

~~XXI~~ No 90 IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

AT SEVIERVILLE, TENNESSEE

FILED

MAR 7 1994

SUPREME COURT CLERK

STATE OF TENNESSEE,

Appellee,

-VS-

GARY WAYNE SUTTON and,
JAMES ANDERSON DELLINGER

Appellants.

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CASE # 5033, 5035

TRANSCRIPT OF THE EVIDENCE:

Trial

February 16-24, 1993

Volume 19 of 22 Volumes

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

APPEARANCES:

FOR THE STATE

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GEN. G. SCOTT GREEN, A.D.A.
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CIRCUIT COURT
FILED

HOOR 9:30 A. M

DATE: JAN 07 1994
D.A.

Henry H. Hensley

CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

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1 not, about Linda and renting the movies?

2 A. I do not remember telling them Friday because I was
3 at Jimmy's most of that Friday.

4 Q. Well, that was the day, ma'am, wasn't it, that his
5 car tore up -- Gary's car tore up -- his Camaro?

6 A. Yes.

7 Q. And that was the day that they came back and got
8 the other one, and drove it off to go get Tommy, wasn't it?

9 A. That night. We were already over at James' and
10 Linda's.

11 Q. And isn't it true also that James carries a gun
12 with him about any place he goes, isn't that night right?

13 A. I -- I don't -- I guess, yeah.

14 Q. Well, did you not tell them, ma'am, that James
15 normally has a gun with him wherever he goes?

16 A. Well, he traded guns all the time.

17 Q. I'm not asking that, ma'am. Did you tell them that
18 or not?

19 A. If it's on there, I suppose I did.

20 Q. Okay. And you also told them that one of the guns
21 that he takes with him is the gun that the officers seized the
22 other day, being that 303 rifle? You were up there when they
23 seized the rifle?

24 A. The gun -- I don't know the difference.

25 Q. Right, but you told them that gun was the gun that

1 he carried -- kept with him a lot, and carried with him, didn't
2 you?

3 A. I don't remember saying that.

4 Q. Do you remember saying that the gun he takes with
5 him is the one the officers took the other day when they
6 searched the house?

7 A. I do not remember saying that.

8 Q. Well, was that true that he in fact -- did he not
9 carry that gun around with him?

10 A. I don't know because I don't know the difference
11 between one gun or the other.

12 Q. Did you tell the officers that or not?

13 A. I don't remember telling them that.

14 GENERAL SCHMUTZER: No further questions.

15 MR. DANIEL: Your Honor, may we ask to be furnished
16 copies of these statements that the General
17 referred to?

18 THE COURT: Surely, yes.

19 MR. DANIEL: And the other ones, also.

20 THE COURT: If there's other statements that...

21 MR. DANIEL: There was one of the other witness
22 that was in here.

23 GENERAL SCHMUTZER: I would like that to be filed.
24 I had marked on it, Your Honor, but I would like
25 them both to be filed, if the Court please.

1 THE COURT: Okay.

2 (EXHIBIT #49 - Statement; marked and filed.)

3 (EXHIBIT #50 - Statement; marked and filed.)

4 THE COURT: Any other questions of this witness?

5 MR. DANIEL: Yes, just one second, Your Honor.

6 **

7 RE CROSS-EXAMINATION

8 BY MR. DANIEL:

9 Q. Let me ask you something about this statement. Is
10 this your signature at the bottom on that?

11 A. Where?

12 Q. Down there. It says, "Donnie Huskey," and I can't
13 read that...

14 A. My signature's not on that paper.

15 Q. You never did sign this, did you?

16 A. No, I did not.

17 Q. The General was talking about your initials on some
18 of these...

19 GENERAL SCHMUTZER: Your Honor, if the Court
20 please...

21 BY MR. DANIEL:

22 Q. Show us any place on there...

23 GENERAL SCHMUTZER: This one right here does have
24 her signature on it. She's already testified about
25 it.

1 MR. DANIEL: Okay.

2 BY MR. DANIEL:

3 Q. Is this your signature then, you say?

4 A. Yes.

5 MR. DANIEL: May we see the other statement,
6 General?

7 GENERAL SCHMUTZER: Sure.

8 MR. DANIEL: Your Honor, please, we'd like to pass
9 both of these.

10 THE COURT: They've been filed.

11 GENERAL SCHMUTZER: We have no objection.

12 THE COURT: Okay. Any further questions?

13 MR. DANIEL: Not at this time.

14 THE COURT: Anything further?

15 MR. WEBB: No, Your Honor.

16 THE COURT: You may step down.

17 MR. MILLER: May I have just a moment, Your Honor?

18 MR. WEBB: May we approach the bench, Your Honor?

19 THE COURT: Yes.

20 MR. DANIEL: Your Honor, we would like to at this
21 time move that the hospital records that have been
22 filed be passed to the jury.

23 GENERAL SCHMUTZER: Your Honor, I think only those
24 parts that he testified from that would be
25 pertinent would go to the jury. All the records

1 would not go. We would object -- there's a lot of
2 things in there that are not...

3 **THE COURT:** He didn't testify as to all of them,
4 but all of them that he was asked about or examined
5 about or that he referred to may be shown.

6 **MR. WEBB:** Well, we'll do that at a break.

7 **THE COURT:** Okay.

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

9 **THE COURT:** A lot of it, as I understand, has to
10 do with pharmacy records and stuff like that that
11 wasn't testified to that this jury probably can't
12 even read anyway is the only reason I...

13 **MR. DANIEL:** I think there is any pharmacy records.

14 **GENERAL SCHMUTZER:** Would the Court care to take
15 a break?

16 **THE COURT:** I'll be happy to take a break.

17 **MR. WEBB:** Well, we can take this matter up during
18 break.

19 **THE COURT:** Okay.

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

22 **THE COURT:** The Court will take a short recess,
23 ladies and gentlemen. Do not discuss the case or let anyone
24 talk to you about it.

25 (JURY OUT)

(COURT STOOD IN RECESS)

GENERAL SCHMUTZER: Your Honor, here is that other statement that they asked for that they wanted filed.

THE COURT: Okay. Is there any objection to it?

MR. DANIEL: That's for identification. It was never...

GENERAL SCHMUTZER: I think it should be filed just like this right here. I would ask -- it may be that we want to pass these things now so they won't be reading them while we're putting on proof -- either one of them.

THE COURT: Is it...

GENERAL SCHMUTZER: It's the statement of -- this is the statement of Linda Dellinger, Your Honor, that...

THE COURT: Sure. It may be passed.

(EXHIBIT #51 - Statement of Linda Dellinger; marked and filed.)

(DURING THE RECESS, A VIDEOTAPE WAS VIEWED BY THE COURT AND COUNSEL WHICH SHOWED THE AREA IN WHICH THE DEFENDANTS AND THE DECEASED, TOMMY GRIFFIN, LIVED)

**

MR. MILLER: Your Honor, I have just a couple of matters before the jury is brought in.

THE COURT: Okay.

MR. MILLER: Your Honor, I would like for the

1 officers to call for Ron Drinnon again.

2 THE COURT: Ron Drinnon? Has he been located,
3 Sheriff?

4 SHERIFF OGLE: Your Honor, they just informed me
5 during this break, Captain VonCannon did, that they were unable
6 to locate him, and that they would keep trying. He was not at
7 home.

8 THE COURT: Okay.

9 MR. MILLER: Your Honor, we would submit that Mr.
10 Drinnon is a material witness. He would testify as to the
11 events at Howie's Hideaway on Saturday evening that would be
12 contradictory to the State's theory, and contradictory to the
13 testimony of Miss Terri Lilly and Jamie Forsythe, and would
14 corroborate these defendants' testimony.

15 He would testify that Mr. Dellinger in no way
16 impeded Connie Branum from talking to anybody about anything,
17 that she did not appear in any way to be under their control,
18 and when Ron Drinnon recognized Connie and Griffin, and brought
19 that to her attention, she said repeatedly, some four or five
20 times, "Do not let anybody know" -- I guess referring to her
21 family, "...Do not let anybody know that I was over here."

22 THE COURT: He was subpoenaed?

23 MR. MILLER: He was served, I believe, by Matthew
24 Coverly, if I'm not mistaken, Your Honor.

25 THE COURT: Has he been here this week or last

1 week?

2 MR. MILLER: I don't even know what he looks like,
3 Your Honor, so I can't represent to the Court that he's been
4 here or not been here.

5 THE COURT: Okay.

6 SHERIFF OGLE: Your Honor, he was either here in
7 person or Andrea has talked to him earlier in the week.

8 THE COURT: So where does Mr. Drinnon live?

9 SHERIFF OGLE: He lives up on Walden's Creek, sir.

10 THE COURT: Okay. As you said, Sheriff Ogle,
11 please continue to try to find him, and if he should be located
12 -- if this is your last witness -- if that was anticipated to
13 be your last witness, Mr. Miller, the Court will allow you,
14 obviously to call him if he is located.

15 MR. MILLER: I guess this would be in the form of
16 a motion for continuance, Your Honor, and I would renew it if
17 he is not found.

18 THE COURT: Surely, and I will...

19 MR. MILLER: Your Honor, I'd also raise all
20 previous motions previously raised at the end of my proof. We
21 now are resting subject to the call of Mr. Drinnon, and we renew
22 all those motions, and if the Court wants to take those up at
23 what time we feel whether Mr. Drinnon is going to show up or not
24 -- I basically renew all the motions from this trial, and
25 judgment of acquittal after the proof. These boys have been

1 alibied by the proof I have presented. They could not have been
2 at this trailer fire, and could not have been over in Blount
3 County at the time that Tommy Griffin was killed.

4 THE COURT: Okay.

5 MR. MILLER: And we move for a judgment of
6 acquittal on that basis.

7 THE COURT: The Court has previously ruled on those
8 motions.

9 MR. WEBB: Let me, just on behalf of defendant
10 Sutton, join in, and renew the motions that we made at the end
11 of the State's proof which would include, but not limited to,
12 the severance motion, the bad acts ruling, and ask the Court to
13 reconsider that, and also a motion for judgment of acquittal on
14 the death penalty, and join in on any other motions Mr. Miller
15 just made.

16 THE COURT: Overruled.

17 GENERAL SCHMUTZER: Your Honor, we would ask that
18 these statements that have been filed, the two of Carolyn Weaver
19 that the defense filed, and the one the State filed of Linda
20 Dellinger be passed to the jury. And could that be done, Your
21 Honor, in such a way that they're not reading it while we're...

22 THE COURT: Sure.

23 GENERAL SCHMUTZER: How would the Court suggest we
24 do that?

25 THE COURT: As they come back in if you want to

1 pass those to the jury, and let them read them then, I will let
2 you do that.

3 **GENERAL SCHMUTZER:** I believe it's going to take
4 a little while, Your Honor, unless they want to sit around while
5 we doing that. You've got three different statements, and I
6 don't want to hold things up.

7 **THE COURT:** Okay. If you'll bring that to my
8 attention again after either Mr. Sutton's proof is in, I will
9 have those passed to the jury at that time.

10 **MR. DANIEL:** Your Honor, we've got no objections
11 to that -- if they're going to read them, I agree that they
12 should wait because we might distract them.

13 **THE COURT:** Okay, that will be fine. Bring the
14 jury in.

15 (JURY IN)

16 **THE COURT:** Waive the call for the State?

17 **GENERAL SCHMUTZER:** Yes, Your Honor.

18 **THE COURT:** And the defense?

19 **MR. MILLER:** Yes, Your Honor.

20 **MR. WEBB:** Your Honor, may the General and I
21 approach?

22 **THE COURT:** Yes.

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

24 **MR. WEBB:** We've always got house cleaning matters,
25 and I apologize to the Court, and I want to bring

1 this to the General's attention. The witness we
2 are about to call did give a tape recorded
3 statement, so...

4 **GENERAL SCHMUTZER:** Can I have a copy of it to?
5 I thought you were going to give those to me ahead
6 of time so I could read these things.

7 **MR. WEBB:** Well, I'm going to give them to you now.
8 I apologize, but I don't have any problems -- I
9 have to make a copy of it. We can call her out of
10 turn, and I can make you a copy now, and we can
11 call somebody else. I mean, I don't...

12 **THE COURT:** That was the order of the Court on the
13 discovery, Mr. Webb.

14 **MR. WEBB:** That's why I brought it to the Court's
15 attention.

