wanted
24 to talk to some police officers about it, didn't it?

25 GENERAL SCHMUTZER: That's repetitious, Your Honor.

1 He's gone into to three times.
2 MR. DANIEL: No further questions.
3 THE COURT: Anything further, General Schmutzer?
4 GENERAL SCHMUTZER: No, Your Honor.
5 THE COURT: Anything further?
6 MR. MILLER: No, Your Honor.
7 THE COURT: You may step down. Is she excused?
8 MR. MILLER: Yes.
9 THE COURT: You are free to go, ma'am. Next
10 witness.
11 MR. MILLER: Call Ron Drinnon, Your Honor.
12 THE COURT: Ron Drinnon.
13 SHERIFF OGLE: Your Honor, Mr. Drinnon cannot be
14 found.
15 MR. MILLER: May we approach the bench, Your Honor?
16 THE COURT: Yes.
17 (A bench conference is held on the record, to-wit:)
18 MR. MILLER: He was served, Your Honor. We can go
19 on with our proof, but we would ask for an
20 instanter subpoena for him at the recess.
21 THE COURT: Miss Helen, issue an instanter subpoena
22 for Mr. Drinnon -- Ron Drinnon, is that it?
23 MR. MILLER: Yes, Your Honor.
24 (Said bench conference being completed, the
25 following proceedings are had in open court.)

1 A. She was real excited, and I just remember her
2 saying that she wanted James and Gary to go see if Tommy was in
3 his trailer.

4 Q. Okay. And what did James and Gary tell her?

5 A. They told her that he was not in the trailer, that
6 he was in Blount County.

7 Q. And shortly thereafter the fire started. Did a
8 number of phones calls come...

9 GENERAL SCHMUTZER: I'm going to object to that,
10 Your Honor, as to leading. I think he can ask her
11 what occurred, but to lead her, I would object to
12 that.

13 THE COURT: Sustained as to form.

14 MR. MILLER: That's an open question, Your Honor.

15 BY MR. MILLER:

16 Q. Were there any phone calls coming in?

17 A. Yes, sir, there was.

18 MR. MILLER: That's all I have, Your Honor.

19 THE COURT: Mr. Daniel?

20 **

21 CROSS-EXAMINATION

22 BY MR. DANIEL:

23 Q. Ms. Gray, I'm Zane Daniel, and I represent Gary
24 Sutton. I don't believe I've ever spoken to you, is that
25 correct?

1 MR. MILLER: Call Angel Gray.

2 THE COURT: Angel Gray. Was Mr. Drinnon here this
3 morning, or do you know?

4 MR. MILLER: I honestly don't know.

5 THE COURT: Okay.

6 **

7 ANGELA GRAY was called, and being duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MILLER:

11 Q. Would you tell us your name, please, ma'am?

12 A. Angela Gray.

13 Q. And where do you live, Ms. Gray?

14 A. In Seymour.

15 Q. And I believe your Mr. Dellinger's step daughter,
16 is that correct?

17 A. Yes, sir.

18 Q. I direct your attention to the Saturday night when
19 there was a trailer fire at Tommy Griffin's residence?

20 A. Yes, I was.

21 Q. Do you remember when the young Branum girl came
22 over to the trailer?

23 A. Yes, I do.

24 Q. I know it's been a long time, but the best you
25 remember, what do you remember her saying?

1 A. No.

2 Q. Let me ask you something. Do you know -- about
3 what time did you go over to the house there, which would be
4 your mother's and your step father's? About what time on the
5 night of the fire did you go over there in the afternoon, or
6 whatever?

7 A. A few minutes after 4:00 when my mother got home
8 from work.

9 Q. Did you live down the street -- do you live down
10 the road from the?

11 A. Uh-huh (affirmative.) Right next door.

12 MR. DANIEL: May I approach the witness, Your
13 Honor?

14 THE COURT: Sure.

15 BY MR. DANIEL:

16 Q. We've got a chart here that's been filed as Exhibit
17 #2 that shows Tommy Griffin's trailer, Mayes, and McDermon
18 residence, Henry residence, James Dellinger's residence, Boyd
19 Branum's. Would your residence be in there -- your trailer be
20 shown in that? James Dellinger's daughter, it says -- across
21 the street, is that right?

22 A. Yes.

23 Q. You are right across the street from Boyd Branum?

24 A. Yes.

25 Q. Is that where you were living at the time?

- 1 A. Yes.
- 2 Q. And you had a little boy, is that correct?
- 3 A. Yes.
- 4 Q. How old was he at the time?
- 5 A. He was three weeks.
- 6 Q. Three weeks old?
- 7 A. Uh-huh (affirmative.)
- 8 Q. And you say -- did you see your mother come in from
- 9 work, or did you...
- 10 A. She called, and told me to come up and eat.
- 11 Q. So you took your grandson up there?
- 12 A. My son.
- 13 Q. I'm sorry. Your son and her grandson. Excuse me.
- 14 And you went up there about 4:00, is that correct -- shortly
- 15 after 4:00?
- 16 A. Yes.
- 17 Q. And did you stay there until after the fire
- 18 occurred?
- 19 A. Yes.
- 20 Q. Now we established -- I believe it has been
- 21 established this fire happened about 9:00 that night. About
- 22 what time was it, would you estimate, that your step father,
- 23 which would be James, and Gary came in, and did somebody else
- 24 come with them?
- 25 A. Yes, Carolyn and Gary and James, they came in, I'd

1 say, approximately 7:30.

