

XXII : No. 90
IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

AT SEVIERVILLE, TENNESSEE

STATE OF TENNESSEE,

Appellee,

-VS-

GARY WAYNE SUTTON and,
JAMES ANDERSON DELLINGER

Appellants.

*
*
*
*
*
*
*
*
*
*
*

CASE # 5033, 5035

FILED

MAR 7 1994
SUPREME COURT CLERK

TRANSCRIPT OF THE EVIDENCE:

Trial

February 16-24, 1993

Volume 20 of 22 Volumes

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

APPEARANCES:

FOR THE STATE

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

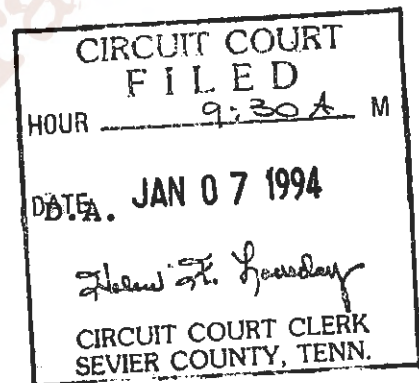
FOR THE DEFENDANT SUTTON

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

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

FOR THE DEFENDANT DELLINGER

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



GENERAL INDEX
VOLUME 20

	<u>VOLUME</u>	<u>PAGE</u>
GARY WAYNE SUTTON		
Cross Examination (Miller)	20	1959
Cross Examination (Schmutzer)	20	1962
RON DRINNON		
Direct Examination	20	1996
Cross Examination (Miller)	20	2000

1 Q. Do you have some brothers and sisters?

2 A. Yes, I have one full brother, Jimmy Sutton, and I
3 have two half brothers, Conway Parton and Junior Parton, and I
4 have a half sister, Rose Parton.

5 Q. You've heard the name of Jack Sutton. Is he
6 related to you in any way?

7 A. No, not in any way that I know of.

8 Q. There's also the Constable Sutton that testified
9 here. Is he related to you?

10 A. No, he's not.

11 Q. Where did he live in relation to where you lived,
12 Gary?

13 A. His land joins mine. He's approximately, I'd say,
14 maybe 100 yards below me, but his land joins my land.

15 Q. How long have you lived there before you were
16 arrested?

17 A. Approximately six or six and a half years.

18 Q. What's been your relationship up before all this
19 occurred with Tommy Griffin?

20 A. We were always the best of friends, and was closer
21 to him and I am any brother I got.

22 Q. How long had you known Tommy Griffin?

23 A. I knowed him, I guess, probably three years, and
24 the past year or year and a half, I guess, he lived more with
25 me than he did at home.

1 Q. Did you have a place over at your house where he
2 stayed?

3 A. Yes, I did. When me and my wife had separated, she
4 had took the beds out of the other two bedrooms. I had let her
5 have them, so I went and bought him a water bed, and put in one
6 of my other bedrooms -- you know, because all he had to sleep
7 on was the couch -- you know, and that's why I bought him a bed.
8 It was probably, I guess, four months -- you know, before all
9 this.

10 Q. You ran around with him all the time?

11 A. Yes, we -- every time when I'm going fishing or
12 went to eat, or went hunting, or -- it just didn't matter -- you
13 know, we was together all hours -- you know, the time that I
14 wasn't on my job working, and if he was out with someone, he
15 would even stop by where I was working -- you know, or if I was
16 in the area where he was, I'd stop by and see him.

17 Q. What was his relationship with his family's
18 brothers?

19 A. They was -- they didn't really have no relationship
20 over the last period of, I'd say, six or seven months -- you
21 know. I think they really cared for her in that nature, but it
22 was just -- I don't know -- when he got out, when he got drunk -
23 - you know, they -- it just didn't seem to matter who they
24 jumped on -- you know, it didn't matter brother or what -- you
25 know. I've went over there...

1 Q. Did he have some problems with some of them at
2 times?

3 A. Yes, I've went over there and got him at times.
4 I went over there, I guess, probably six or seven months before
5 I got locked up, and Bill had beat him, and both his lips was
6 turned inside out, and both his eyes was blacked, and he was -
7 - you know, he had gotten to the point to where -- you know, he
8 just -- he didn't go around them much. You know, he would stop
9 and see his mama, and while he was at his mom's -- you know, he
10 would associate a little, but that was really about it -- you
11 know. Me and him was really about all each other had -- you
12 know, I mean...