16 **GENERAL SCHMUTZER:** I would certainly object, Your
17 Honor, to him putting the witness on, and handing
18 this tape right now. Under the agreement that was
19 reached...

20 **MR. WEBB:** Well, we'll put on another one, and I'll
21 go and make a copy.

22 **THE COURT:** Have someone make a copy.

23 **MR. WEBB:** Okay.

24 **THE COURT:** Mrs. Newman will do that.

25 (Said bench conference being completed, the

1 following proceedings are had in open court.)

2 THE COURT: You may call your first witness.

3 DEFENDANT SUTTON'S PROOF:

4 MR. DANIEL: Call Jimmy Sutton in, Your Honor.

5 THE COURT: Jimmy Sutton.

6 **

7 JIMMY SUTTON was called, and being duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. DANIEL:

11 Q. Mr. Sutton, you were sworn, is that correct?

12 A. Yes.

13 Q. You speak up loud and clear there, now. Tell the
14 jury your name, and where you live, and where you work.

15 A. My name is Jimmy Sutton, and I live in Ingle Hollow
16 off Chapman Highway, and I work for myself, and drive a school
17 bus part time.

18 Q. You're married?

19 A. Yes.

20 Q. And what is your wife's name?

21 A. Diane.

22 Q. And do you have any children?

23 A. Yes.

24 Q. And how many do you have?

25 A. I have two.

1 Q. And their names?

2 A. Justin and Amy.

3 Q. How old is Justin?

4 A. Justin is -- will soon be 12, and Amy's nine.

5 Q. You are the brother to Gary Sutton, is that
6 correct?

7 A. Yes.

8 Q. And it was asked this, I believe, but are you any
9 relation to Jack Sutton?

10 A. No, not that I know of.

11 Q. You've got the same name, but you're not -- if
12 you're related is distantly related, is that right?

13 A. Yes, if it is it would have to be very distant.

14 Q. I'll ask you -- getting down to some areas I want
15 to talk to you about, first of all, are you familiar that Gary,
16 your brother, owned a Camaro vehicle?

17 A. Yes.

18 Q. And what type -- what model and make car was that?

19 A. It's a '84 model. It's a Z-28.

20 Q. Did it have any kind of painting on it that would
21 be extra, other than the ordinary paint that's on a car?

22 A. Yes, it had a bra painted across the front of it
23 like these leather bras that goes on it, but this one's painted
24 on -- a decal of it.

25 MR. DANIEL: May I approach the witness, Your

Honor?

THE COURT: Sure.

MR. WEBB: While he's doing that, Your Honor, can I approach, too?

THE COURT: Yes.

BY MR. DANIEL:

Q. Mr. Sutton, let me show you this vehicle right here, and ask you if you recognize that. Is that the car that Gary owns?

A. That looks identical like it. That's it.

Q. Okay. And is that the one that he owned back on February the 21st of 1992?

A. Yes.

Q. Where has that car been since that time, and since he was arrested in this case?

A. Well, it was -- that night that they was arrested they took it to my uncle's garage and put it in it, and then later on -- I don't know, it was five or six months later, and they was working in the garage, and they had to move it down to my other uncle's garage because they was using the whole entire garage.

Q. Okay. What uncles are you referring to?

A. My Uncle Reese is the first one that kept it.

Q. Is that Reese Sutton?

A. Yes.

1 Q. And the second one?

2 A. LeRoy Sutton.

3 MR. DANIEL: Your Honor, we'll offer that as the
4 next exhibit.

5 THE COURT: Let it be filed.

6 (EXHIBIT #52 - Photograph of Camaro; marked and
7 filed.)

8 BY MR. DANIEL:

9 Q. Mr. Sutton, will you take this pen, and so the jury
10 will understand, show where this thing that you're referring to,
11 the painted on portion, outline it, and draw a picture to it,
12 and I want to ask you some questions.

13 A. You mean just outline where it's painted?

14 Q. Just show the jury so the jury will understand what
15 we're talking about.

16 A. (Witness complies.)

17 Q. For the record, you've marked on Exhibit #52 a
18 circle around the area that's painted, is that correct?

19 A. Yes.

20 Q. And was that painted back in -- before February the
21 21st, 1992?

22 A. As far as I know, yes, it was. I've not painted
23 it on it or nothing.

24 Q. Was it painted at that time? Did it have that on
25 it at that time?

1 A. Yes. Yes, it had the bra, yeah.

2 Q. And that was what you call a painted bra?

3 A. Yes.

4 Q. And what -- can you buy something that you put on
5 there that's similar to what that paint looks like -- a leather
6 outfit?

7 A. Yes, you can buy a leather bra, and put on the
8 front of it.

9 Q. Now, did you know whether or not at the time, back
10 on February the 21st, 1992, the condition of the headlights on
11 that car?

12 A. Yes, whenever Tommy (sic) pulled up in my driveway
13 all of them was working because I can see anybody that comes
14 straight up my driveway.

15 Q. Okay. And when you took the car over did it have
16 headlights on it -- all the headlights were working since you've
17 had it?

18 A. Yes.

19 Q. Has there been any change whatsoever in the
20 headlights as was on that car, as of today, since February 21st,
21 1992?

22 A. I didn't.

23 Q. If you know. You've had it -- is it the same
24 headlights that was in there?

25 A. Yes.

1 Q. Okay. And was there something unusual about the
2 headlights that would -- you could explain to the jury that's
3 unusual that would be on them, such as paint. Explain that to
4 the jury.

5 A. Yes, sir. There's spots of paint on them -- mists
6 of paint where he had painted that bra on there.

7 Q. Okay.

8 MR. DANIEL: May I approach the witness again, Your
9 Honor?

10 THE COURT: Sure.

11 BY MR. DANIEL:

12 Q. Did you, at my request, make some photographs of
13 the vehicle as it is today, and as it was, as far as the
14 headlights, back on February the 21st, 1992?

15 A. Yes.

16 Q. I'll show you here two photographs, and does this
17 show the vehicle with the headlights on bright, and shows all
18 four headlights burning?

19 A. Yes.

20 MR. DANIEL: Your Honor, we'd offer those as the
21 next consecutive exhibits -- they both show the
22 same thing.

23 (EXHIBIT #53 - Photograph; marked and filed.)

24 (EXHIBIT #54 - Photograph; marked and filed.)

25 BY MR. DANIEL:

1 Q. And did you make those pictures, Mr. Sutton?

2 A. Yes, I made them.

3 Q. So we've marked as Exhibits #53 and #54 those
4 photographs that you took which show all the four headlights
5 burning, is that correct?

6 A. Yes.

7 Q. And that's the same headlights that was in that
8 car on February the 21st of 1992?

9 A. Yes.

10 Q. Okay. I'll show you two other photographs, and ask
11 you if you took those photographs?

12 A. Yes, I did.

13 Q. Back at the same time you made these?

14 A. Yes.

15 Q. And that shows the headlights on dim, is that
16 correct?

17 A. Yes.

18 Q. And does that show that both of those headlights...
19 GENERAL SCHMUTZER: Object to his leading his own
20 witness.

21 MR. DANIEL: Well...

22 BY MR. DANIEL:

23 Q. What does that show as far as whether or not both
24 headlights are burning?

25 A. That shows two of them's burning on dim.

1 Q. Okay, on dim.

2 MR. DANIEL: Offer that as the next exhibit.

3 (EXHIBIT #55 - Photograph; marked and filed.)

4 BY MR. DANIEL:

5 Q. And I'll show you another photograph of the same
6 vehicle, and ask you if you can identify that?

7 A. Yes, that's another picture I took of two of them
8 burning on dim.

9 MR. DANIEL: And that will be the next exhibit --
10 #56.

11 (EXHIBIT #56 - Photograph; marked and filed.)

12 BY MR. DANIEL:

13 Q. Mr. Sutton, what this #55 and #56 show is the
14 headlights as they're on dim, is that correct?

15 A. Yes.

16 Q. And these exhibits, which are #53 and #54 show the
17 headlights as on bright?

18 A. Yes.

19 Q. Is that correct?

20 A. Yes, it is.

21 Q. And that's the same headlights that were in that
22 car on February the 21st, 1992?

23 A. Yes.

24 MR. DANIEL: I'd offer those as exhibits, Your
25 Honor.

1 THE COURT: Yes.

2 BY MR. DANIEL:

3 Q. Now, pursuant to my request did you bring that car
4 up here to -- drive it over here to the courthouse today?

5 A. Yes.

6 Q. And did you take an officer of the court with you,
7 in particular, Mr. Maner, who is waiting on the jury here, and
8 did he go outside with you as you removed those headlights?

9 A. Yes, I don't know his name, but I can recognize him
10 if I see him.

11 Q. And are these the headlights that you showed Mr.
12 Maner that you took out of the car?

13 A. Yes, it is.

14 Q. Before you took them out did you turn those
15 headlights on bright, and turn them on dim, and show Mr. Maner
16 that they were working?

17 A. Yes, I did.

18 Q. And these are the headlights that you brought, is
19 that correct? This is the headlights that you brought in here
20 today, is that right?

21 A. Yes.

22 Q. Okay. This headlight, and we don't mark them as
23 to which one, but what is that as shown in the right hand
24 corner, and over in this left hand corner?

25 A. Paint.

1 Q. Okay, sir.

2 MR. DANIEL: Mark this as Exhibit #57.

3 (EXHIBIT #57 - Headlight; marked and filed.)

4 BY MR. DANIEL:

5 Q. Okay, sir. I'll show you, also, another headlight,
6 and ask you was that one of the four that was taken from the
7 car?

8 A. Yes, it is.

9 MR. DANIEL: Offer that as Exhibit #58.

10 (EXHIBIT #58 - Headlight; marked and filed.)

11 BY MR. DANIEL:

12 Q. Another headlight that's taken from the car?

13 A. Yes, sir, that's another one.

14 Q. And then another headlight that was taken from the
15 car?

16 A. Yes, it is.

17 MR. DANIEL: I offer those, Your Honor, as the next
18 exhibits.

19 THE COURT: #59 and #60.

20 (EXHIBIT #59 - Headlight; marked and filed.)

21 (EXHIBIT #60 - Headlight; marked and filed.)

22 MR. DANIEL: Your Honor, can we put these back, and
23 we'll pass these to the jury in a little bit?

24 THE COURT: You sure may.

25 BY MR. DANIEL:

1 Q. Now, Mr. Sutton, those four headlights were all
2 burning when you took them from the vehicle, is that correct?

3 A. Yes, they was.

4 Q. Now, after you -- I'll just go back to -- do you
5 remember the date of the 21st of February of 1992, which would
6 be a Friday?

7 A. Yes.

8 Q. I'll ask you if sometime that afternoon someone -
9 - other than wife, was there some lady there at your house on
10 Friday that ultimately left with your brother and someone else?

11 A. Yes.

12 Q. In particular, Carolyn Weaver. Was she there?

13 A. Yes.

14 Q. Do you know what time she got there to your house?

15 **GENERAL SCHMUTZER:** Your Honor, I'll have to object
16 to his continually leading this man, and telling
17 him...

18 **THE COURT:** Well, he's already answered that
19 question, and then he asked him about the time.
20 So that objection would be overruled, respectfully.

21 **BY MR. DANIEL:**

22 Q. Do you -- Carolyn Weaver, you say, was there?

23 A. Yes.

24 Q. Do you know what time she got there?

25 A. It was earlier that day. I can't -- I really don't

1 know what time she got there that day. It was earlier that day.

2 Q. Okay. Then did she continue to stay there at your
3 house until she left later?

4 A. Yes.

5 Q. And what time was it that anyone else arrived there
6 at your house later that night, and in particular, the
7 defendants?

8 A. Yes. My sister-in-law, she arrived before they
9 did.

10 Q. She came earlier? What's her name?

11 A. Shelly Morris.

12 Q. And what time did she arrive at your house?

13 A. It was around -- probably about 7:00 or so when she
14 come.

15 Q. Do you know what time it was that the --
16 approximately, that the defendant, Gary Sutton, your brother,
17 arrived there at your house?