2 Q. Okay. Had they been there at least, say, an hour
3 or an hour and a half before this fire occurred, is that
4 correct?

5 A. Yes.

6 Q. And you say that a little girl came up to the house
7 and beat on the door. What was the first thing that drew your
8 attention to the fact she was at the door, her knocking or
9 hollering?

10 A. Knocking.

11 Q. And did you know this little girl?

12 A. Yes, I do.

13 Q. They live right across the road from you, is that
14 correct?

15 A. Yes.

16 Q. And she asked -- I believe she asked if Tommy was
17 in the fire -- was he in there, or "Where's Tommy," or something
18 of this nature?

19 A. Yes.

20 Q. Do you remember the exact words she said? I know
21 it's hard to remember things a year ago.

22 A. I really don't recall the exact words.

23 Q. But it was to the effect that -- "Is Tommy here?"
24 And did you hear someone say, "No, he's not here."

25 A. Yes.

1 Q. Did you also hear someone tell -- told that he was
2 in Blount County or Maryville or somewhere with a girl?

3 A. Yes.

4 Q. Was that Mr. James Dellinger told that -- made that
5 statement?

6 A. Yes.

7 Q. And did you all stay there and watch the fire
8 through the window?

9 A. Yes, sir.

10 Q. And I don't believe that either James or Gary went
11 down there?

12 A. No.

13 Q. And you know that Gary had had some problems with
14 one of the other Griffin boys, is that correct, Bill?

15 A. Yes, sir.

16 Q. And that the reason he said he didn't want to go
17 down there was that he didn't want to cause any problems or have
18 any trouble?

19 A. Yes.

20 Q. And then were you there -- I believe you stated
21 that some phone calls came in. Did you talk to anybody on the
22 phone?

23 A. No, I didn't.

24 Q. Did you see your mother dialing on the phone?

25 A. Yes.

1 Q. Did she dial the fire department?

2 A. Yes.

3 Q. Did she try to, later, call -- sometime call over
4 later that night or sometime -- call over to Blount County?

5 A. Yes.

6 Q. And were you there when your step father and Gary
7 left the house?

8 A. Yes.

9 Q. I believe they left in your mother's car, a Buick?

10 A. Oldsmobile.

11 Q. They left in the Oldsmobile. And did you see --
12 was your father wearing what you call a red plain -- your step
13 father wearing a red plaid shirt when he left? Do you recall -
14 - if you recall?

15 A. It was a flannel shirt. I don't remember what
16 color.

17 Q. And did he also take with him a light colored wind
18 breaker like or green, camouflaged light wind breaker, is that
19 correct?

20 A. Yes.

21 Q. Do you know about what time it was -- would you
22 have any way of knowing when it was that they left?

23 A. I would say approximately 10:30.

24 Q. You wasn't watching the clock?

25 A. No, I wasn't.

1 Q. And were you there when they came back, or had you
2 already gone home?

3 A. I had gone home.

4 Q. Now, the next morning your -- you didn't talk to
5 Connie Branum the next morning, did you?

6 A. No, sir.

7 Q. If someone testified that you were in the car with
8 your mother, and talked to Connie Branum, would they just be
9 mistaken?

10 A. Yes, I went to my father's house that morning, I'd
11 say, around 10:30, and I spent the night there.

12 Q. And that was over in Townsend?

13 A. Yes.

14 Q. How long had you lived around in that area there
15 in that house, Ms. Gray?

16 A. Since September.

17 Q. A few months before -- about six months or so
18 before this incident occurred?

19 A. Yes.

20 Q. Did you see a lot of people shooting different guns
21 around there in the yards?

22 A. Yes.

23 Q. And you -- did you ever see them shooting down
24 there in Tommy Griffin's yard around his trailer?

25 A. Yes.

1 Q. Did you see them shooting guns up around Mr. --
2 your step father's trailer?

3 A. Yes.

4 Q. Both shotguns and rifles, is that correct?

5 A. All kinds.

6 MR. DANIEL: May I have just a moment, Your Honor?

7 THE COURT: Yes.

8 BY MR. DANIEL:

9 Q. I don't believe you were over there -- after you
10 went over to your father's -- you weren't there on Saturday
11 night, and you don't know what happened as far as Saturday
12 night, times or things like that, is that correct?

13 A. No, sir.

14 Q. Thank you, ma'am.

15 THE COURT: General Schmutzer?

16 **

17 CROSS-EXAMINATION

18 BY GENERAL SCHMUTZER:

19 Q. Ms. Gray, you said that they got there that evening
20 about 7:30?

21 A. Approximately.

22 Q. Okay. And then it was later on that you found out
23 about this fire?

24 A. Yes.

25 Q. And you found out through Jenny Branum coming over

1 there, didn't you?

2 A. Yes.

3 Q. And if someone said that you had learned by Connie
4 Branum calling over there and telling you all, it wouldn't be
5 right, would it -- it wouldn't be the truth, would it?

6 A. No, sir.

7 MR. DANIEL: Your Honor, I would object to that -
8 - I object to the form of the question, and asking
9 her to comment on somebody else's testimony.

10 GENERAL SCHMUTZER: I didn't ask her to comment on
11 somebody else's...

12 THE COURT: I believe that's the same question you
13 asked the previous witness. You may go ahead.

14 BY GENERAL SCHMUTZER:

15 Q. Now, in any event, you say it was later on that
16 night that some phone calls were made. After she had come over
17 there and told you about the fire, you said later on that night
18 they made some calls to Blount County?