13 Q. Okay. What about -- you mentioned Bill Griffin.
14 Did you have a problem with Bill at one time?

15 A. Yes, I did. He -- I had took my car over here to
16 the garage across the street, and I was waiting for them to fix
17 it, and James, my uncle, and Bill Griffin and Tommy Griffin had
18 pulled up behind me and blowed me over -- you know, and I was
19 waiting to take my car over there, and they wanted me to go ride
20 and drink a beer with them -- you know, while I was waiting.
21 So I did, and Bill and tried to pick a fight three or four times
22 -- you know, and probably the two and half hours -- you know,
23 that we were together there -- you know, drinking beer, he had
24 done consumed quite a bit -- you know, before -- you know --
25 before I actually got with him.

1 He was eating pills pretty heavy -- you know, and
2 I told him I didn't want no trouble out of him -- you know. I
3 was really scared of making Tommy mad -- you know, of even
4 saying anything to him -- you know. I didn't want to do nothing
5 to interfere with mine and his relationship -- you know.

6 Q. When -- did you have an altercation with Bill?

7 A. Yes. We pulled up in his driveway, and he -- you
8 know, to take him home. I told my uncle, I says, "Take me back
9 to my car because I've got to get my car back up to the garage
10 in a minute anyway," and Bill said, "No, just go ahead and take
11 me home," and said, "You'uns can go wherever," you know. So we
12 took him up to his house, and he seemed to be all right -- you
13 know, when we pulled in the driveway, and he got out the car -
14 - Tommy had got out of the front seat first, and me and him was
15 sitting in the back seat, and he stepped out of the car -- Tommy
16 did, and was speaking to some little girl there, maybe his
17 younger sister or something, and I wasn't looking.

18 I was looking at Tommy -- you know, just talking to his
19 younger sister at the corner of the car, and the next thing I
20 knowed -- you know, he punched me in the side of the head, and
21 got me by the shirt collar, and started dragging me out. I
22 reached -- stepped about half way out of the car, and I punched
23 him twice -- you know.

24 Q. You all had a fight there. We heard you got him
25 down on the ground. Did you get him down on the ground?

1 A. I -- when I punched him twice he fell, and I didn't
2 want to go no further with it -- I mean, because I was really
3 afraid of making Tommy made because me and him was so close --
4 you know, but I mean -- he knowed how he was. But I turned back
5 around, and bent to get back in the car, and he kicked me in the
6 back, and when he did, I -- best of my knowledge, I punched him
7 about three more times, and the break of the fall where he fell,
8 they -- his sister told me about two days later that he had fell
9 on the flower bed...

10 MR. DANIEL: Don't testify to what anybody told
11 you.

12 BY MR. DANIEL:

13 Q. But anyway, you had a fight with him?

14 A. Yeah.

15 Q. And where -- did you leave and go from there?

16 A. We left, and I went back up by, and I asked the guy
17 about -- you know, did he get my car in, and he said...

18 Q. Well, who went with you when you left?

19 A. Tommy did.

20 Q. So even though you'd had a fight or problem with
21 his brother, he still went with you?

22 A. Yes, he knowed it wasn't my fault because I tried
23 to prevent the fight and keep it from happening for the last two
24 and a half hours before that -- you know.

25 Q. Now, did you -- you owned -- what kind of car did

1 you own when this incident occurred?

2 A. I owned an '84 Z-28 Camaro.

3 Q. How long had you owned the car?

4 A. Approximately six and a half to seven months.

5 Q. Did you -- the statements about the headlights.

6 At the time when this -- the fire down there on the 21st, what
7 was the condition of your headlights on your car at that time?

8 A. They were all burning.

9 Q. Is there any way you know that?

10 A. Yes. When I first bought the car -- like I said,
11 I had had the car, I guess, probably six months. When I first
12 bought the car, the car had a headlight out -- when I first
13 bought the car, and I don't really remember which side it was,
14 but I remember it had one out, and I had to put a new headlight
15 in it. All the lights on my car worked.