18 A. It was around about 7:30.

19 Q. And what was he driving at that time?

20 A. He was driving his Camaro.

21 Q. And that's the Camaro that you drove over here
22 today, is that correct?

23 A. Yes.

24 Q. Now, in addition to Gary, was there anyone with him
25 when he arrived?

1 A. Yes.

2 Q. And who was that?

3 A. My uncle, James Dellinger.

4 Q. And that's your uncle?

5 A. Yes.

6 Q. Is that on your mother's side of the family?

7 A. Yes.

8 Q. And you -- getting into this time frame, do you
9 know how long they stayed there at your house, approximately?

10 A. Just guessing, I would say five to 10 minutes,
11 somewhere around there.

12 Q. What was the -- did you have any conversation
13 regarding the Camaro while you were there?

14 A. Yes. My brother said the water pump was leaking
15 bad on it, and asked me if I had one, and I told him I might
16 have one in my garage, that I would look tomorrow.

17 Q. You do some mechanic work yourself?

18 A. Yes.

19 Q. Shade tree type mechanic?

20 A. Yeah.

21 Q. And did he take the Camaro, or did he leave it
22 there at your house?

23 A. He left it at my house.

24 Q. Did he have anything with him when he came in as
25 far as like a beer or anything alcoholic to drink? Did they

1 bring anything...

2 A. Oh, yes. They brought some beer in. I don't
3 know, I think one of them put some in the truck, and then one
4 of them carried theirs on in with them. I don't recall which
5 one, but...

6 Q. You remember what -- did you even see the beer?
7 Did you notice what kind it was?

8 A. No, I didn't.

9 Q. What -- is there any reason that you can remember
10 the time when they arrived there at your house? Were you going
11 to go somewhere?

12 A. Yes, me and my wife was going to go to church.

13 GENERAL SCHMUTZER: Your Honor, I would have to
14 object. I want to move along, but he -- you know,
15 he starts asking him a question, and then he
16 suggests the answer, and he asked him, "Were you
17 getting ready to go somewhere?" And the person
18 there, "Was that Carolyn Weaver?" I'm going to
19 object. Let this man testify to what he knows.

20 MR. DANIEL: I'm trying to speed things up.

21 BY MR. DANIEL:

22 Q. Well, let me just start from scratch then. Was
23 there anything that would call your attention to the fact that -
24 - what time it was that they got there? Anything that would
25 help you remember the time?

1 A. Yes. We was going to go to church.

2 Q. And where were you going to go to church, Mr.
3 Sutton?

4 A. It's a little old church over at Wears Valley. I
5 just call it Mattie's Church. That's what everybody always
6 calls it.

7 Q. And who was going to go with you to church?

8 A. Me and my wife and my kids.

9 Q. And they have services over there on Friday nights?

10 A. Yes.

11 Q. What time was church supposed to start?

12 A. It was supposed to have started at 7:00, and we was
13 running late.

14 Q. Now, you say they stayed there at your house for
15 how long?

16 A. About five or 10 minutes, not no longer.

17 Q. Do you know whether or not anyone used the phone
18 while they were there at your house?

19 A. Well, I think my wife was on the phone with Linda,
20 and I think James talked to her. I can't say that for sure, but
21 I think he did.

22 Q. Okay. Do you know, then, when they left your house
23 what time it would have been?

24 A. I'd say around, probably, 7:30 when they left --
25 you know 7:30, 15 till 8:00, somewhere around there. I -- you

1 know...

2 Q. And when they left, who all left? What people left
3 your house?

4 A. Gary Sutton, James Dellinger, and Carolyn Weaver.

5 Q. And what did they drive when they left?

6 A. My little truck.

7 Q. And what kind of truck is it?

8 A. It's a little Dodge Ram -- one of the small Dodge
9 Rams.

10 Q. Now, did you see them again on that Friday after
11 they left your house?

12 A. Yes, it was -- we...

13 Q. Did you see them again that night after they left
14 your house?

15 A. No.

16 Q. Did you hear later that there had been a fire over
17 at Tommy Griffin's trailer?

18 A. Yes, I did.

19 Q. Could you see the fire from where you live?

20 A. No.

21 Q. Did you go to the scene of the fire?

22 A. No.

23 Q. Then that would have been on Friday, is that
24 correct?

25 A. Yes.

1 Q. When -- was there any gun or anything in your truck
2 whatsoever when they left your house? Did they have any kind
3 of gun or anything in your truck?

4 A. I didn't see no gun that they had.

5 Q. Well, did you have a gun?

6 A. No, I didn't have one in it.

7 Q. And you got to -- that would have been on Friday
8 night. Did you see them on the following Saturday, either one
9 of the defendants?

10 A. No.

11 Q. What about the following Sunday?

12 A. Yes, Sunday real late.

13 Q. And who did you see at that time?

14 A. My brother and my uncle.

15 Q. And what did they -- and what was the reason that
16 they came to your house at that -- or where did they -- where
17 did you see them?

18 A. Well, they pulled up and brought my truck back
19 Sunday night.

20 Q. Did you -- was the Camaro fixed at that time, or
21 did somebody follow them over there, or did one of them follow
22 the other, or what happened?

23 A. Well, I can't remember. I can't remember what they
24 drove up. It was late, and we'd just got back from church that
25 Sunday night.

1 Q. And did they take the Camaro, or did they leave it
2 there at your house?

3 A. They took it.

4 Q. Was it working at that time?

5 A. Well, I thought I had it fixed, but it's leaking
6 again.

7 Q. What did you do for it in order to try and fix it?

8 A. I put some sealant in it, some water pump sealant.

9 Q. Now, did you know Tommy Griffin?

10 A. Yes.

11 Q. What was -- did you ever see him around your
12 brother, Gary?

13 A. Yes.

14 Q. Had he ever been in your home?

15 A. Yes.

16 Q. On few or many occasions?

17 A. Quite a bit.

18 Q. And did he and Tommy -- strike that. Did Tommy and
19 Gary run around together a lot?

20 A. Yes.

21 Q. Okay. Did -- have you ever been over to the area
22 where these -- where Mr. Dellinger lives, and also where Tommy
23 Griffin lived?

24 A. Yes.

25 Q. Are you familiar with that?

1 A. Yes.

2 MR. DANIEL: Your Honor, at this time we have a
3 video we'd like to show the jury. May he step
4 down?

5 THE COURT: Sure.

6 (VIDEOTAPE SHOWN TO JURY)

7 BY MR. DANIEL:

8 Q. All right. Use this, if you will, and you can
9 point to some things. Will you start the video, and just tell
10 the Court and jury what this shows right there.

11 A. Well, Tommy's trailer was setting back in here.

12 Q. Point to us and show us so they'll understand what
13 you're talking about.

14 A. This is the road in front of Tommy's -- where his
15 trailer was.

16 Q. Okay. Which way are you -- can you stop it right
17 there? Whose trailer is this? Can you stop it? Tell us what
18 this shows, then.

19 A. This is the road going into James' home up through
20 here.

21 Q. We're stopping it every so often. Is this the road
22 that goes up through there?

23 A. Yeah, up to James' house. This right up here is
24 Alvin Henry's house -- trailer.

25 Q. That's over on your right?

1 A. Yes.

2 Q. That's what's shown by the video right now.

3 A. This is the trailer -- James' trailer that his step
4 daughter lived in.

5 Q. Whose driveway would that be?

6 A. That's Boyd Branum's driveway to your right of
7 James' trailer -- James and Linda Dellinger's trailer. That's
8 their driveway.

9 Q. Come in it right here?

10 A. Yeah, that's the driveway that goes up to it.

11 Q. And looking up there -- can we stop that now? Is
12 this going back?

13 A. Yeah, that's going back down. This is James and
14 Linda's trailer again on the right there.

15 Q. Does that show the propane tank?

16 A. Yeah, that's the propane tank that put gas in to
17 heat by -- it's setting right in there. That's the trailer and
18 out building. That's Boyd Branum's house on the left, and
19 that's Alvin Henry's trailer on the left going back out.

20 Q. What is this area off to the right right here?

21 A. I don't know those people. They are out of town
22 people, and they just come in...

23 THE COURT: Is that the McDermon's?

24 THE WITNESS: I don't know them.

25 BY THE WITNESS:

1 A. And that's where Tommy's trailer used to set. It
2 didn't set like that. Tommy's trailer was long ways back in
3 there.

4 Q. So his trailer was not setting the same as that?

5 A. No.

6 Q. Okay. Now so you'll understand, this is the same
7 diagram that's been shown -- that's Exhibit #2 -- that's been
8 shown on the video, is that correct? This is the same diagram
9 with the houses, this being the Mayes place, the Tommy Griffin's
10 trailer, McDermon residence, the Henry residence, and his
11 daughter's residence across from the Branum's is that correct?
12 And this is James Dellinger's residence here, is that correct?

13 A. Yes.

14 Q. And Mr. Bud Henry is here?

15 A. Yes, I know him.

16 Q. And that's up in here?

17 A. Yes.

18 Q. Would you have a seat?

19 A. Yeah.

20 Q. Now, I have also some photographs that were taken,
21 and I'll ask you, did you take these photographs -- these
22 polaroids?

23 A. Yes.

24 Q. I'll show you the photograph here, and ask you
25 where is that photograph taken from, and the front of the red

1 truck? Did you make that photograph?

2 A. Yes, I did. I stopped right at Boyd Branum's
3 driveway, and took the picture.

4 Q. Is that his driveway right there to the right?

5 A. Yes.

6 Q. Would you mark on that photograph where Mr.
7 Branum's driveway is -- put an arrow in there so the jury can
8 understand?

9 A. (Witness complies.)

10 MR. DANIEL: We'll offer that as Exhibit #61.

11 (EXHIBIT #61 - Photograph; marked and filed.)

12 BY MR. DANIEL:

13 Q. And you've marked in red the area, and that's the
14 Branum driveway, and can you mark up here on #61 a big circle
15 showing what -- whose trailer this is, and explain that to the
16 Court and jury?

17 A. This is James Dellinger's trailer that I've got the
18 red circle around.

19 Q. Okay.

20 MR. DANIEL: I'd like to pass that to the jury,
21 please, Your Honor.

22 THE COURT: Yes.

23 BY MR. DANIEL:

24 Q. This photograph that I'm showing you here, is that
25 a similar photograph that shows the same area which you

1 described looking toward the...

2 A. Yeah, the one that I just told about a minute ago.

3 Q. All right. Is that made from the same place or...

4 A. Same place.

5 Q. Where you made it from the -- you can't see the
6 driveway off to the right. Is the driveway right there...

7 A. Yeah, it's right of the truck, the driveway is.

8 MR. DANIEL: We offer that as the next exhibit,
9 Your Honor.

10 THE COURT: So ordered.

11 (EXHIBIT #62 - Photograph; marked and filed.)

12 MR. DANIEL: I'd also like to pass that to the
13 jury.

14 THE COURT: Fine.

15 BY MR. DANIEL:

16 Q. And this photograph -- it seems to be -- these
17 photographs, looking in a different direction -- where are those
18 photographs made from, and what is shown in those photographs?

19 A. These photographs is made above James' trailer,
20 like if you was -- like if you went above it, and turned around,
21 and was going to come back out -- back out of there.

22 THE COURT: That shows the back of the trailer?
23 Does that show the back of it?

24 THE WITNESS: Yeah, well part of the -- I don't
25 know if you could say the back -- well, it's just

1 the other side of the trailer.

2 BY MR. DANIEL:

3 Q. Where -- is his trailer shown in this photograph,
4 or is it off to the right? Is Dellinger's -- Mr. Dellinger's
5 trailer shown in those photographs?

6 A. I don't understand the question.

7 Q. Is that his trailer right there?

8 A. Yes.

9 Q. Okay. And that's the same one that's shown where
10 the red truck was shown there, is that correct?

11 A. Yeah, it's the same trailer.

12 Q. And would mark that -- where you're referring to
13 his trailer, just circle that so there won't be any
14 misunderstanding.

15 A. Okay. (Witness complies.)

16 Q. And that's on Exhibit #62. And this is another
17 photograph that shows the same thing that's shown in this one,
18 is that correct?

19 A. Yes.

20 (EXHIBIT #63 - Photograph; marked and filed.)