19 A. Yes.

20 Q. What time was that?

21 A. I would say around 10:00. I'm not really sure.

22 Q. But it was somewhat later, you're saying, that they
23 made those calls?

24 A. Yes.

25 Q. And James, your step father, is the one that looked

1 up the numbers or had them looked up -- he's the one that wanted
2 to make the calls?

3 A. Connie called, and wanted to find out where Tommy
4 was, and my mother looked in the phone book.

5 Q. Is that what your mama told you -- you didn't talk
6 to Connie, did you?

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

8 Q. And you mentioned about all this shooting guns.
9 Your step father kept guns around there all the time?

10 A. Yes.

11 Q. And he would go out there and shoot guns in the
12 yard?

13 A. Yes.

14 Q. In your yard, the trailer below there?

15 A. Yes.

16 Q. And shoot them all hours of the night and day, too?
17 Is that right?

18 A. No, sir, mostly during the day.

19 Q. Do you remember them coming up there -- officers
20 having to come up there late at night, and ask them to quit
21 shooting?

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

23 Q. And he also kept a gun in his truck, didn't he --
24 his white pickup?

25 A. I have no idea.

1 Q. You never saw a gun in his pickup?
2 A. He may have carried a gun in his pickup, I'm not...
3 Q. He took one with him about wherever he went?
4 A. Excuse me?
5 MR. WEBB: Your Honor, she's already answered that.
6 GENERAL SCHMUTZER: No further questions.
7 THE COURT: Anything further of this witness?
8 **
9 RECROSS-EXAMINATION
10 BY MR. DANIEL:
11 Q. I believe the General asked you, he said he took
12 a gun with him wherever he went. You don't have any way of
13 knowing one way or the other, do you, ma'am?
14 A. I do not.
15 Q. You're not trying to tell this jury he did or he
16 didn't?
17 A. No.
18 MR. DANIEL: No further questions.
19 THE COURT: You may step down.
20 THE WITNESS: Thank you.
21 MR. MILLER: Call Carolyn Weaver.
22 **

CAROLYN WEAVER was called, and being duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. Tell us your name, please, ma'am.

A. Carolyn Weaver.

Q. Where do you live?

A. Seymour.

Q. In Sevier County?

A. Sevier County.

Q. Do you know Mr. Gary Sutton and Mr. James
Dellinger?

A. Yes.

Q. I believe you are Mr. Sutton's girl friend, is that
correct?

A. Yes.

Q. Directing your attention back to the night that
Tommy Griffin's trailer caught on fire, it was Friday, February
the 21st. Did you have an occasion to be at Jimmy and Diane's
Sutton's house that night?

A. Yes, sir.

Q. Did James Dellinger and Gary Sutton come to Jimmy
and Diane Sutton's?

A. Yes, sir.

Q. And did you and James Dellinger and Gary Sutton

1 then go to the Dellinger residence?

2 A. Yes, sir.

3 Q. Approximately what time did you get to the
4 Dellinger residence?

5 A. To the Dellinger residence?

6 Q. Yes.

7 A. Well, they come and got me at Jimmy's around 7:30,
8 so, somewhere around 7:30, 8:00.

9 Q. Do Jimmy and Diane live nearby there?

10 A. Uh-huh (affirmative), not even five minutes away.

11 Q. Now, did Jenny Branum -- Jennifer Branum come over
12 to the trailer later on that evening?

13 A. Yes, sir.

14 Q. What -- just tell the jury what she did, and what
15 she said.

16 A. Well, I didn't go all the way to the door because
17 me and Gary was setting in the living room, but she knocked on
18 the door, and when they opened it she was hollering that Tommy's
19 trailer was on fire, was Tommy there, where was Tommy.

20 Q. And did somebody tell her that Tommy wasn't in the
21 trailer?

22 A. Yes, sir.

23 Q. Did they tell her where they thought he was?

24 A. Said he was in Blount County with a girl.

25 Q. Okay. Did you and Gary Sutton spend the night at

1 the Dellinger residence that evening?

2 A. Yes, sir.

3 Q. Sometime the next day did Gary and James Dellinger
4 leave the house?

5 A. Yes, sir.

6 Q. Where did they go, do you remember?

7 A. Well, I know the first time -- well, they went to
8 pick up Gary's check at the house -- see if his check had
9 arrived.

10 Q. Did they return after that?

11 A. Yes, sir.

12 Q. And did they again leave a little bit later?

13 A. Yes, sir.

14 Q. And did you and Linda Dellinger leave while they
15 were gone?

16 A. Yes, sir.

17 Q. When you and Linda Dellinger came back to the
18 trailer, were they there?

19 A. No, sir.

20 Q. What is the next time that you saw them on that
21 day?

22 A. 15 till 8:00.

23 Q. And they were...

24 A. In the evening, 15 till 8:00.

25 Q. And were they the rest of the evening on Saturday

1 evening?

2 A. Yes, sir.

3 MR. MILLER: That's all I have, Your Honor.

4 THE COURT: Mr. Daniel?

5 **

6 CROSS-EXAMINATION

7 BY MR. DANIEL:

8 Q. Ms. Weaver, I'd like to ask you some questions
9 about before this happened -- before this Friday night when the
10 fire occurred, etcetera. Going back before that, did Gary --
11 Gary owned a Camaro, is that correct?

12 A. Yes, sir.

13 Q. Are you familiar that he spray painted onto the
14 Camaro, the front of it, what's commonly referred to as a "bra?"