16 Q. Okay. Were they working on the 21st of February,
17 1992?

18 A. Yes, they was.

19 Q. All four of them?

20 A. Yes, they was.

21 Q. The same headlights still in that car today, as far
22 as you know?

23 A. Yes.

24 Q. Were they working at the time when you were
25 arrested?

1 A. Yes, they was.

2 Q. Now, there's some pictures that's been shown here
3 of your car that show some painting on the front, and I believe
4 we've referred to that as -- commonly referred to as a bra, is
5 that correct?

6 A. Yeah, that's right.

7 Q. Did you paint that car?

8 A. Yeah, I did.

9 Q. About when did you paint it?

10 A. It was -- well, when I first bought the car, the
11 car had the bra -- it had it already painted on it. At the time
12 I had the car, I painted it probably three different times
13 because the black paint I used, it would get dull and get
14 scratchy, and I'd clean it up -- you know, and re-spray it --
15 you know, again. I sprayed it -- you know, I guess three or
16 four times.

17 Q. And how many times -- you said you painted it more
18 than once after you bought it?

19 A. Yes. Yeah, I painted it three or four times, I
20 guess -- you know, touched it up where I'd skinned it -- you
21 know, and stuff in that nature, or working on it -- you know,
22 and stuff.

23 Q. Is that after you put the other headlight in it?

24 A. Yes.

25 Q. And you were driving this car, and did drive it

1 back in February, is that correct?

2 A. That's correct.

3 Q. Calling your attention to Friday the 21st, which
4 would be the day of the fire, did you have an occasion earlier
5 that day to be with Tommy Griffin?

6 A. Yes, I did.

7 Q. Did you have occasion to be with James Dellinger?

8 A. Yes, I did.

9 Q. And where all did you all go?

10 A. Well, I had got up that morning, and as usual, a
11 lot of times -- you know, I'll stop by Hardee's in the morning,
12 and pick something up to eat for Tommy -- you know, and take it
13 by. It was probably about three miles out of my way -- you
14 know, if he wasn't staying with me -- you know. He
15 approximately used to stay anywhere from three days to four days
16 with me.

17 Q. Where was he staying at that time?

18 A. He was -- that night -- he had stayed the night
19 before at his mobile home. I was at mine that night.

20 Q. How far is your place from his?

21 A. It's probably 13, 14 miles, 15, or something like
22 that, approximately.

23 Q. What time did you get with Tommy?

24 A. Probably about -- I'm just guessing -- around 10:00
25 that morning. It was probably 9:30 or 10:00. I was thinking

1 more towards 10:00, but it could have been a little after.

2 Q. What about James Dellinger? Did you see him that
3 day?

4 A. Yes, I had pulled up -- I had pulled up and blowed
5 my horn at Tommy's. I was going to get him, and take him to get
6 him something to eat, and I pulled up and blowed my horn, and
7 I asked him had he eat this morning, and he said, "No, I've not
8 eat nothing." I said, "Do you want to go get something to eat,"
9 and he said, "Yes, I was fixing to take a shower." He said, "I
10 need to take a shower, Gary," he said, "I'm awful dirty." I
11 said, "Well, go ahead and take you a shower, and I'll ride on
12 up to James' to see what he's doing a minute." He lived two
13 trailers on up.

14 Q. And did you drive on up there?

15 A. Yeah, I drove on up there, and got out, and talked
16 to James a minute, and asked him what was he doing -- you know,
17 and stuff, and he asked me why I wasn't working, and I said,
18 "Well, I just come by to get Tommy to go get something to eat."
19 I said, "I've not got that much to do at work today anyway," -
20 - you know, "...and I figured I'd just wait and go in about
21 dinner." I told him what I --- we was going to get something to
22 eat, and he said, "Well, I haven't eat nothing this morning
23 either," and he said, "If you don't care, I'll ride up there
24 with you'uns."

25 Q. So you all three got together?

1 A. Yes, we all...

2 Q. And where did you first go? Was you in your car
3 at that time, or where did you ride -- that morning -- what did
4 you drive that day?

5 A. We was in my blue Camaro.

6 Q. Did you continue to drive it all day, or did you
7 change, and get into another vehicle sometime that morning or
8 that day?