21 Q. Okay. Now these photographs here, is this also a
22 photograph looking up toward the Dellinger trailer?

23 A. Yes.

24 Q. And is that the Dellinger trailer there where the
25 red truck is parked?

- 1 A. Yes.
- 2 Q. And where is the Branum's driveway as shown in that
- 3 one?
- 4 A. Do you want me to mark on this?
- 5 Q. Yes, would you do that?
- 6 A. (Witness complies.)
- 7 Q. Would you put a "B" so there will be no
- 8 misunderstand right there in that area where the Branum's
- 9 driveway is?
- 10 A. Okay. (Witness complies.)
- 11 Q. That will be fine. And the trailer -- the
- 12 Dellinger trailer is the one here, and if you will, just circle
- 13 it, and would you write the "D" in there -- if it's okay, I'll
- 14 write it. That's the Dellinger trailer, is that correct?
- 15 A. Yes.
- 16 MR. DANIEL: We'll offer that as the next Exhibit,
- 17 Your Honor.
- 18 (EXHIBIT #64 - Photograph; marked and filed.)
- 19 BY MR. DANIEL:
- 20 Q. These other two photographs are just duplicates of
- 21 what we've already filed, is that correct?
- 22 A. Yes.
- 23 Q. Now, were your brother and Tommy Griffin friends?
- 24 A. Yes.
- 25 Q. Been in and out of your house many times, you say?

- 1 A. Yes.
- 2 Q. Do you know whether or not Tommy Griffin ever
3 stayed with your brother?
- 4 A. Yes, I do.
- 5 Q. Do you know whether or not he had a room there that
6 he sleep in or stayed in that was considered his room?
- 7 A. Yes, I sold my brother a water bed, and he said he
8 was buying it for Tommy.
- 9 Q. Do you know about when this was?
- 10 A. Well, from now it would have been, I guess,
11 something like a year and a half or longer ago.
- 12 Q. Some six months or so before this trailer burned,
13 and before he disappeared, is that correct?
- 14 A. Yeah.
- 15 Q. Have you ever been over there when there's anybody
16 shooting rifles and shotguns in the area?
- 17 A. Over where?
- 18 Q. I'm talking about the hollow -- the area there
19 where all these houses are -- or trailers?
- 20 A. Yes.
- 21 Q. And did you ever see anybody shooting from Tommy
22 Griffin's house -- around his trailer there?
- 23 A. No, I've not never been around Tommy's when anybody
24 was shooting.
- 25 Q. Not before this incident occurred, you haven't?

1 A. No, not around Tommy's.

2 Q. All right. Where have you been, and where -- who
3 have you seen shooting, and where it took place, in your own
4 words?

5 A. Well, me and James has shot guns up there, and Gary
6 was with us. We've all shot guns up there.

7 Q. Was Tommy up there when you shot?

8 A. Yes, he's been up there when we've tried guns out
9 and stuff.

10 Q. Did you shoot on more than one occasion?

11 A. Yeah.

12 Q. Did you ever see any persons over there that you
13 didn't know?

14 A. No, I haven't.

15 Q. Okay.

16 MR. DANIEL: Your Honor, we'd like to make the
17 video that we've shown the jury, and if anybody
18 wants to see it again, we'll replay it.

19 THE COURT: Do you want to file that as your next
20 exhibit?

21 MR. DANIEL: We'd like to file it as an exhibit,
22 Your Honor.

23 THE COURT: Okay. That will be what?

24 COURT REPORTER: #65.

25 THE COURT: #65.

(EXHIBIT #65 - Videotape; marked and filed.)

MR. DANIEL: And we'd like to pass these other photographs which have been marked as exhibits to the jury at this time.

THE COURT: You sure may.

MR. DANIEL: I have no further questions at this time, Your Honor.

THE COURT: Any questions, Mr. Miller, of this witness?

MR. MILLER: Yes, Your Honor.

**

CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Sutton, you testified about your brother and Mr. Griffin being good friend?

A. Yes.

Q. You also would agree that James Dellinger was a good friend of both of them?

A. Yes.

Q. And they all ran around together all the time?

A. Yes.

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

THE COURT: General Schmutzer?

**

1 CROSS-EXAMINATION

2 BY GENERAL SCHMUTZER:

3 Q. Mr. Sutton, you say that your brother and James
4 were over at your place on Friday evening -- Friday afternoon,
5 is that right?

6 A. Yeah, after dark, yeah.

7 Q. And they weren't there but just a few minutes?

8 A. Yeah.

9 Q. You said something about going to church. Now,
10 they weren't planning on going to church, were they?

11 A. No, I was.

12 Q. Okay. And you said you've got a little truck --
13 they took a little truck. What color is the truck?

14 A. Well, it was white at the time.

15 Q. Okay. Now, this business of bras -- is that
16 something that you can buy -- you buy to spray on your car, or
17 what?

18 A. No, it's just regular paint.

19 Q. Just regular paint?

20 A. Yes.

21 Q. You can get it about anywhere?

22 A. Yeah.

23 Q. Okay. No further question. Oh, one other thing.
24 When you took this video, or someone took this video, they had
25 already moved from up there. Those cars and stuff there at

1 their trailer, that's not Dellinger's -- he wasn't living there
2 at that time, was he?

3 A. No.

4 Q. Those vehicles there don't belong to him, and have
5 nothing to do with this?

6 A. I don't recognize those vehicles. I don't know who
7 they belong to.

8 Q. Okay. Thank you.

9 MR. DANIEL: Your Honor, that video was taken the
10 last day or so, so there's no misunderstanding.

11 THE COURT: Very well. Is he excused?

12 MR. DANIEL: Yes, Your Honor.

13 THE COURT: You may step down, Mr. Sutton.

14 MR. DANIEL: Diane Sutton, please, Your Honor.

15 THE COURT: Diane Sutton.

16 **

17 DIANE SUTTON was called, and being duly sworn, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. DANIEL:

21 Q. Mrs. Sutton, would you pull up the chair, and speak
22 up loudly so the Court and jury can hear you, ma'am.

23 A. Okay.

24 Q. Would you state your name for the Court and jury,
25 please, ma'am?

- 1 A. Diane Sutton.
- 2 Q. And where do you live?
- 3 A. Ingle Hollow in Sevierville.
- 4 Q. You married?
- 5 A. Yeah.
- 6 Q. What's your husband's name?
- 7 A. Jimmy Sutton.
- 8 Q. That was him that just testified earlier, is that
- 9 correct?
- 10 A. Yeah.
- 11 Q. You have some children, I believe, is that correct?
- 12 A. Two.
- 13 Q. Are you from Sevier County originally?
- 14 A. No, I'm from Ohio.
- 15 Q. Okay. Where -- do your parents live here, and what
- 16 are their names?
- 17 A. My dad lives here, and his name's Darrell Morris.
- 18 Q. And does he work here in the county?
- 19 A. Yes.
- 20 Q. And is your mom still living?
- 21 A. Yes, she lives in Florida.
- 22 Q. Are they separated or divorced?
- 23 A. Yeah, when I was small.
- 24 Q. And you've been married, then, to Jimmy for how
- 25 many years, approximately?

1 A. 16.

2 Q. Now, you realize what we're here over today, and
3 what we want to ask you some questions about, is that correct?

4 A. Yes.

5 Q. You recall the Friday of February the 21st, which
6 would be the day that Tommy Griffin's trailer burned, is that
7 correct?

8 A. Yeah.

9 Q. Did you have a young lady come to see you that day
10 or spend some time with you, and if so, tell us who she is?

11 A. Carolyn Weaver.

12 Q. About what time did she come to see you?

13 A. It was earlier in the afternoon. I really don't
14 know the time.

15 Q. Okay. And did you have someone else come to see
16 you later that night while you all were preparing, maybe, to go
17 somewhere?

18 A. James and Gary.

19 Q. Okay. Did somebody show up before they did? Did
20 somebody drop by there before they got there?

21 A. Not that I can remember.

22 Q. Do you remember, then, where you were going that
23 night?

24 A. Yeah, we was supposed to have went over to church
25 on Friday night, and we didn't -- we didn't go.

1 Q. Who was going to go with you?

2 A. Me and Jimmy, and I think my little girl was there.
3 My little boy was with my dad that night.

4 Q. And do you all attend church over there?

5 A. Some, we've went over there.

6 Q. What's the name of that church?

7 A. I don't know. We've always just called it Mattie's
8 -- you know, a woman that's got it had it built right there at
9 her home place. It's got a name, but I don't know it.

10 Q. Where is it located?

11 A. Wears Valley.

12 Q. Sometime that night did you have an occasion to see
13 the defendant, who would be your brother-in-law, is that
14 correct?

15 A. Right.

16 Q. And did you see him, and if so, tell us about what
17 time it was, and whether or not anybody was with him?

18 A. It was around a little after 7:30, a little before
19 7:30 -- you know, right in around that time. When they pulled
20 up -- you know, we had already decided not to go to church
21 because it was running too late, and it was -- James and Gary
22 pulled up.

23 Q. What were they driving when they came there?

24 A. Gary's Camaro.

25 Q. And we've done shown a picture of that to the jury.

1 Is that the Camaro that's still around at the present time?

2 A. Yeah.

3 Q. And did your husband own any vehicles at that time?

4 A. Yeah. We owned several. When they pulled up,
5 Gary's Camaro was hot, and it was -- a water pump problem or
6 something or another, so he backed it in next to the shed, and
7 he asked Jimmy if he could drive his little truck.

8 Q. Okay. And did they come in the house?

9 A. Yeah, James called -- come in and called Linda, and
10 told her that he was -- they was on their way home, and they
11 talked for a little bit, and then they went on.

12 Q. Did you talk to Linda on the phone?

13 A. Yeah, he handed the phone to me when he was done,
14 and I talked to Linda, and me and Linda was still talking when
15 James and Gary got over there at her house.

16 Q. Could you hear them coming in the house from
17 listening through the telephone?

18 A. Yeah.

19 Q. And what time would that have been, Mrs. Sutton,
20 in your best estimate?

21 A. 10 minutes later, or something like that.

22 Q. How long did they stay there at your house,
23 approximately?

24 A. I don't -- six, seven minutes, maybe 10 -- you
25 know, not long.

1 Q. Not very long?

2 A. No.

3 Q. When they left, did anybody leave with them, or
4 just the two of the...

5 A. No, Carolyn.

6 Q. She rode with them?

7 A. Yeah.

8 Q. And that would have been in James' truck, is that
9 correct?

10 A. Jimmy's truck.

11 Q. Jimmy's truck, I'm sorry. And what color is
12 Jimmy's truck?

13 A. Yellow.

14 Q. Is it painted different colors from time to time?

15 A. Yeah.

16 Q. Do you remember what color it was at that time?

17 A. It could have been white at that time. We had it,
18 and it was three different colors while we had it.

19 Q. Now, that would have been on Friday night. Do you
20 recall hearing anything about a fire over in the area where
21 James lived?

22 A. Yeah, my neighbor's got a scanner, and she called
23 me, and told me there was a fire in the Gibson Hollow, and it
24 scared me because I know that James and Linda had lost their
25 home just -- you know, about a year before, and I called

1 straight over there, and Linda said, no, that it was Tommy's.

2 Q. And did you ever go over there that night?

3 A. No.

4 Q. Did you see either one of the defendants, then, the
5 following day, which would be Saturday?

6 A. No.

7 Q. What about Sunday? Did you see either one of them
8 on Sunday?

9 A. Yeah.

10 Q. And who would that have been?

11 A. James and Gary both.

12 Q. And what was the purpose of seeing them, and where
13 did you see them?

14 A. They brought the little truck back Sunday night.

15 Q. Did you know that -- strike that. Did the Camaro
16 stay there at your all's house -- at your place for a period of
17 time after Gary was arrested?

18 A. After he was arrested?

19 Q. Yes, or did -- where did it go after he was
20 arrested?

21 A. It went to one of his uncle's house for a while,
22 and they work in the garage some painting, so it went to another
23 uncle's garage in Knoxville.

24 Q. Who was the uncle it went to first?

25 A. Reese Sutton.

1 Q. And who is the one in Knoxville?

2 A. LeRoy Sutton.

3 Q. Did you have occasion to see the headlights on that
4 car burning either on Friday the 21st or sometime shortly before
5 and after this incident occurred?

6 A. When they pulled up because -- well, we live up on
7 a hill -- you know, and you always notice headlights coming in.

8 Q. Was there -- did it have all of the headlights
9 burning, or was there any of them out?

10 A. All of them was burning.

11 Q. Did you know that sometime back before that there
12 had been some paint work done on the Camaro?

13 A. Yeah.

14 Q. And that was to the front end of the Camaro?

15 A. Yeah. You know, you can buy like bras -- what they
16 call bras to go on the front of it, and they just painted one
17 on Gary's.