15 A. Yes, sir.

16 Q. And it's something that goes on the front of them
17 for looks, is that correct?

18 A. Yes, sir.

19 Q. And were you present, and helped him wax the car
20 after it had been sprayed?

21 A. Yes, sir.

22 Q. And you rode in the car?

23 A. Yes, sir.

24 Q. Saw the car?

25 A. Yes, sir.

1 Q. Did it have any headlights out whatsoever?

2 A. No, sir.

3 Q. And at the time it was sprayed with the spray paint
4 on the front, did you notice whether or not any paint had
5 drifted over or misted over onto the headlights?

6 A. Yes, I know it did the day that he was spray
7 painting it because he was fussing about it because he got it
8 on the lights.

9 Q. Okay. And you then -- let's go back to the Friday
10 -- this Friday, the night of the fire. Sometime earlier that
11 afternoon did you have an occasion to go, and didn't you go over
12 to Mr. Jimmy Sutton's, his brother?

13 A. Yes, sir.

14 Q. And what time did you go over to their house,
15 approximately?

16 A. The approximate time that I went to their house,
17 I can't remember because I was out with a friend that day, and
18 she just dropped me off there.

19 Q. She dropped you off at the house?

20 A. Yes. I was there the biggest part of the day.

21 Q. The biggest part of the day?

22 A. Uh-huh (affirmative.)

23 Q. Sometime about -- later that afternoon did you have
24 an occasion to see Gary, and did you see James Dellinger with
25 him?

1 A. Yes, sir.

2 Q. Where was this when you first saw them that night -
3 - would it be there at Jimmy's house?

4 A. Yes.

5 Q. And can you tell us about what time that was?

6 A. It was around 7:30, around in that vicinity --
7 7:15, 7:30, somewhere around in there.

8 Q. Ma'am, can you pull up -- can you pull up just a
9 little bit, and talk into the microphone so we can hear you back
10 here? I'm not fussing at you, I just want you to talk up a bit.
11 And they came in -- was there anyone with them when they came
12 in?

13 A. No.

14 Q. Were they driving the Camaro when they came in?

15 A. Yes, sir.

16 Q. Was the Camaro having any problems with it?

17 A. Yes, sir.

18 Q. And that was -- what was that, the water pump?

19 A. The water pump.

20 Q. Okay. And did they stay there at Jimmy's house for
21 a long period of time, or about how long were they there?

22 A. Just long enough for Gary to tell Jimmy what was
23 wrong with the car, and for James to call Linda, and let her
24 know that he was coming home.

25 Q. So he called Linda from over there?

1 A. Uh-huh (affirmative.)

2 Q. And you then -- did they have any beer with them?

3 A. Yes, sir.

4 Q. Just tell it like it is. Did they bring some of
5 it in the house?

6 A. Yes.

7 Q. And how much beer -- do you remember how much --
8 how many bags did they have?

9 A. They each had a bag of beer.

10 Q. And when they left, they took the beer with them?

11 A. Yes.

12 Q. And what time was it, approximately, that you left
13 there going over to Mr. Dellinger's house?

14 A. It would have to have been around 8:00 because it -
15 - it was between 7:30 and 8:00, around in there.

16 Q. Okay. And you say they took the beer with them?

17 A. Yes.

18 Q. They said the Camaro was having some water pump
19 problems. Did they take -- drive another vehicle over to the
20 Dellinger's?

21 A. Yes.

22 Q. And tell the Court and jury whose vehicle that was.

23 A. We drove Jimmy Sutton's truck.

24 Q. And that would have been -- is it a white looking
25 pickup truck?

1 A. Yes, it's white.

2 Q. And you drove it over there. How long did it take
3 you to get there from over at the -- from Sutton's to over to
4 the Dellinger's place?

5 A. Not even five minutes, maybe.

6 Q. It's just a few miles away?

7 A. Just a few miles, yeah. Not very long at all.

8 Q. And then when you drove up there, did you -- you
9 drove over to the Dellinger's place in the truck?

10 A. Uh-huh (affirmative.)

11 Q. You all went in the house?

12 A. Yes.

13 Q. Did you take some beer in with you?

14 A. Yes.

15 Q. And later, was there someone that came to the door,
16 and how long had you been there before somebody came to the door
17 in kind of a panic, so to speak?

18 A. We was there for quite a while because the little
19 girl came beating on the door, and she started hollering that
20 Tommy's trailer was on fire, "Where's Tommy? Is Tommy here?"

21 Q. And do you know the little girl?

22 A. I know who it is.

23 Q. Beg your pardon?

24 A. I know of her.

25 Q. You just didn't know who she was at the time?

1 A. Oh, I knew she was one of Connie's little girls,
2 but I wasn't...

3 Q. You didn't know her name?

4 A. No.

5 Q. Then after that did they reply, and tell her where
6 Tommy was?

7 A. Yes, sir.

8 Q. And who told that, if you recall?

9 A. I believe James did because he was the one back
10 there talking to her.

11 Q. And where were you and Tommy (sic)? Did you all
12 kind of go out in the hallway there, but didn't go all the way
13 up to the door -- to the front door?

14 A. Me and Gary?

15 Q. Yeah, Gary. I'm sorry.

16 A. Yes.

17 Q. Excuse me.

18 A. Yeah.

19 Q. And was there another girl that had a little baby
20 with her?

21 A. Yes.

22 Q. And who is that?

23 A. Angel Gray. That was Linda's daughter.

24 Q. Did you know her?

25 A. Yeah, I just really -- I'd just met her that time -

1 - then.