9 A. No, we drove the Camaro all day that day.

10 Q. Had you driven -- did you get in James' truck any
11 that day?

12 A. No, not on Friday, we didn't.

13 Q. And I believe sometime that day you were over here
14 in Court, is that correct?

15 A. Yes.

16 Q. And was it after Court that you went over to see -
17 - to get Tommy?

18 A. Tommy. It was straight after I left.

19 Q. And after you got with him, you say you all --
20 where was the first place you went, if you recall?

21 A. We went over here to -- I can't think of the name
22 of it, but it used to be Reed's. It's right over here on
23 Newport Highway. I can't -- I did know it, but it's been so
24 long, I...

25 Q. Is it an eating place or what?

1 A. It's a restaurant that serves buffets and burgers -
2 - you know, and just a little bit of everything.

3 Q. Okay. Then you left there. Did you ultimately -
4 - did you go to -- start drinking, and go in some different
5 bars?

6 A. Yes, we had left there, and I was going to take
7 Tommy on back home, and James -- you know, and go on to work,
8 and Tommy said -- you know, "Why don't you get a beer, and you
9 can go in tomorrow and finish laying the carpet." I had the
10 carpet in a trailer, and I'd just laid about half of it, and I
11 was needing to get the rest of it finished -- you know. So he
12 wanted me to stop and get him a beer anyway, so I stopped, and
13 I think we got 12 beers, I'm not really for sure, but...

14 Q. Was that morning then?

15 A. Yeah, that was that morning.

16 Q. Okay. And then you drank that?

17 A. Yeah, on the way to his house he talked me into
18 drinking one, so we started drinking a few, and it just -- you
19 know, it went on from there -- you know.

20 Q. And then later on that afternoon -- did you
21 continue to drink some?

22 A. Yes, we did.

23 Q. Did you get ultimately over to -- did you go to a
24 place here -- a joint here -- a joint in Knoxville, Pudgey's,
25 or something?

1 A. Down on Chapman...

2 GENERAL SCHMUTZER: Objection, Your Honor, to him
3 continuing to lead him at this point. I think he
4 needs to ask open ended questions, and not lead him
5 through his testimony.

6 THE COURT: Sustained for this part of it.

7 BY MR. DANIEL:

8 Q. Where -- just tell us...

9 GENERAL SCHMUTZER: Object to speeding things up,
10 Your Honor.

11 THE COURT: Well, just...

12 BY MR. DANIEL:

13 Q. Where did you go then?

14 A. We rode around a few back roads there, and drunk
15 a few beers and stuff, and we ended up down on Chapman Highway
16 that's named Pudgey's. We go down there -- you know, every once
17 in a while, and shoot pool, and stuff.

18 Q. Did you leave there, ultimately, and go over to...

19 GENERAL SCHMUTZER: I object, Your Honor, to where
20 they went. He can ask them where -- he needs to
21 ask him where they went rather than tell him where
22 they went.

23 BY MR. DANIEL:

24 Q. Where did you go after you left there?

25 A. We left there, and we eased around through the back

1 roads, and around through -- we turned in down here somewheres
2 about the "Y", and I don't know for sure every road we took
3 through there -- you know, just all them little back roads --
4 you know, going through there. And we ended up in Blount
5 County, and we rode out -- we was going to get us some beer out
6 there on -- I don't know, I think it's 441 or what that is that
7 goes directly into Maryville -- you know, from Townsend. I
8 think it's 441. But...

9 Q. Did you stop there and get a beer? Did you stop
10 there?

11 A. No, we was going to the store there and get a beer,
12 and Tommy said -- you know, "We ought to shoot a game of pool."
13 So we pulled in at this Howie's Hideaway, and I don't know how
14 many games of pool we shot, but we went in there -- you know,
15 and drunk several beers. We was approximately, I guess, there
16 probably two hours, I guess, somewheres around in there -- I
17 guess. So...

18 Q. Did these young ladies -- these ladies that's
19 testified here the other day that worked over there, do you
20 recognize some of them as being the waitresses that were there
21 that day?

22 A. Yeah, I recognized both of them.

23 Q. And after you left there -- about what time did you
24 leave?

25 A. I'm not very good with times, but -- you know, I

1 don't think I even had a watch on. I don't really remember, but
2 I was pretty well intoxicated anyway, but I'm guessing around
3 anywhere between 6:00 and 6:30. I remember it was still
4 daylight. I'm not exactly for sure on the time. I remember it
5 was still daylight.