18 Q. Didn't buy it, just put the paint on it?

19 A. Yeah.

20 Q. Were Gary and Tommy Griffin good friends?

21 A. Yeah.

22 Q. Close friends?

23 A. Yeah, they was real close.

24 Q. Been in and out of your home on many occasions?

25 A. Yeah, they come up there a lot, and Tommy always

1 bragged on James and Gary both, how good they was to him, and
2 everything.

3 Q. Do you know that somebody bought a water bed?

4 A. Yeah, Gary -- me and Jimmy bought us another one,
5 and Tommy wanted our old one, so Gary bought it from us for
6 Tommy.

7 Q. To keep in his house, or...

8 A. Yeah, and then Jimmy took it out there, and set it
9 up for him.

10 Q. No further questions.

11 THE COURT: Mr. Miller?

12 **

13 CROSS-EXAMINATION

14 BY MR. MILLER:

15 Q. Mrs. Sutton, you know Shelly Morris, don't you?
16 Shelly Longmire?

17 A. Yeah.

18 Q. And she was over there at your house on Friday
19 evening, also, is that correct?

20 A. Right.

21 Q. She arrived, I think, before Mr. Dellinger and Mr.
22 Sutton?

23 A. Yeah.

24 Q. Okay. And as a matter of fact, I think that's why
25 you all didn't get to go to church?

1 A. Yeah.

2 Q. One person after another kept coming up?

3 A. Yeah, she was leaving to go to my mother's the next
4 day, and she came up there to do her laundry.

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

6 THE COURT: General Schmutzer?

7 **

8 CROSS-EXAMINATION

9 BY GENERAL SCHMUTZER:

10 Q. Mrs. Sutton, of course, Gary Sutton is your
11 brother-in-law?

12 A. Right.

13 Q. And just like his brother, Jimmy, you are very much
14 concerned about him, and you don't want to see him be convicted,
15 do you?

16 A. Yeah, right.

17 Q. Okay. And that truck that Jimmy had -- your
18 husband had was smaller -- much smaller than James' truck?
19 James' is a full size Dodge truck, wasn't it?

20 A. Well, James' truck was a short wheel base, so it
21 kind of made it look smaller, but...

22 Q. It set up much higher, though, than...

23 A. Yeah, there's a difference in them.

24 Q. There's a different -- you can tell the difference
25 in them?

1 A. Yeah.

2 Q. Thank you, ma'am.

3 THE COURT: Is she excused?

4 MR. DANIEL: Just one second, Your Honor.

5 **

6 REDIRECT EXAMINATION

7 BY MR. DANIEL:

8 Q. Mrs. Sutton, he asked you about being your brother-
9 in-law. Would you swear a lie for anybody in this courtroom,
10 ma'am?

11 A. No, I wouldn't.

12 Q. No further questions.

13 THE COURT: You're excused. Next witness.

14 MR. DANIEL: Shelly Longmire, Your Honor, please.

15 THE COURT: Okay. Shelly Longmire.

16 MR. WEBB: Your Honor, may I approach the bench?

17 THE COURT: Yes, you may.

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

19 GENERAL SCHMUTZER: Your Honor, I'm going to need
20 the opportunity to read that...

21 MR. WEBB: We're not calling her right now.

22 GENERAL SCHMUTZER: I thought he just called Shelly
23 Longmire.

24 MR. WEBB: No, this one's on Amy Franklin -- I gave
25 you my copy. I apologize.

1 THE COURT: That's all right. I see your young son
2 in the courtroom.

3 MR. WEBB: Yeah, I want to introduce him here in
4 a little bit.

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

7 **

8 SHELLY LONGMIRE was called, and being duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WEBB:

12 Q. State your name, please.

13 A. Shelly Longmire.

14 Q. And what's your relationship to Diane Sutton?

15 A. I'm her sister.

16 Q. Okay. Let me focus your attention back on last
17 February the 21st -- Friday, February the 21st of '92. Do you
18 recall where you were at?

19 A. I was at -- well, during the day I was at home, and
20 later on that evening I was at Diane's house doing laundry.

21 Q. Okay. I want to focus your attention to that. How
22 do you recall it was that particular Friday?

23 A. Because I was doing my laundry to go to -- I was
24 going to North Carolina the next day.

25 Q. Okay. While you were there did you have the

1 occasion to see either of these defendants here, either Gary
2 Sutton and James Dellinger?

3 A. Yeah.

4 Q. Would you tell the Court and the jury about that?

5 A. Well, I got there -- I went about 7:00, and I had
6 enough time to go in and do my -- put a load in, so they showed
7 up probably about 15 after or 20 after 7:00, and they were there
8 about 10 minutes.

9 Q. Okay. Had your first cycle of laundry almost
10 completed -- or had completed, is that what you're saying?

11 A. I had enough time to -- well, I had to put the baby
12 down, get it in there, so I would say it took me about 20
13 minutes -- you know. I was there about 20, 25 minutes before
14 they got there.

15 Q. Okay. How long did they stay?

16 A. Not long, about 10 or 15 minutes at the most.

17 Q. Were they drinking that day, or do you recall?

18 A. I think they were.

19 Q. Do you recall what they left in?

20 A. They left in Jimmy's truck, a little pickup -- I
21 don't know what make or brand.

22 Q. And was Carolyn Weaver with them? Did she leave
23 with them?

24 A. She left with them, yeah.

25 Q. So she was there when you were there?

CROSS-EXAMINATION

BY GENERAL SCHMUTZER:

Q. And I understood it, you are Diane Sutton's sister?

A. Yes, I am.

Q. That's all.

THE COURT: You may step down.

GENERAL SCHMUTZER: Just one second.

BY GENERAL SCHMUTZER:

Q. Ms. Longmire, just a few days ago were you contacted by someone -- by an officer attempting to talk to you about this?

A. I had a card left on my door step, yes.

Q. And I think later you were contacted and spoken to?

A. I called them.

Q. And I think at that time they wanted to ask you about this, and you told them you didn't have anything to tell them?

A. That's right.

Q. You even denied any relationship at that time, is that right?

A. I didn't deny anything. I just said I had nothing to say.

Q. All right. Thank you.

THE COURT: You may step down.

MR. WEBB: Ma'am, one more question.

**

REDIRECT EXAMINATION

BY MR. WEBB:

Q. Did you tell them that you were going to had to say
in Court today, is that correct?

GENERAL SCHMUTZER: That's leading, Your Honor.

THE COURT: Sustained as to form. If you want to
ask...

BY MR. WEBB:

Q. Did you tell them anything about what you were
going to do about your testimony?

A. I just told them I had nothing to say to them.

Q. Okay.

THE COURT: You may step down. Next witness.

MR. DANIEL: Amy Denise Franklin, Your Honor,
please.

THE COURT: Amy Denise Franklin.

GENERAL SCHMUTZER: That's the one -- if we may
approach, Your Honor?

THE COURT: Yes.

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

MR. WEBB: We don't any objection to a recess.

THE COURT: How long have we been back?

GENERAL SCHMUTZER: I don't know, Your Honor.
That's the one they just handed me. I've not had
an opportunity to look at it -- the two statements

1 REESE SUTTON was called, and being duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WEBB:

5 Q. Mr. Sutton, once you get settled in would you tell
6 the jury your full name, please?

7 A. It's Reese Ray Sutton.

8 Q. And Mr. Sutton, where do you live at?

9 A. On Douglas Dam.

10 Q. Is that here in Sevier County?

11 A. Yes.

12 Q. Are you married?

13 A. Yeah.

14 Q. How long have you been married? Too long?

15 THE COURT: Not a good question, Mr. Webb.

16 BY MR. WEBB:

17 Q. Strike that.

18 THE COURT: We don't want to get you in trouble
19 here.

20 BY THE WITNESS:

21 A. 20 something years, I guess.

22 Q. Okay. What do you do for a living, sir?

23 A. I just run machines, bulldozers and trucks.

24 Q. Excavating type work?

25 A. Yeah, right.

1 Q. Is that what you've done in Sevier County most of
2 your adult life?

3 A. Yes.

4 Q. Your uncle is Gary Sutton -- your nephew?

5 A. My nephew.

6 Q. Do you recall the time that Gary was arrested on
7 these charges?

8 A. Yes, sir.

9 MR. WEBB: And for the record, Your Honor, that was
10 March the 5th.

11 BY THE WITNESS:

12 A. Yeah.

13 Q. At that time, did you have an occasion to come into
14 possession of Gary's automobile?

15 A. Yeah, the same evening.

16 Q. And is that the Camaro?

17 A. Yeah.

18 Q. Okay. Now, when you came into possession of that
19 automobile how long -- tell the jury where you kept it, and how
20 long you kept it.

21 A. I kept it in my garage about six months -- maybe
22 seven, I don't know.

23 Q. Was it under lock and key?

24 A. Yeah.

25 Q. Was it used for anything?

1 A. No, it wasn't touched.

2 Q. Did you do anything other than just start it up to
3 keep the battery charged?

4 A. I started it maybe four or five times.

5 Q. When you took possession of that vehicle, Mr.
6 Sutton, did you notice about the operating condition of the
7 headlights?

8 A. Everything worked on it.

9 Q. Both the bright and the dim?

10 A. The only thing that was the matter with it was the
11 water pump was out.

12 Q. Okay. When you got possession of that -- you've
13 not changed or tampered with the headlights, have you?

14 A. No, I didn't touch nothing on it.

15 Q. Okay. And at the time you took possession of it
16 all the headlights worked on it, both bright and dim, is that
17 correct?

18 GENERAL SCHMUTZER: This is rather leading, Your
19 Honor.

20 THE COURT: He's already testified to it.

21 BY MR. WEBB:

22 Q. Mr. Sutton, we thank you.

23 A. Okay.

24 THE COURT: Mr. Miller?

25 MR. MILLER: No questions.

1 THE COURT: General Schmutzer?

2 GENERAL SCHMUTZER: No questions. I did -- I want
3 to get it straight...

4 **

5 CROSS-EXAMINATION

6 BY GENERAL SCHMUTZER:

7 Q. He's your nephew?

8 A. Yeah.

9 Q. That's all.

10 THE COURT: You may step down.

11 MR. WEBB: I said that backwards. I apologize.

12 THE COURT: LeRoy Sutton is next?

13 MR. WEBB: Yes.

14 THE COURT: LeRoy Sutton.

15 **

16 LEROY SUTTON was called, and being duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WEBB:

20 Q. Mr. Sutton, as you get settled in, tell the jury
21 your full name, please, and where you live.

22 A. LeRoy Sutton. I live in the City of Knoxville.

23 Q. And where are you employed, sir?

24 A. City of Knoxville.

25 Q. How long have you been so employed?

1 A. About 24 years.

2 Q. Okay. What is your relationship with Gary Sutton?

3 A. He's -- he's my brother's kid.

4 Q. At some point -- do you recall when Gary was
5 arrested, is that correct?

6 A. Yeah.

7 Q. And for the record, that's March the 5th. At some
8 point thereafter, did you have an occasion to receive his
9 automobile from Reese Sutton?

10 A. Yeah, I did.

11 Q. And from the time that you got that automobile, how
12 long did you keep it?

13 A. I don't remember when Jimmy come and got it now.

14 Q. Did you keep it for quite a while?

15 A. Yeah, for a good while.

16 Q. When you received possession of that automobile did
17 you have an opportunity at any time to check the condition of
18 the headlights?

19 A. Well, the headlights were burning. They brought
20 it in of the night time after my brother got off from work.

21 Q. Okay. And were both sides -- on either side of the
22 grill, were the headlights working?

23 A. Well, four of them was working when they brought
24 it in.

25 Q. Okay. That's all. Thank you, sir.

1 THE COURT: Mr. Miller?

2 MR. MILLER: No questions, Your Honor.

3 THE COURT: General Schmutzer?

4 GENERAL SCHMUTZER: No questions.

5 THE COURT: You may step down.

6 THE WITNESS: Okay. Thank you.

7 MR. WEBB: Earl Sutton, Your Honor.

8 THE COURT: Earl Sutton. Who will be your next
9 witness after that, Mr. Webb, if you know?

10 MR. WEBB: It may be Miss Franklin.

11 THE COURT: Okay.

12 **

13 EARL SUTTON was called, and being duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. WEBB:

17 Q. Mr. Sutton, for the benefit of the jury, state your
18 full name, and tell the jury where you live at.

19 A. I'm Earl Junior Sutton. I live at 523 Vicksburg
20 Lane, Kodak.

21 Q. And is that -- are you the neighbor of Gary Sutton?

22 A. I am.

23 Q. And as far as you know, are you any relation to
24 Gary Sutton?

25 A. As far as I know, I'm no relation whatsoever.

1 Q. And I believe you are a duly elected constable for
2 that area, is that correct?

3 A. Yes, I am.

4 Q. How long have you been a constable over there?

5 A. Well, this term will make it 12 years, but part of
6 it was in Wears Valley, and I've been -- this will be the second
7 term in Kodak.