2 Q. Okay. And she had a little boy with her?

3 A. Uh-huh (affirmative.)

4 Q. Newborn child, is that correct?

5 A. Yes.

6 Q. And after the girl came up there and told about the
7 fire and left, did anybody -- did you all watch it through the
8 window, and see the fire burning?

9 A. Yeah, we were looking out the front windows.

10 Q. Did Gary make a statement to the effect that didn't
11 want to go down there to the fire because he didn't want to get
12 into any problems or have any trouble with Bill Griffin?

13 A. Did Gary make that statement?

14 Q. Yeah, Gary.

15 A. No, I think James told him that -- you know, since
16 all the trouble -- the problems that they had, it wouldn't be
17 a good idea for them to go down there.

18 Q. And you knew that they had -- that Gary had had
19 some problems?

20 A. Yes.

21 Q. Now you knew Gary's relationship with Tommy?

22 A. Yes.

23 Q. And describe that to the Court and jury here. What
24 kind of relationship did he have with Tommy?

25 A. Well, they were best friends. They were together

1 all the time. Tommy stayed with us a lot, and Gary made sure
2 he was taken care of. He -- you know, he made sure he had
3 everything he needed, and he stayed with us a lot, and they were
4 together all the time.

5 Q. Now, did -- was there any gun, or did you see any
6 gun whatsoever in Jimmy Sutton's truck that night?

7 A. No.

8 Q. There was no gun in there, was there?

9 A. No.

10 Q. And then we -- after that occurred, was some phone
11 calls made in and out? Did you make any of the phone calls
12 yourself?

13 A. No, I didn't, but the phone rang off the hook, and
14 everybody was calling, and...

15 Q. Sometime about -- later on -- a half hour or so
16 later was some phone calls made from there over to Blount
17 County?

18 A. Yes, sir.

19 Q. Did Mrs. Dellinger make some phone calls to try to
20 find out where Tommy was?

21 A. Yes.

22 Q. And I believe she gave the phone one time when she
23 got the jail, and let him speak to somebody over there at the
24 jail, is that right?

25 A. Yes.

1 Q. And after this did they then leave the house, and
2 -- take Mrs. Dellinger's car and leave the house?

3 A. Yes, sir.

4 Q. Do you know about what time that would have been?

5 A. It was around 10:00 or so.

6 Q. And you then -- you stayed there at the house, is
7 that correct?

8 A. Yes.

9 Q. And did the little girl that was there with the
10 baby, did she continue to spend the night or did she go on home?

11 A. Went on home.

12 Q. Okay. And when they left did James Dellinger take
13 any kind of clothing with him? Did you see any kind of jacket
14 or anything that he took?

15 A. I didn't pay any attention. I don't -- you know.

16 Q. Okay. And they came -- later, as I understand it,
17 they came back to the house?

18 A. Yes, sir.

19 Q. Can you tell us about, approximately, what time
20 that was?

21 A. It was around midnight, a little after -- somewhere
22 in there.

23 Q. Okay. And did you stay there a while before you -
24 - did you spend the night there, or did you go somewhere else?

25 A. We stayed there for a little while, and we were -

1 - we were wanting to order a pizza, but we told them -- you
2 know, it was too late to order a pizza, so we went to the Huddle
3 House in Pigeon Forge, I think.

4 Q. And isn't it true that Gary and James told you
5 where -- that they had gotten Tommy out of jail, but he took
6 back off with this -- that same girl that they'd seen him with
7 earlier that day?

8 A. Yes, sir.

9 Q. That he left with?

10 A. Yes, sir.

11 Q. And then when you went -- you went up to the Huddle
12 House and ate?

13 A. Yes, sir.

14 Q. And came back. Do you have any idea what time it
15 was when you got back?

16 A. I can't -- I think it was around 2:30 or 3:00,
17 somewhere along in there.

18 Q. Getting pretty late?

19 A. Yeah, it was late.

20 Q. And you all stayed there that night?

21 A. Yes.

22 Q. And I believe you came up here and gave a statement
23 to these officers about this, is that correct?

24 A. Yes.

25 Q. Did you tell them about going to the Huddle House?

1 A. Yes, I did.

2 Q. And what did they in return tell you? Did they try
3 to say you was lying about that?

4 A. Yes.

5 Q. Just tell the Court and jury what they told you.

6 A. Well, I told them about -- that we went and ate,
7 and they -- you know, told me -- you know, "You're lying, you
8 did not," and I told them that we did because we went and ate.

9 Q. But they wanted you to tell them -- what about the
10 waitresses they wanted you to tell them?

11 A. Wanted to know what she looked like, but -- you
12 know, I couldn't remember.

13 Q. But they kept insisting that you were -- that you
14 did not go to the Huddle House?

15 A. Yes.

16 Q. Did you keep telling them you did?

17 A. Yes.

18 Q. Then the next day, I believe you told earlier in
19 your testimony, that you got with Mrs. Dellinger, and you left
20 sometime with her, is that correct? You and Mrs. Dellinger,
21 sometime the next -- on Saturday, left, would that be correct?

22 A. Yes.

23 Q. And that would have been in her car?

24 A. Yes.

25 Q. And did you -- you say that Tommy -- I'm sorry.

1 James and Gary left to go get his check, is that correct? They
2 were gone, and then came back?

3 A. Yeah.

4 Q. Now when you and Mrs. Dellinger were leaving, did
5 you have an occasion to run into -- to see Connie Branum, is
6 that correct?

7 A. Okay, that was when we were coming back. We came
8 back. We went and got pizza, and then when we were coming back,
9 we ran into her as she was -- at the time, I didn't know whose
10 house it was, but was the Mayes' house. She was standing there
11 on the bank, and when we came back in we stopped and talked to
12 her for a few minutes.