6 Q. Where did you go after you left there?

7 A. We left there, and there was a store there nearby,
8 some kind of convenience store --- I don't know whether it was
9 a Citgo or Food Mart, but we had pulled in it to get a beer.

10 Q. Did somebody go in and order some beer there?

11 A. Yes, me and James did.

12 Q. Did Tommy go in with you?

13 A. No, he got out of the car, and stood there because
14 -- you know, my car -- you know, the Camaro is sort of cramped
15 up, and he got out, and was standing there -- you know,
16 stretched his leg good -- you know, because he didn't want to
17 set there cramped up in it because his bad leg would hurt him
18 when it was cramped up in his knee because it was gone from his
19 knee down -- you know, and when he'd sit there like that -- you
20 know, it would get crunched up and hurting him -- you know, in
21 the car, so he just got out and stood there outside the car.

22 Q. Did you see him talk to anyone or speak to anyone
23 there while he was there?

24 A. Yes. We had got to talking to a girl there. I had
25 never seen her before. She was sort of a short lady, dark

1 headed, wore glasses. I never have -- Tommy talked to her like
2 he knowed her, but which -- Tommy -- you know, he could talk to
3 a tree and make sense out of it where I couldn't -- you know.
4 But -- you know, they got to talking and stuff, and she...

5 Q. Do you know whether or not Tommy knew her before -
6 - one way or the other. Did he ever say...

7 A. No, he talked to her like he did, but I don't
8 whether he did or not -- you know.

9 Q. Okay. And did he stay there with you, or where did
10 he go?

11 A. Well, the girl wanted to know if we had any smoke
12 or anything -- you know, and I told her right off that I didn't
13 fool with drugs, I didn't do them -- I didn't fool with drugs.
14 And Tommy give her -- Tommy had a bottle of Xanax -- he had
15 probably 100 Xanax, I guess, on him in his leg, and he give her
16 three or four of them.

17 Q. Did he carry them in his leg sometimes -- the
18 pills?

19 A. Yeah.

20 Q. While you're mentioning that, did Tommy -- do you
21 know if Tommy had fooled with some drugs, and did you tell the
22 officers about him coming up -- going over to Blount County,
23 and fooling with some drugs over there?

24 A. Yes, I did. When they -- I figured it was funny
25 that the girl -- the way she -- you know, we'd just left the

1 bar, I mean. From what I'd heard -- I never did have anything
2 to do with their drug deals. I don't believe in fooling with
3 drugs, and I've never took them, and I've never dealt with
4 them. I don't fool with them -- you know, and I tried to keep
5 him from it -- you know, from ever having anything to do with
6 them.

7 Q. Did he fool with some drugs, and have some people
8 over in Blount County that he fooled with drugs with?

9 A. Yes, they did, and he would -- he transported back
10 and forth for them in his leg. I'd hearded them talk about
11 putting in leather pouches, cocaine -- you know, and pack it in
12 his leg, but -- you know, I had told him on bunches of occasions
13 that they were just using him as a guinea pig -- you know, to
14 carry their drugs for them -- you know, and stuff.

15 Q. Did you explain -- did you talk to the -- when you
16 were interviewed by the officers from over there in Blount
17 County did you tell them about this?

18 A. Yes, I told them, and I told them every name that
19 I'd hearded of the people.

20 Q. What name had you heard that he had been fooling
21 with some drugs with that you gave to the officers?

22 A. Bobby Floyd. He's the only one, and the only
23 reason I knew him, I'd went to school with him for years, and
24 I'd seen him on occasions up at Tommy's.

25 Q. Did you ever see Bobby Floyd over at Tommy's

1 trailer -- over in there?

2 A. Yes, he'd come out my house a time or two to talk
3 to Tommy -- you know, and try to get Tommy to leave with him,
4 and I've seen him at Tommy's trailer -- you know, several times
5 when I've been over there.

6 Q. Do you know where in areas that Tommy was getting
7 his drugs or was fooling with these people that was involved
8 with drugs -- what areas? And did you tell the police -- did
9 you tell the officers this?