8 Q. Okay. Let me ask you a couple of questions, and
9 what I'm going to try to do is focus your attention back to
10 February of last year, okay?

11 A. Yeah.

12 Q. Do you recall about the trailer fire of Tommy
13 Griffin, do you not?

14 A. Well, I remember when it happened. As far as
15 knowing anything about it, I don't know anything about that
16 part.

17 Q. But you remember when it happened?

18 A. Yeah.

19 Q. Let me ask you this, sir. The week or two prior
20 to this trailer fire, do you have any knowledge as to whether
21 or not Gary Sutton was living in his trailer next door to yours?

22 A. Yeah, he was there. Well, there was a few nights
23 that he wasn't there, and I didn't notice him come in, but most
24 of the time he was at home.

25 Q. Okay. Let me ask you this. Have you had occasion,

1 just prior to that, to see Gary Sutton coming home at night?

2 A. Yeah.

3 Q. And did you have occasion to look and see that it
4 was his car pulling into his driveway?

5 A. Yeah.

6 Q. And could you tell this jury whether or not his
7 headlights were working?

8 A. Well, as far as I know, all four of them was
9 working -- I don't know, but he always had lights on each side.
10 I live a pretty good distance from him, but he did have lights
11 on each side.

12 Q. Okay. Do you recall that following Sunday, which
13 would have been the 23rd? You may or may not, I don't know.

14 A. Well, not specific.

15 Q. What I'm going to ask you -- do you recall Gary
16 Sutton gave over that -- strike that -- that morning on Sunday?

17 A. I know he was there on Saturday, but I can't
18 remember whether he come over on Sunday or not. He was there
19 on Saturday. He didn't stay too long on Saturday, but I do
20 remember him coming home on Saturday there for a little while.

21 Q. And you don't recall Sunday?

22 A. No, I don't.

23 Q. That's fine. Have you ever seen Tommy Griffin over
24 at Gary's house?

25 A. Yeah, I have -- I met him. That's the only place

1 that I ever met him. I didn't know the boy at the time, and
2 how come me to remember him was on account he had one bad leg.

3 Q. Okay. And would you describe, for the benefit of
4 the jury, the relationship that you saw Gary Sutton and Tommy
5 Griffin have?

6 A. Well, when I was around him at that one particular
7 time they seemed like good friends -- I mean, he introduced me
8 to him.

9 MR. WEBB: Could I have one moment, Your Honor,
10 with counsel?

11 THE COURT: Yes.

12 BY MR. WEBB:

13 Q. Constable Sutton, we thank you. That will be all
14 I have.

15 A. Okay.

16 THE COURT: Hold on, Mr. Sutton, just a minute.
17 Any questions, Mr. Miller?

18 MR. MILLER: No questions, Your Honor.

19 THE COURT: General Schmutzer may have some
20 questions.

21 **

CROSS-EXAMINATION

BY GENERAL SCHMUTZER:

Q. You say you are next door neighbors there?

A. Yeah.

Q. And when you're talking about him being home, now, specifically on the night of this fire he sure wasn't home, was he?

A. Not as I know of.

Q. And he wasn't home on Saturday night either, just came in a little while on Saturday and left?

A. Yeah.

Q. He wasn't home that night, was he?

A. Not as I know of.

Q. And as far as all the headlights burning, you don't know. You say that you think there was lights on both sides.

A. I know there was lights on both sides, but whether all four of them was burning or not, I don't know.

Q. You just don't know. That's all.

THE COURT: Is he free to go?

MR. WEBB: Yes.

THE COURT: You are free to go, Mr. Sutton. Thank you. Next witness.

MR. WEBB: Your Honor, Amy Franklin.

GENERAL SCHMUTZER: That was the one, Your Honor.

MR. WEBB: Do you want to take a couple of minutes?

1 GENERAL SCHMUTZER: Well, we're going to have to,
2 Your Honor, we just got it.

3 MR. WEBB: Let me call another witness, Your Honor,
4 and I'll -- Your Honor, we'll call Kent Hatcher.

5 THE COURT: Kent Hatcher, Sheriff Ogle.

6 SHERIFF OGLE: He doesn't answer, Your Honor.

7 THE COURT: Do you know whether Mr. Hatcher was,
8 outside the courtroom or...

9 MR. WEBB: No, Your Honor, I don't. I apologize...

10 SHERIFF OGLE: Your Honor, Lieutenant Hatcher has
11 left for the day -- left duty for today, and they
12 are attempting to call him.

13 MR. WEBB: It just depends on the flow of things,
14 Your Honor, on that.

15 THE COURT: I guess we better take a break, then,
16 and let you all review the other matters.

17 MR. WEBB: We've got another witness -- we'd like
18 to keep it somewhat in order, but...

19 THE COURT: I understand that. I will take a short
20 recess to try to determine if the other witnesses
21 are presently available, and give the State the
22 opportunity to look at those other items. So we'll
23 take a 10 minute recess. It's my hope, ladies and
24 gentlemen, and don't hold me to this, but it is my
25 hope that we can conclude the proof in this case

1 here today. I hope. I intend to stay as long as
2 reasonably possible in order to conclude the proof
3 in this case today.

4 (COURT STOOD IN RECESS)

5 THE COURT: Bring the jury back.

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. MILLER: Yes, Your Honor.

11 MR. DANIEL: Yes, Your Honor.

12 THE COURT: You may be seated, and if you'll file
13 those things back with the court reporter. Has everybody gotten
14 a chance to read those three exhibits? Good.

15 MR. WEBB: Amy Franklin, Your Honor.

16 THE COURT: Amy Franklin.

17 **

18 AMY FRANKLIN was called, and being duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. WEBB:

22 Q. Ma'am, if you would, tell the jury your name,
23 please.

24 A. Amy Denise Franklin.

25 Q. And do you live here in Sevier County?

1 A. Yes, sir.

2 Q. And do you work at Five Oaks?

3 A. Yes, sir.

4 Q. Do you know Mr. James Dellinger?

5 A. Yes.

6 Q. Would you tell the Court and jury what your
7 relationship to him is?

8 A. He was my uncle for about 13 or 14 years.

9 Q. By marriage?

10 A. Yeah, my mom was married to his brother.

11 Q. Okay. And do you know Gary Sutton?

12 A. Yes.

13 Q. And are you and Gary Sutton friends?

14 A. Yes.

15 Q. And in the past, did you all run around some
16 together?

17 A. Yes.

18 Q. Ma'am, let me focus your attention February of last
19 year, okay, and particular, Sunday, February 23rd of last year,
20 okay? Do you recall that day?

21 A. Yes.

22 Q. Would you tell the jury briefly how you recall --
23 strike that. Did you have an occasion to make contact with Gary
24 Sutton that day?

25 A. Yes.

1 Q. And would you tell the jury what time, and how you
2 made contact with him on that Sunday?

3 A. I called him Sunday morning about 9:30 the first
4 time, and talked to him, and then...

5 Q. Okay, let me slow you down. Were you at home?

6 A. Yes.

7 Q. And where did you call him at?

8 A. He was at Linda and James' house.

9 Q. Okay. Did you actually speak to him?

10 A. Yes.

11 Q. Did you have a conversation with him for any
12 duration?

13 A. Yes.

14 Q. How long did you talk to him?

15 A. Oh, I talked to him about three or four times that
16 day.

17 Q. Okay, we're just talking about the first time.

18 A. The first time I talked to him for about 30
19 minutes.

20 Q. Okay. And then just to press forward, did you have
21 an occasion to call him again?

22 A. Yes.

23 Q. And tell the jury under what circumstance that
24 happened?

25 A. What do you mean under what circumstance?

1 Q. In other words, how did you get to call him again?
2 Did he ask you to call him back?

3 A. Yes, he asked me to call him back.

4 Q. How long did he ask you to wait before you called
5 him back?

6 A. About 15 or 20 minutes.

7 Q. And did you then call him back for a second time?

8 A. Yes.

9 Q. And what time would that call have been made?

10 A. I'd say about 10:30 or 11:00, 15 till 11:00 --
11 somewhere in there.

12 Q. Okay. And after that phone call did you have an
13 occasion to actually go over to the Dellinger residence?

14 A. Yes.

15 Q. Okay. Just describe, and tell the jury what you
16 did.

17 A. My niece came and picked me up, and we went up to
18 Uncle James' house, and when we got up there, Gary was gone with
19 Carolyn. We set there and talked to Uncle James for a while,
20 and then we left.

21 Q. Okay. Did you ever happen to see -- did you go in
22 the direction of where Gary lived over on Douglas Dam Road?

23 A. Yes, we went to his house over there.

24 Q. Did you happen to see him there, or as you were
25 going, did you happen to see him pass you?

- 1 A. Yes.
- 2 Q. Which one? Did you see him there?
- 3 A. I saw him -- he was passing us on his way back to
- 4 James' house when we were on our way over there.
- 5 Q. And did you recognize that to be him?
- 6 A. Yes.
- 7 Q. Did you recognize whether or not anyone was with
- 8 him?
- 9 A. Carolyn.
- 10 Q. And did you recognize her?
- 11 A. Yes.
- 12 Q. And what vehicle were they driving, do you recall?
- 13 A. Linda's Oldsmobile.
- 14 Q. And did you then turn around, and go back to James'
- 15 house?
- 16 A. Yes.
- 17 Q. And while there, did you talk to Gary again, and
- 18 how long did that conversation take?
- 19 A. About 30 minutes, maybe.
- 20 Q. And what did you do after that?
- 21 A. Went back home.
- 22 Q. And I take it -- was the purpose of your call to
- 23 see if Gary would leave with you -- go with you?
- 24 A. Yes, sir.
- 25 Q. And that just wouldn't work out that day, is that

1 correct?

2 A. Right.

3 MR. WEBB: May I have one moment with counsel, Your
4 Honor?

5 THE COURT: Yes.

6 BY MR. WEBB:

7 Q. I think I asked you this, but you made a call to
8 the Dellinger residence about 9:30 to talk to Gary, is that
9 correct?

10 A. Yes.

11 Q. Okay. And then the other calls...

12 GENERAL SCHMUTZER: Object to repetition, Your
13 Honor, and leading, and everything else.

14 THE COURT: It's a little leading.

15 MR. WEBB: It is.

16 BY MR. WEBB:

17 Q. Did Gary ever call you?

18 A. Yes.

19 Q. What time was that?

20 A. What time did he call me? He called me before I
21 went up there.

22 Q. That will be all.

23 THE COURT: Mr. Miller?

24 **

1 CROSS-EXAMINATION

2 BY MR. MILLER:

3 Q. Ma'am, when you went up to your Uncle James' to see
4 Gary, and you say Gary wasn't there, your Uncle James was there,
5 is that correct?

6 A. Yes.

7 Q. What time was that, as best you remember?

8 A. About 12:00.

9 Q. And then when you went back -- did you go back up
10 to James' house later?

11 A. Yes, sir.

12 Q. And was your Uncle James there at that time?

13 A. Yes.

14 Q. What time was that?

15 A. It was probably about 1:30 or 2:00.

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

17 THE COURT: General Schmutzer.

18 **

19 CROSS-EXAMINATION

20 BY GENERAL SCHMUTZER:

21 Q. When you talk about Uncle James, who are you
22 referring to?

23 A. James Dellinger.

24 Q. And you say he's your uncle, and Gary Sutton is
25 your former boyfriend?

1 A. No, he's never been my boyfriend.

2 Q. You didn't say that you used to date him?

3 A. No, I never used to date him. I said we were
4 friends. We've went out on occasion, but not really as
5 boyfriend and girlfriend.

6 Q. Well, do you remember giving a statement to an
7 investigator that was working for Gary Sutton, don't you?

8 A. Yes.

9 Q. And when you gave him that statement isn't it true
10 that he asked you, he said, "You're not dating him now, are
11 you?" And you said, "Oh, no."

12 A. Right.

13 Q. And they said, "Well, if he were to get out, would
14 you?" And you said, "No, I've got a boyfriend now. I'm dating
15 his little brother now.