13 Q. Okay. She told you at that time that she was going
14 to go hunt Tommy?

15 A. Yes.

16 Q. And so what did you do the rest of the day? Did
17 you just stay around the house there or whatever?

18 A. Yes.

19 Q. And did you see Gary and James come back to the
20 house later that -- that Saturday afternoon or Saturday night?

21 A. Yes.

22 Q. And do you know what time it was that they got
23 back?

24 A. Yes, I do. It was 15 till 8:00.

25 Q. And you were watching the clock on this, is that

1 correct?

2 A. Yes.

3 Q. And did they continue to stay there, or did they
4 go anywhere on that Saturday night?

5 A. No, after that we were there the rest of the night.
6 We watched movies and ate pizza.

7 Q. And you'd gotten the pizza earlier that morning
8 when you saw Connie, is that correct?

9 A. Evening, yeah.

10 Q. Now that would have been on Saturday. On Sunday,
11 did you -- you spent the night there?

12 A. Yes.

13 Q. Did you get up on Sunday, and go somewhere with
14 Gary?

15 A. Yes.

16 Q. And tell us where you went to.

17 A. Me and Gary went out to the trailer to get a change
18 of clothes.

19 Q. And about what time would you say this was?

20 A. It was around 10:00 that morning, or somewhere
21 along in there.

22 Q. All right. Did you drive -- what vehicle did you
23 drive?

24 A. We drove Linda's car over to the trailer, he
25 Oldsmobile.

1 Q. Okay. And while you were out there going over to
2 get the clothes, did you go anywhere else? Did you stop by the
3 store or something?

4 A. Yeah, we stopped by Food City to get stuff for
5 breakfast.

6 Q. Okay. And did you at some place while you were
7 gone run into somebody -- another girl?

8 A. Well, yeah. She was trying to find Gary.

9 Q. Well, Gary was separated, is that right? His wife
10 was living down in Georgia, is that correct?

11 A. Yeah.

12 Q. And you had been dating him some, and this other
13 girl, you ran into her, is that right? Did you know her?

14 A. No, I didn't, not at the time.

15 Q. And where did you run into her, if you recall?

16 A. She came over to the trailer where Gary was -- over
17 at James' house.

18 Q. She came to James' house. Do you know about what
19 time that would have been?

20 A. Well, it was after we got back, so -- she called
21 right before we left.

22 Q. And talked to Gary on the phone?

23 A. Yeah.

24 Q. Did she call more than once?

25 A. He talked to her about two or three times.

1 Q. And that would have been before you left? He
2 called her after you got back?

3 A. Well, I know he'd talked to her -- I keep thinking
4 it was two times before we left, and then she came by after we
5 got back, and -- well, she stopped by before we got back to see
6 if Gary was there, but we had already left to go out to the
7 trailer to get some clothes, and then she came back after we got
8 back, and -- you know, Gary talked to her then.

9 Q. Now, that morning -- that would be Sunday morning,
10 is that correct?

11 A. Yes.

12 Q. So during the time from, say, 10:00 to 12:00 on
13 Sunday, he would have been with you during that period of time?

14 A. Yes.

15 Q. In Linda Dellinger's car -- Buick car?

16 A. Yes.

17 Q. When you left, is that correct?

18 A. Yes.

19 Q. Did you come up here, and then give a voluntary
20 statement to these officers, and talk to them about this?

21 A. No, I did not.

22 Q. Did they have you come up here, and give them a
23 statement?

24 A. No, they came and got me for something completely
25 different until they got me up here.

1 Q. Beg your pardon?

2 A. They came and got me for something completely
3 different until they got me up here, and then they started
4 questioning me about this.

5 Q. They told you they wanted to talk to you about
6 something else?

7 A. Yes.

8 MR. DANIEL: May I have just a moment?

9 THE COURT: Yes.

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

11 CLERK: An officer wants to know if he brings the
12 witness with him, or just summons him to come on
13 in?

14 THE COURT: Bring him with him.

15 CLERK: Okay.

16 THE COURT: Have they got him?

17 CLERK: No. VonCannon, he's just wanting to know
18 what to do when they found him.

19 THE COURT: Okay. Yeah.

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

22 BY MR. DANIEL:

23 Q. Ms. Weaver, let me ask you something about Gary's
24 and Tommy's relationship. Where Gary lived, was there a room
25 over there that Tommy stayed in it some?

1 A. Well, it was his room. We -- Gary bought him a
2 water bed and put in there, and everything, and that was -- when
3 he stayed, that was his room.

4 Q. And I believe -- did you ever see Tommy given any
5 clothes by Gary? Was he given any clothes, for example? Tell
6 us about the coat.

7 A. I bought Gary a coat for Christmas, and Tommy had
8 stayed, and it was cold outside, and he didn't have a coat, so
9 Gary gave Tommy that coat that I bought him for Christmas so he
10 wouldn't be cold because it was cold that morning. They were
11 taking me to work.