10 A. Yes, I did. Right there where all the stuff
11 happened was -- they had just got through busting all of their
12 friends, and stuff, right there on the Alcoa Highway at the
13 airport. And they was -- everybody was saying that Tommy was
14 the one done it, and...

15 Q. What do you mean saying he done it? What do you
16 mean by that?

17 A. Well, they were saying that he was the one that
18 narcked them out.

19 GENERAL SCHMUTZER: Your Honor, this is getting so
20 far. It's just -- you know. He's testifying to
21 hearsay, and I object...

22 THE COURT: It's a little far afield.

23 MR. DANIEL: Your Honor, please, this is part of
24 these statements that we...

25 GENERAL SCHMUTZER: Well, it still has to be

1 relevant and material, Your Honor.

2 **THE COURT:** Approach the bench just a minute,
3 gentlemen.

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

5 **THE COURT:** I certainly don't want to cut him off
6 from saying anything that is critical to his
7 defense, and I'm certainly not going to do that,
8 but if you could direct him to just answer your
9 questions.

10 **MR. DANIEL:** If I could lead him -- if Al would let
11 me lead him -- he can talk a lot, now.

12 **GENERAL SCHMUTZER:** He's leading him right along.

13 **GENERAL GREEN:** It's hearsay.

14 **THE COURT:** I'm not talking about that. I'm -- the
15 first thing I wanted to ask you at the bench was
16 if there is someway that you can get him to
17 directly your answer your questions.

18 **MR. DANIEL:** I don't think so.

19 **THE COURT:** Well...

20 **GENERAL SCHMUTZER:** Your Honor, I would not -- I
21 would strenuously object to him leading him as he
22 has been doing in the past, especially when you
23 start getting to some more important issues.

24 **THE COURT:** I just want to get there.

25 **GENERAL SCHMUTZER:** I understand that, but I want

1 him to get there, not the lawyer.

2 THE COURT: And the second part, of course, it is
3 getting a little far afield on all of this other
4 stuff about...

5 MR. DANIEL: Well, Your Honor, it becomes important
6 because he told this to the officers, and that was
7 part of the statement that they talked about --
8 things that he said.

9 GENERAL SCHMUTZER: But he's going into, Your
10 Honor, all sorts of...

11 THE COURT: Yeah. Ask him about that statement,
12 and let him explain any of that, but at this
13 juncture, don't -- and he obviously wants to talk,
14 and I want him to talk, but I want it to be
15 relevant, okay? So if you can focus his attention,
16 and if you want to ask him about any of these
17 statements, certainly ask him, but if...

18 MR. DANIEL: No, I can't -- it's hard to do it
19 without leading or at least directing his attention
20 to certain things...

21 THE COURT: Well, focus his attention towards it,
22 and I understand the problem you have, Mr. Daniel,
23 and as I say, the Court's not going to cut you off
24 unnecessarily, but please focus his attention, and
25 ask him to answer your question.

1 MR. DANIEL: Okay.

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

4 BY MR. DANIEL:

5 Q. Now, Gary, let me ask you this. You told -- you
6 made a statement to the officers about this drug situation Tommy
7 was involved with, is that correct?

8 A. Yes, sir.

9 Q. You told them the names of the people that you
10 knew?

11 A. Yes.

12 Q. And after -- let me focus your attention. After
13 you left the bar there, and after you left the -- did Tommy go
14 with you, or did he go with someone else when you left?

15 A. He went with the girl. They got -- she wanted to
16 go get something to smoke, and go get something to snort, and
17 one word lead to another, so he told me and James that he would
18 be on home. He said, "I'll be on home in three or four hours,
19 five -- whenever."

20 Q. And did you all -- did he borrow some money from
21 you?

22 A. Yes, I give him -- I don't really remember if it
23 was \$5 or \$10, and James give him \$10 or \$15, maybe even a \$20,
24 I don't remember.

25 Q. All right. Let me just ask you flat. Did you ever

1 go out in your car to -- out on Alcoa Highway out in the Hunt
2 Road area?