16 A. Right.

17 Q. So you are -- you're dating his brother now, is
18 that right? What's his name?

19 A. Ralph Junior Parton.

20 Q. And I believe that while that investigator was
21 talking to you he told you the main thing he was concerned about
22 was that they didn't have an alibi for that Sunday morning, is
23 that right? And you performed that -- you could given an alibi
24 for Sunday morning.

25 A. I talked to Gary that day, yes, I did.

1 Q. Well, I'm saying that the investigator, when he
2 talked to you, told you that one of their main concerns, they
3 didn't have an alibi for Sunday, isn't that true?

4 MR. WEBB: Your Honor, I would object to that.
5 That's being argumentative with the witness.

6 GENERAL SCHMUTZER: I'm not being argumentative,
7 I'm asking...

8 MR. WEBB: She can tell what she knows, and that's
9 all she can tell. She can't tell what anybody else
10 has said to her.

11 GENERAL SCHMUTZER: I'm sorry, Your Honor, may we
12 approach the bench?

13 THE COURT: Yes.

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

15 THE COURT: Do what?

16 GENERAL SCHMUTZER: I simply asked what the
17 investigator told her. I don't know why she can't
18 testify to what someone told her.

19 THE COURT: She can answer what was asked of her.

20 MR. WEBB: That's fine.

21 THE COURT: As to why she answered a question as
22 she did -- if it's contained in that statement, she
23 may...

24 MR. WEBB: It was at the last part of the
25 statement, after she'd told everything she knew.

1 THE COURT: Well, if she...

2 GENERAL SCHMUTZER: It's right here. "The main
3 thing I was concerned with was that they -- on
4 Sunday, they don't have an alibi that morning. You
5 can be their alibi."

6 MR. WEBB: That's fine.

7 GENERAL SCHMUTZER: Okay.

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

10 BY GENERAL SCHMUTZER:

11 Q. Ms. Franklin, as I was asking you, isn't it true
12 that the man that took this statement from you told you that the
13 thing he was concerned about was that that day, Sunday morning,
14 they didn't have an alibi for that morning, and you could be
15 that alibi?

16 A. Yes, sir.

17 Q. And you told him that if you could help, you would
18 be?

19 A. Yes.

20 Q. And, of course, you want to help him any way you
21 can, don't you?

22 A. Yes.

23 Q. No further questions.

24 **

1 REDIRECT EXAMINATION

2 BY MR. WEBB:

3 Q. Let me ask you this, ma'am. When you talked to
4 this investigator, did you tell him what you've told this jury?

5 A. Yes.

6 Q. And there was no mention of an alibi at that time
7 when you told him what you've told this jury, was there?

8 A. No, not while he was questioning me, no.

9 Q. He made that comment to you at the last, didn't he?

10 A. Yes.

11 Q. Ma'am, are you here to lie for anybody?

12 A. No.

13 Q. Is what you've told this jury the truth?

14 A. Yes.

15 Q. That's all.

16 THE COURT: You may step down.

17 MR. WEBB: Your Honor, we call Kent Hatcher.

18 THE COURT: Kent Hatcher. Sheriff Ogle, has Mr.
19 Drinnon been able to be located?

20 SHERIFF OGLE: Your Honor, he has not at this time.

21 THE COURT: Okay. Thank you.

22 **

1 KENT HATCHER was called, and being duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WEBB:

5 Q. State your full name, and your position.

6 A. Kent Hatcher, Lieutenant with the Sevier County
7 Sheriff's Department.

8 Q. And Mr. Hatcher, is it the policy of the Sevier
9 County Sheriff's Department to keep a jailer's log?

10 A. Yes, it is.

11 Q. And the purpose of this log is to set down times
12 and events regarding inmates, is that correct?

13 A. Yes.

14 Q. And these events or activities include the movement
15 of prisoners, including the visits they have, any unusual
16 activities, and requests to speak to sheriffs or detectives, or
17 that type of thing. Is that a fair statement?

18 A. Yes.

19 Q. And regarding Gary Sutton, I take it that you are
20 especially concerned with monitoring his activities?

21 A. Yes.

22 Q. In other words, they are held in -- he's held in
23 maximum security?

24 A. Yes.

25 Q. You recall giving earlier testimony, do you not,

1 in this case?

2 A. Several months ago, yes.

3 Q. And on that occasion I asked you then, as I do now,
4 for you to bring your jail logs for the period of March 7th
5 through March 9th. Did you do that today, sir?

6 A. You didn't ask for that today.

7 Q. Okay. Let me see if you can testify without those,
8 and if you can, fine, and if you can't, I'll have to ask him to
9 get them. He's under subpoena to bring those.

10 A. Do you still have the copies that I gave you last
11 time?

12 Q. I do, and I'll show you that.

13 A. Okay.

14 Q. Concerning March the 7th, was there anywhere during
15 that time period wherein there's an entry in your jail logs
16 where Gary Sutton asked a jailer, specifically Chester Owenby,
17 to speak with the sheriff or any other law enforcement
18 personnel?

19 A. I would have to look at the logs.

20 Q. Okay. I'll let them do that, and I'll move on.
21 We'll ask that question.

22 THE COURT: Have you got the copy of the logs?

23 MR. WEBB: Your Honor, I have the -- do we have a
24 copy of those -- March 7th?

25 THE COURT: To save some time, if they would

1 stipulate that that is the copies that...

2 MR. WEBB: Your Honor, this was previously marked
3 an exhibit.

4 THE COURT: That's fine, it can be re-marked.

5 BY MR. WEBB:

6 Q. Now, this is the time period for March the 7th, and
7 if you'll briefly review that, and see anywhere on that day of
8 March the 7th where there is an entry where Gary Sutton asked
9 Chester Ownby to see the sheriff or any other law enforcement
10 personnel.

11 A. Chester wouldn't be making a log entry.

12 Q. Okay. What I'm asking you, is there any entry
13 about a jailer making an entry where Gary Sutton asked to speak
14 to the sheriff or any other law enforcement personnel?

15 THE COURT: On what date are you referring to?

16 MR. WEBB: March the 7th, Your Honor.

17 BY THE WITNESS:

18 A. I don't see anything on the 7th.

19 Q. Okay.

20 MR. WEBB: Your Honor, if I may approach the
21 witness?

22 THE COURT: You may.

23 MR. WEBB: I'd like to have this marked as the
24 defendants' next exhibit.

25 (EXHIBIT #66 - Jailer's log; marked and filed.)

BY MR. WEBB:

Q. And Chester Ownby is a jailer, is that correct?

A. Yes.

Q. Okay. Now, Mr. Hatcher, these jail logs are prepared when an event occurs?

A. Yes.

Q. And the times as set forth in those logs, they're accurate?

A. Yes.

Q. And these logs are kept in the regular course of business?

A. Yes.

MR. WEBB: Your Honor, if I may approach?

THE COURT: You may.

BY MR. WEBB:

Q. If I could ask you to review this.

MR. WEBB: This is a copy, Your Honor, that's been previously marked as an exhibit.

BY MR. WEBB:

Q. Mr. Hatcher, can you identify that document for the jury, please?

A. It's a copy of the jail log.

Q. And what's the date?

A. March 9th, 1992.

Q. And if you will, sir, will you read the entry on

1 line seven?

2 A. "11:42 a.m. Corrections Officer Clayton and
3 Sergeant Mayes escorted Gary Sutton to interview room to see
4 Chief VonCannon."

5 Q. Okay.

6 MR. WEBB: If I may approach, Your Honor, I'd like
7 that to be marked the next exhibit.

8 (EXHIBIT #67 - Jailer's log; marked and filed.)

9 BY MR. WEBB:

10 Q. So according to the jail log, Gary Sutton was
11 escorted from his cell to the interview room at 11:42 a.m., is
12 that correct?

13 A. Yes, sir.

14 Q. And from where Gary Sutton was kept, approximately
15 how long would it take to get him from the -- from his cell to
16 the interview room considering the opening and closing procedure
17 that you have to go through over there at the jail?

18 A. Somewhere around five minutes.

19 Q. So if you add -- just simple mathematics, Mr.
20 Hatcher, would you agree that 11:42 and five minutes equals
21 11:47 -- just simple mathematics?

22 A. Yes.

23 Q. And so I take it from your testimony the earliest
24 Gary Sutton could have gotten to the interview room was 11:47,
25 is that correct?

1 GENERAL SCHMUTZER: I'm going to object as to
2 leading.

3 THE COURT: Sustained as to form.

4 BY MR. WEBB:

5 Q. What's the earliest, based upon the math that we
6 just went through, and for the benefit of this jury, what's the
7 earliest that Gary Sutton could have gotten to the interview
8 room?

9 A. The earliest -- I don't know, a few minutes.

10 Q. Okay. 11:47?

11 A. I couldn't say exactly what time it would be, no.

12 Q. Okay. But according to the math that you just
13 testified to the jury, 11:47 a.m., is that correct?

14 A. Yeah.

15 Q. That's all.

16 THE COURT: Mr. Miller?

17 MR. MILLER: No questions, Your Honor.

18 THE COURT: General Schmutzer?

19 GENERAL SCHMUTZER: No questions.

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

21 MR. WEBB: Your Honor, we'll call Justin Sutton.

22 THE COURT: Justin Sutton.

23 **

1 JUSTIN SUTTON was called, and being duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WEBB:

5 Q. Justin, tell the jury your name, please.

6 A. Justin Aaron Sutton.

7 Q. And who is your mom and dad?

8 A. Jimmy and Diane Sutton.

9 Q. And is Gary related to you?

10 A. Yes, sir, he's my uncle.

11 Q. Okay. Justin, are you familiar with the area where
12 your Uncle James lives?

13 A. Yes, sir.

14 Q. Or used to live.

15 A. Well, yeah.

16 Q. About a year ago did you know where he lived?

17 A. Yeah.

18 Q. Okay. And do you know where Tommy Griffin lived?

19 A. Yeah.

20 Q. And do you know where David Branum lived?

21 A. Yeah.

22 Q. Now, who is David Branum?

23 A. Connie and Roy Branum's son.

24 Q. Was he a friend of yours?

25 A. Yeah.

- 1 Q. Did you used to play with him?
- 2 A. Yeah.
- 3 Q. Did you have an occasion before last February to
- 4 go over there, and play?
- 5 A. Yeah.
- 6 Q. Did you ever see any shells over there?
- 7 A. Uh-huh (affirmative.)
- 8 Q. Just tell the jury where you would see these
- 9 shells.
- 10 A. Lying on the ground, and in the woods.
- 11 Q. Was it at one house or everybody's house?
- 12 A. Everybody's house.
- 13 Q. Okay. Did you have an occasion to play with those
- 14 shells?
- 15 A. Uh-huh (affirmative.)
- 16 Q. And do you know the difference between a shotgun
- 17 shell and a rifle shell?
- 18 A. Uh-huh (affirmative.)
- 19 MR. WEBB: If I could have an exhibit...
- 20 THE COURT: They're right over there, Mr. Webb.
- 21 BY MR. WEBB:
- 22 Q. Now, what kind of shell is this that I'm holding
- 23 up?
- 24 A. A shotgun shell.
- 25 Q. Okay. Did you see shells that looked like this

1 over in that hollow?

2 A. Yeah.

3 Q. Okay. Now, how about other shells, did you see any
4 other shells?

5 A. Yeah.

6 Q. That looked different from this?

7 A. Yeah.

8 Q. Tell the jury what they looked like.

9 A. They was a little bit longer, and they had a bigger
10 end, and the end come down in a point.

11 Q. How long were they, different sizes or...?

12 A. Some of them would be that long, and some of them
13 would be that long.

14 Q. Okay. Did David Branum play with them?

15 A. Yes, sir.

16 Q. Both types?

17 A. Yeah.

18 Q. Okay. What would you all do with them?

19 A. Throw them at the rocks and sand, and throw them.

20 Q. Throw them?

21 A. Yeah.

22 Q. Would you ever throw them at one another?

23 A. Yeah.

24 Q. Do you know Connie's car?

25 A. Yeah. I don't know what the name of it was, but...

- 1 Q. Do you know the car she drove back then?
- 2 A. Uh-huh (affirmative.)
- 3 Q. Did you and David ever play in that car?
- 4 A. Uh-huh (affirmative.)
- 5 Q. Did you ever play in shells in that car?
- 6 A. We've had them in our pocket and stuff.
- 7 Q. Were there ever occasions where you all threw the
- 8 shells at one another while one was setting in the car, and the
- 9 other was outside?
- 10 A. Yes.
- 11 Q. Okay. Have you ever seen this type of shell up
- 12 there?
- 13 A. Uh-huh (affirmative.)
- 14 Q. This one's not as pretty as the ones that you saw.
- 15 And so you and David would play with the shells...
- 16 GENERAL SCHMUTZER: Object, now, Your Honor, to him
- 17 leading him. I would object to it.
- 18 THE COURT: Sustained.
- 19 BY MR. WEBB:
- 20 Q. Justin, let me -- did you and/or David ever throw
- 21 shells in or out of that car?
- 22 A. Yes.
- 23 Q. Did you throw them in or throw them out, or both?
- 24 A. Both.
- 25 Q. Okay. Now, you've talked to me about this before,

1 haven't you?