12 Q. But he gave him the coat that you bought him?

13 A. Yeah.

14 Q. Now what about problems that Tommy had with his own
15 family, particularly James Griffin?

16 A. Well, there was one night that Gary was supposed
17 to pick me up at work and he had been out with -- it was Tommy
18 and James Griffin and James Dellinger and Gary, and they had
19 been out shooting pool and everything, and Gary was supposed to
20 pick me up after work, and he came on by work, and he come in
21 to tell me to wait, that he would come back to get me because
22 he was trying to keep James Griffin off of Tommy because he was
23 telling him he was going to stomp him -- you know, and other
24 words. So I walked on out to the car, and when I walked out
25 there I could hear James -- you know, he was cussing Tommy and

1 everything, and calling him -- you know, he was going to stomp
2 him, and cussing him, and stuff, and Gary told me to wait. He
3 did not want me in the car with them because he said he'd been
4 trying to keep James off of him all night, and he didn't want
5 me in the car because he was afraid that -- you know, that there
6 would be a fight.

7 Q. And it's -- so Tommy and Gary were close friends
8 then?

9 A. Yeah. Gary took care of Tommy, he took up for
10 Tommy, he wouldn't let nobody hurt Tommy.

11 MR. DANIEL: May I have just a moment, Your Honor?

12 THE COURT: Yes.

13 BY MR. DANIEL:

14 Q. Now, just a couple more questions, ma'am. You
15 testified, I believe, that they came back on Saturday at 7:45?

16 A. Yes.

17 Q. Just tell the Court and jury how you remember that
18 time, and what caused you -- how you know it.

19 A. Because it was a Saturday night, and that was early
20 for Gary to be back early on a Saturday night, and I was teasing
21 him -- kidding him about him being back that early because --
22 you know, on Saturday night's when he went out and stuff. I
23 didn't ever see him that early.

24 Q. Well, is it fair to say that that's the time you
25 remember specifically, and these other times are estimations,

1 is that correct?

2 A. Yes, I remember that time specific.

3 Q. Now let me ask you this. When they found Tommy -
4 - do you remember that after Tommy had been found -- tell them
5 what Gary's condition was as far as being remorseful pertaining
6 to Tommy's death.

7 A. Well, he cried, and he was upset. He couldn't
8 believe that Tommy was gone. He said that was his best friend,
9 and he just -- he was hurt. He cried all night -- I mean, there
10 wasn't -- I tried to comfort him, but -- you know, there wasn't
11 nothing I could do -- you know, I couldn't bring Tommy back, and
12 Gary was upset.

13 Q. Told you he -- and when they started accusing him
14 later on he told you he hadn't killed him, and hadn't killed
15 anybody, is that correct?

16 A. That's right, yes, sir.

17 MR. DANIEL: You may ask.

18 GENERAL SCHMUTZER: Your Honor, may we approach the
19 bench?

20 THE COURT: Yes.

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

22 GENERAL SCHMUTZER: Your Honor, before I go into
23 it, I want to make sure -- this is a little bit
24 touchy. They asked her about these officers going
25 up to her, and saying they wanted to talk to her

1 about a different matter.

2 MR. DANIEL: I can't hear you.

3 GENERAL SCHMUTZER: She had testified on cross
4 examination by you that officers, when they first
5 came up there, wanted to talk to her about a
6 different matter. Your Honor, she was supposed to
7 be a witness against Gary Sutton. She gave him
8 statements that he was involved in these drive by
9 shootings, and she had also furnished -- them a
10 consent to search, and they found the shotgun, able
11 to identify it as the one they were shooting.

12 THE COURT: Identify what?

13 GENERAL SCHMUTZER: The gun that was able to do the
14 shooting.

15 MR. WEBB: No, they did not.

16 GENERAL SCHMUTZER: And she then, Your Honor,
17 failed to show up. She refused to come to Court
18 and testify, and later came up -- we've got a taped
19 statement on this, what all she said in detail.
20 She came up and tried to say all this was a lie.
21 This obviously goes to interest, goes to doing
22 whatever she can do to protect him. Now I'm not
23 going to go into any detail, but I think I have a
24 right to examine her on the fact that she was --
25 had given an interview, and had implicated him in

1 a matter, and then she refused to testify against
2 him, and refused to show up in Court.

3 MR. WEBB: Your Honor, if you're even slightly
4 entertaining this -- I mean, it's so far fetched
5 and aside, but I will respond to that. We will
6 call the former assistant attorney general in here.
7 These people came -- that case was dismissed, not
8 by me, by the State of Tennessee. That matter was
9 taken to the grand jury, she showed up at the grand
10 jury, and Charles Poole told her, "Get out of here.
11 We don't want to hear from you." And I'll call him
12 as a witness to that, and I'll be a witness to
13 that. Now if we want to open a can of worms, we'll
14 open it, General.

15 THE COURT: Gentlemen, while portions of it might
16 be somewhat relevant, I think the -- in this case,
17 in that it has totally nothing to do in this
18 matter, that any reference to that, it would be
19 unfairly prejudicial. And so for that reason, the
20 Court will not allow that aspect of the
21 examination.

22 GENERAL GREEN: Just so the Court knows, Your
23 Honor, the day that this -- that these drive by
24 shootings were dismissed was February the 21st of
25 1992.

1 THE COURT: Yeah, it -- I understand where you're
2 coming from, and it's -- it's of great interest to
3 me, but the supreme court might not think very
4 interesting in this case.

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

7 **

8 CROSS-EXAMINATION

9 BY GENERAL SCHMUTZER:

10 Q. Ms. Weaver, you mentioned that on that Friday, the
11 21st, that you had -- that you had been with a friend all day -
12 - some girl friend of yours?

13 A. Yes.

14 Q. And who is that?

15 A. Tina Eaton.

16 Q. And how long were you with her that day?

17 A. Well, we went shopping, so...

18 Q. What time did you get back from shopping?

19 A. I guess it was around -- I want to say around noon
20 because she had to go to work, and she just dropped me off at
21 Jimmy and Diane's.