3 A. No, I didn't. My car...

4 Q. Did you have any reason to go out that way?

5 A. No, I didn't.

6 Q. And did you -- where did you go after you left the
7 store there -- where did you ultimately go?

8 A. We come back towards Townsend, which we never come
9 back here as far as Townsend. They is a little store down there
10 -- I don't know the name of the road, but you can turn beside
11 the store, and you hit about two more roads through there, and
12 it comes out on what they the "Y" down here on Chapman Highway,
13 is where it leads you back to.

14 Q. And you went that way and went home?

15 A. Yes.

16 Q. Or come back to Sevier County...

17 GENERAL SCHMUTZER: I object, Your Honor. He's
18 trying to lead him.

19 MR. DANIEL: Well...

20 GENERAL SCHMUTZER: Let him tell what he did. I
21 object, Your Honor.

22 MR. DANIEL: Well, Your Honor, I'm trying to
23 direct...

24 THE COURT: He's objected.

25 BY MR. DANIEL:

1 Q. Gary, where did you go when you came back into
2 Sevier County? Where did you go?

3 A. I had come back down Chapman Highway, and I had
4 stopped at my brother's. My car had been overheating on me all
5 day -- you know, and I had filled it up. I had a gallon of
6 antifreeze and a gallon of water in my car. I had stopped and
7 put water in it, I guess we had, probably four or five times
8 that day -- you know, while we was riding. You know, that seal
9 on the water pump was going bad on it.

10 Q. And did you -- you went back to where -- you said,
11 your brother's?

12 A. My brother's.

13 Q. And who is that?

14 A. Jimmy Sutton.

15 Q. And that's the one who testified here?

16 A. Yes, sir.

17 Q. And who was with you when you pulled into to Jimmy
18 Sutton's?

19 A. James was.

20 Q. When you arrived there did you -- did you get out
21 of the car?

22 A. Yes.

23 Q. Go in the house?

24 A. Yes.

25 Q. How long, approximately, did you stay in there?

1 A. Well, we wasn't there very long. When I pulled up,
2 Jimmy, the best I can remember, come out the door there, and
3 asked me what was I doing, and I told him my car was overheating
4 -- you know, and stuff, and told him what was wrong with it, and
5 stuff. And I asked him did he have any -- he had several
6 vehicles, and I asked him did he have something I could drive.
7 I first had asked him did he have a water pump, and could he fix
8 it for me. He was telling me what he could do to maybe fix it,
9 so I left it with him.

10 Q. Did you drive one of his vehicles?

11 A. Yes, sir, I did.

12 Q. And which one was that?

13 A. It's a small -- it's either a Ford or a Ram one.
14 I don't remember what it was. It's a small pickup, anyway.

15 Q. Okay. Now, who all was there when you arrived?

16 A. My -- Jimmy, and my sister-in-law.

17 Q. And was there someone else there?

18 A. She come up right after we did -- my -- Diane's
19 sister did. She had came down there.

20 Q. What about Diane, was she there?

21 A. Yes, sir, Diane was -- Diane Sutton, yeah.

22 Q. And did you date Diane some at that time?

23 A. No, not Diane, Shelly.

24 Q. The girl who was there -- was there a girl that
25 you'd been dating that was there at Jimmy's that day?

1 A. She come up while we was there. Just right after
2 we pulled up, she pulled up.

3 Q. Now who is that?

4 A. Shelly Longmire.

5 Q. Now, I'm talking about the girl that you were
6 dating.

7 A. Oh, Carolyn?

8 Q. Carolyn.

9 A. Oh, yes, Carolyn was there, yeah.

10 Q. Well, that's who I'm asking about. Was Carolyn
11 there?

12 A. Yes.

13 Q. And did Carolyn stay there, or did she leave with
14 you?

15 A. She left with us.

16 Q. And you and who?

17 A. Me and James and Carolyn, when we left, went to his
18 home.

19 Q. Do you know whether or not anyone used the
20 telephone while you were there?

21 A. James went in the house. I didn't have no
22 knowledge of it.

23 Q. Did you go in the house -- did you also go in the
24 house?

25 A. I don't really remember whether I did or not. I

1 don't remember ever seeing him on the telephone -- you know, if
2 I did. I don't remember whether he made a call or not.