2 A. Uh-huh (affirmative.)

3 Q. And are you telling the truth today?

4 A. Yeah.

5 Q. Has anybody forced you to say anything?

6 A. No.

7 Q. That's all.

8 THE COURT: Mr. Miller?

9 MR. MILLER: No questions, Your Honor.

10 THE COURT: General Schmutzer?

11 **

12 CROSS-EXAMINATION

13 BY GENERAL SCHMUTZER:

14 Q. You say Gary is your uncle?

15 A. Yes.

16 Q. That's all.

17 THE COURT: You may step down, young man. Next
18 witness.

19 MR. WEBB: Your Honor, we have Mr. Drinnon. I
20 think Mr. Miller wanted to call him, and I don't
21 want to preclude him from doing that, but that's
22 a witness that we would like to call as well.

23 THE COURT: Approach the bench, counsel.

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

25 THE COURT: Is that the only -- is that the

1 remaining witness that you gentlemen have?

2 MR. DANIEL: Unless -- I'm thinking out loud --
3 unless the defendant testifies, and there's good
4 possibility he would testify, Judge. I'm not going
5 to tell you straight up that he will, but there is
6 a possibility.

7 THE COURT: The Court, of course, is charged with
8 the responsibility of effectively managing the time
9 spent by this jury, and the Court, and the
10 witnesses, and -- you know, obviously, the Court
11 cannot make your client testify, either of them,
12 and I certainly wouldn't do that, but the Court -
13 - I understand that Mr. Drinnon is under subpoena,
14 but he's not here. He has been here, and he's not
15 here. What I will do is, if you have other proof
16 that you want to go forward with now, and then
17 finish here this afternoon, then if the State has
18 their rebuttal, I will let you put that on. If Mr.
19 Drinnon should show up in the morning, I will let
20 you put your witness on, and if you have any
21 rebuttal to Mr. Drinnon, I will let you put that
22 on.

23 GENERAL SCHMUTZER: Judge, it's almost 6:00.

24 THE COURT: I understand that, General.

25 GENERAL SCHMUTZER: I was just asking the Court -

1 - if they're going to put this defendant on, I
2 would submit to the Court that it would seem to me
3 it would be much better to break now, and if they
4 don't put him on, then rebuttal, and go. That will
5 give them an opportunity to find Mr. Drinnon. It
6 may very be he's in Loudon at work, but I would not
7 want Mr. Drinnon to come in after my rebuttal. In
8 other words, I wouldn't want them to have the whole
9 case, and all the sudden here comes a witness out
10 of the dark -- you know. It just underlines, I
11 think -- it would be out of place, and everything.
12 I don't think it would cause anymore delay.

13 **THE COURT:** Until the morning?

14 **GENERAL SCHMUTZER:** Well, either way, I think
15 you're going to -- well, the only thing would be
16 with my rebuttal, would be the only thing.

17 **THE COURT:** Right.

18 **GENERAL SCHMUTZER:** That would be the only thing.
19 My rebuttal is going to be short, though, I think.
20 I don't think it's going to be extremely long at
21 all.

22 **THE COURT:** Gentlemen, the jury has been -- you
23 know, has been asked to sit out a considerable
24 length of time. The Court wants to be able to come
25 back in the morning, except for the -- if Mr.

1 Drinnon is available, and if he's not available,
2 he's not available -- but to argue this case and
3 charge the jury at that time. That's what I'd like
4 to do.

5 **GENERAL SCHMUTZER:** I understand. My only point,
6 Your Honor, and I won't belabor the point, is only
7 that if the defendant were to testify it would take
8 a long -- we're talking about a long period of
9 time, and then I would still have my rebuttal --
10 you know, and it would go very late, and then
11 you've got -- if he comes back in the end.

12 **THE COURT:** If the defendant Sutton is going to
13 testify -- in the first place, the Court doesn't
14 know if Mr. Drinnon is going to be found. So what
15 I'm offering to let you do is if you want to put
16 Mr. Sutton on, I will give you that opportunity to
17 do that, and if Mr. Drinnon should come in in the
18 morning, I would let him testify. But if he
19 doesn't, I would like to go on and...

20 **MR. DANIEL:** If he shows up after they've put their
21 rebuttal on, we can put him on -- after they
22 rebuttal, is that what you're saying?

23 **THE COURT:** Sure would, because they could put on
24 sir rebuttal anyway. I understand the problem it
25 creates, but folks, we've been here since Tuesday

1 of last week, and if we're this close to finishing
2 this proof -- I've got two alternate jurors sitting
3 there that we need to...

4 **GENERAL SCHMUTZER:** I understand where the Court's
5 coming from.

6 **MR. WEBB:** I think we all understand where the
7 Court's coming from. I'm not sure that it puts us
8 in the best position based on what the Court's
9 saying, but to have a client testify, if he's going
10 to -- I don't know if he's going to or not, but we
11 may be forced to make that decision, but I hate for
12 him to testify before all the defense witnesses are
13 in, and I think the Court understands that.

14 **THE COURT:** I understand the situation, and I had
15 a similar case in Cocke County, the Caughron case.
16 You know, I cannot make -- I can never make a
17 client choose exactly when that client is going to
18 testify. Under the old law, a defendant had to
19 testify first, and that was ruled unconstitutional.
20 So I know I can't do that, but as the manager of
21 the jury's time, I think the Court has reasonable
22 discretion, and if your client -- certainly I would
23 -- even if Mr. Drinnon had been here, I understand
24 he would have been a fairly short witness, not an
25 exceeding long witness. So I think your client

1 would have had to have made that decision anyway
2 here today. So I think it's only fair to the
3 system for him to make that decision.

4 **MR. WEBB:** Since Mr. Drinnon's under subpoena, is
5 there anyway to declare him unavailable? We've got
6 his statement, and know what he's going to say.

7 **THE COURT:** What do you say to that, General
8 Schmutzer?

9 **GENERAL SCHMUTZER:** I would say, Your Honor, that
10 that would not be -- I don't think he is
11 unavailable. He was here.

12 **THE COURT:** Let's see -- 804. "He's absent from
13 the hearing, and the proponent of a statement has
14 been unable to procure the declarant's attendance
15 by process."

16 **MR. WEBB:** Which we have. He's been under
17 subpoena.

18 **GENERAL SCHMUTZER:** And been here.

19 **MR. WEBB:** Well, I wouldn't know him if I saw him.

20 **GENERAL SCHMUTZER:** He's been here. Well, I think,
21 Ms. Perkins -- when you all had them take down
22 names did she not take down his name that day?

23 **MR. WEBB:** I don't know.

24 **THE COURT:** All that comes in under that, if he's
25 unavailable, is either former testimony, statement

1 of impending death, statement against interest, or
2 statement of personal family history.

3 MR. WEBB: You're saying if he were unavailable it
4 is excluded...

5 THE COURT: I'm sorry?

6 MR. WEBB: You are saying under the rule it would
7 be excluded, what he would testify to? Is that as
8 I understand Your Honor?

9 THE COURT: If -- even if he were unavailable, his
10 previous statement could not be admissible under
11 804.

12 MR. WEBB: Your Honor, let me pose this question
13 to you. I don't know if it helps or hurts, but of
14 course, I don't know that anybody is ever right,
15 but our position is that he has some information
16 that can aid our defense.

17 THE COURT: I understand that, and if we knew at
18 this juncture he was coming, I -- you know, it
19 would be in a different posture, but if we set here
20 today -- as I understand your statement, Mr. Webb,
21 you wouldn't know him if you saw him, so how do I
22 know if he's coming or not coming?

23 MR. WEBB: The only answer I can give you to that
24 is that he's under subpoena, and required to be
25 here.

1 THE COURT: I understand that, but he's not here,
2 and if he was here earlier -- you know, at this
3 juncture I don't think I can make that judgment,
4 can it?

5 MR. WEBB: What judgement is that?

6 THE COURT: That he's coming -- can I?

7 MR. WEBB: I don't think you can make that
8 judgment. If he's under subpoena -- one fact we're
9 assuming is that he was here earlier. I don't know
10 that, and I...

11 THE COURT: Sheriff Ogle, Mr. Drinnon, he was here
12 the first day or so, is that correct?

13 SHERIFF OGLE: To my understanding he was here,
14 sir, or he was at least in contact with Andrea.
15 I believe it was in person.

16 THE COURT: But I don't think it's unfair, insomuch
17 as it's still fairly early in the day for Mr.
18 Sutton to have made a choice as to whether or not
19 he's going to testify. So if we can finish the
20 proof today, I will give -- I will give you a
21 chance to get Mr. Drinnon here in the morning. I
22 would hear his testimony, I will explain the
23 situation to the jury, explain he would be out of
24 order -- out of the normal order. I will explain
25 that, but it's time we move on.

1 MR. MILLER: This witness is material.

2 THE COURT: I understand that, and that's why I'm
3 giving you an opportunity to get him here in the
4 morning. But the State's rebuttal witnesses are
5 here, and obviously, the defendants are here, we're
6 here. The jury's been here since last Tuesday.
7 In all candor with you, and this is pure
8 speculation, I think that if -- in listening to the
9 jury as they've stated their preferences during the
10 week -- you know, the jury wants to work.

11 MR. DANIEL: We want to work, too, Your Honor.

12 THE COURT: And they're ready to go.

13 MR. DANIEL: I've got other things I've got to be
14 doing up here.

15 THE COURT: So let's move on. Make your choice,
16 and go on.

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

19 MR. WEBB: Your Honor, can I pass these last two
20 exhibits?

21 THE COURT: You sure may.

22 MR. DANIEL: Is Your Honor ready to proceed?

23 THE COURT: Yes.

24 MR. DANIEL: Call the defendant, Gary Sutton.

25 **

1 GARY WAYNE SUTTON was called, and being duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. DANIEL:

5 Q. State your full name and your address -- where you
6 live.

7 A. Gary Wayne Sutton. I live at 535 Vickburg Lane,
8 Kodak.

9 Q. That's here in Sevier County?

10 A. No, it's in Kodak just beyond Sevier County when
11 you cross the bridge. It hooks onto it, yeah.

12 Q. Okay. How old are you?

13 A. 27.

14 Q. Are you married at the present time?

15 A. Yes.

16 Q. You've been separated for some period of time, is
17 that correct?

18 A. Yes, probably right at about a year or more -- you
19 know, I got locked up, so it's been about two years now. I'd
20 say it's been about two years.

21 Q. And you have been incarcerated since...

22 A. March the 5th.

23 Q. March the 5th of last year, is that correct?

24 A. Yeah.

25 Q. And do you have any children?

1 A. Yes, I have a three year old daughter.

2 Q. And where does your wife live?

3 A. She lives in Dallas, Georgia.

4 Q. Does the child live there with her?

5 A. Yes, she does.

6 Q. Now, what type of work have you followed throughout
7 your life?

8 A. I've mostly done carpenter work. I worked around
9 several mill -- you know, and stuff like that. I've mostly --
10 for the past four years I don't carpenter work at a mobile home
11 for Tim Goodin. I trimmed the homes out, and laid the carpet,
12 and remodeled the old ones that we bought -- you know, and stuff
13 in that nature -- you know.

14 Q. You are related to James Dellinger?

15 A. Yes, he's my uncle.

16 Q. And that's on your mother's side?

17 A. Yes, on my mother's side.

18 Q. Who is your mother and your father -- what are they
19 names?

20 A. James Sutton is my father, and Ann Morris is my
21 mother.

22 Q. And your mother is remarried, is that correct?

23 A. Yes, she's married to Darrell Morris.

24 Q. And he would be your step father?

25 A. Yeah, he's my step father.