22 Q. And you stayed at Jimmy and Diane's the rest of the
23 afternoon?

24 A. Yes, sir, I did.

25 Q. And you were there at 6:00 that afternoon?

1 A. Yes.

2 Q. And you're saying that you weren't picked up by
3 these two defendants until somewhere around 7:30?

4 A. Yes, sir.

5 Q. Now you mentioned having talked to the officers,
6 is that right?

7 A. Yes.

8 Q. And they -- you said they indicated they wanted to
9 talk to you about one thing, but talked to you about something
10 else -- talked to you about this?

11 A. Yes, sir.

12 Q. But that wasn't going to change your attitude as
13 far as telling the truth, was it?

14 A. No.

15 Q. You were -- you had nothing to hide, did you?

16 A. No.

17 Q. You had nothing to hide back then when they talked
18 to you about this. And do you remember -- I think it was in
19 March that they did this, is that correct? March the 9th. They
20 wrote out the statement?

21 A. I guess. I don't remember exactly what date it
22 was.

23 Q. Well, do you remember them writing out the
24 statement you gave them, and you initialed it, and read it over,
25 and signed it?

1 A. Yes.

2 Q. And isn't it true, ma'am, that at that time you
3 told them -- you said that you were with Linda most of the day
4 on Friday, and that you and Linda went to rent some movies on
5 the 21st, that that was about 6:00 p.m. Then you came back to
6 watch the movies the rest of the night. You told them that --
7 is that not true? You never once told them about this other
8 girl, did you?

9 A. I...

10 Q. You told them you were with Linda all that night?

11 MR. DANIEL: Your Honor, she needs to -- the
12 General needs to let her answer.

13 THE COURT: She may answer.

14 BY THE WITNESS:

15 A. What was your question?

16 Q. Isn't it true, ma'am, that you told them you were
17 with Linda most of the day?

18 A. I don't recall whether I did on a Friday. I told
19 them Saturday.

20 Q. Isn't it true, ma'am, that you told them that they
21 went to rent some movies, and this was around 6:00, and they
22 came back to watch the movies the rest of the night? You didn't
23 tell them that?

24 A. I don't remember. I'm not saying I didn't, I'm
25 saying I don't remember.

1 Q. Ma'am, isn't it true that you also -- let me let
2 you take a look at this. This is a copy of the statement. Is
3 this your signature?

4 A. Yes, sir.

5 Q. All right. And does it not say that, "Carolyn said
6 that she was with Linda most of the day of Friday?" "Her and
7 Linda had went to rent some movies." In fact, I think they made
8 a -- you said -- you struck out all day, and put "most" in
9 there, or they did, and you initialed it?

10 A. I also said that was Saturday.

11 Q. Ma'am, does the statement not say Friday?

12 A. That's what it says, but it was ...

13 Q. Okay. Didn't you...

14 MR. DANIEL: Your Honor, he won't let her answer
15 the questions.

16 BY GENERAL SCHMUTZER:

17 Q. Did you have something else you wanted to say? I'm
18 sorry, I didn't mean to interrupt you.

19 A. Yes, I told them that was on Saturday, and also,
20 when I was trying to give the statement, I was getting cussed
21 out left and right, and everything else, so...

22 Q. Okay. But you had an opportunity, did you not,
23 ma'am, to read this statement?

24 A. I don't remember reading over it.

25 Q. Well, you...

1 A. I'm not saying I didn't, I'm not saying I did.

2 Q. Well, you remember -- these initials here where
3 there's changes made, you initialed that, didn't you, where you
4 -- for "most of the day" you put -- from "all of the day" it was
5 changed to "most," and you initialed that, did you not?

6 A. My initials are there, but I don't remember doing
7 it.

8 Q. Okay. Your initials are also at the bottom of that
9 first page of the statement, is it not?

10 A. Yes.

11 Q. All right. And your initials also appear at the
12 bottom of the second page?

13 A. Yes.

14 Q. Now -- and when you told them this, you told them
15 that Gary and James were driving Gary's car, which would be the
16 Camaro, did you not?

17 A. No, sir, I did not.

18 Q. And you told them that they drove it until it tore
19 up?

20 A. On that Friday night the water pump was tore up on
21 it.

22 Q. And when they came back they -- you told them when
23 they came back, being James and your boyfriend, that they got
24 the Oldsmobile, and drove it, is that not true, ma'am?

25 A. No. Well, it's not true. I don't remember.

1 That's been...

2 Q. Are you telling this Court and jury that you didn't
3 tell them that on that Friday you were with Linda most of the
4 day?

5 A. I was not with Linda most of the time.

6 Q. I'm not ask you, ma'am, what you're saying now, I'm
7 asking did you not say -- tell those officers that you were with
8 Linda most of the day?

9 A. I don't remember what I told the officers.

10 Q. Do you think you could have told them that?

11 A. I could have, I could not have, because they cussed
12 me, they threatened to take my child away from me if I didn't
13 tell them stuff, and to be honest, I can't remember everything
14 that I told them.

15 Q. They were wanting to find out what all happened
16 that Friday night, weren't they, ma'am -- that Friday and Friday
17 night -- wanting to know where all you'd been?

18 MR. DANIEL: Object to what they wanted to know,
19 Your Honor. That would be...

20 BY GENERAL SCHMUTZER:

21 Q. That's what they asked you about. I'll withdraw
22 the question. They asked you about what you had done Friday and
23 Friday night?

24 A. Yes, sir.

25 Q. And that's when you told them about this, was it