3 Q. Then did you leave there, and did you go -- where
4 did you leave -- go from there?

5 A. We went to James' trailer.

6 Q. And that's about how far away?

7 A. It's, I'd say, probably three or four miles,
8 somewheres around that.

9 Q. And do you know about what time it was that you
10 arrived over there at the trailer?

11 A. It was -- I figure it was somewheres around 7:30,
12 8:00, somewheres around in there.

13 Q. And had you been there a while before someone came
14 to the door -- someone showed up there?

15 A. Yes. We had been sitting there, I guess, probably
16 45 minutes, maybe even an hour or something around in that
17 neighborhood, and I heard -- somebody was knocking at the door,
18 and hollering, and Linda, James' wife, had got up, and went to
19 the door, and it was one of Boyd's -- Boyd's and Connie's girls.
20 I heard her hollering that Tommy's trailer was on fire, and I
21 was setting in the living room, and I jumped up and went over,
22 and pulled the front door open. It's not got no porch or
23 nothing you can get out, but I pulled it open and looked -- you
24 know, and seen the trailer was on fire.

25 Q. Now, you were there -- who else was there at the

1 house besides you and James and Carolyn? You've told us that
2 you three...

3 A. Me, James, and Carolyn, and Linda, and Angel Gray,
4 and her baby.

5 Q. Okay. And after -- did you hear anybody tell --
6 was there anything told to this girl when she asked -- said
7 something about Tommy's trailer being on fire?

8 A. Yes, she asked -- James had went to the door there,
9 and she, I think, had asked Linda to talk to James, so he went
10 to the door, and told her -- she was worried about Tommy maybe
11 in the trailer, and James went to the door, and told her that
12 he wasn't -- you know, that he was with a girl in Blount County,
13 and -- you know, he was all right.

14 Q. And then did the girl stay there, or did she leave?

15 A. No, she left.

16 Q. Did you ever go down to the fire?

17 A. No, I didn't.

18 Q. What was the reason you didn't go down there?

19 A. Well, I knowed Tommy wasn't down there, and I
20 knowed he was with a girl, and -- I mean, I had trouble with
21 Bill, and I assumed Bill would be down there. I didn't know
22 whether maybe he would jump on me again or not, and -- you
23 know...

24 Q. And that's the reason you didn't go?

25 A. Yeah.

1 Q. While you were there were some telephone calls
2 made?

3 A. They was several calls. I -- they was calls -- I
4 don't know. They was calls coming in and out. I don't know how
5 many people called, and I didn't count them or nothing.

6 Q. Sometime later that night was a call made to Blount
7 County to try to locate Tommy?

8 A. Yes.

9 Q. And who placed that call, if you remember?

10 A. Linda did.

11 Q. Do you know where the first call went to -- where
12 you first called?

13 A. They made it to the Blount Memorial Hospital, I
14 think.

15 Q. Gary, there's -- a gentlemen testified here
16 earlier, and you heard the testimony of an officer that you were
17 over at the jail. Were you ever over at the jail before you and
18 James went back over there?

19 A. No, sir, I wasn't.

20 Q. And after -- you remember you called the hospital?

21 A. Yes.

22 Q. Where was the next place that was called, do you
23 remember?

24 A. They was a call made somewheres to get the number
25 to the jail house. I don't know what it was, some kind of place

1 -- I don't know. I remember she made two different calls before
2 she got hold of the Blount County Jail house.

3 Q. All right. When she got hold of the jail did you
4 talk to someone over at the jail?

5 A. Yes, she was talking to them there, and she reached
6 me the phone, and said, "Here, Gary, you talk to them. You know
7 more about it than what I do" -- you know, about what to ask
8 them.

9 Q. And what did they tell you?

10 A. I asked them -- when they said, "We've got him in
11 jail for public drunkenness," I asked them where'd they get him,
12 and stuff, and the officer told me he didn't know, and stuff -
13 - you know. And so I asked him what his bail and stuff would
14 be, and I believe it was either \$40 or \$80, I can't recall now
15 what it was. I believe it was \$40 is what they said it was.

16 Q. When you got over there did you find that the bail
17 was more than what you had been told?

18 A. Yeah, I believe it was -- if I'm not mistaken it
19 was \$60 or \$80. I can't really recall what it was.

20 Q. Now, did they tell you when you could get him out?

21 A. Well, they had done -- they had held him -- the way
22 they talked, they'd held him -- they said by the time they got
23 the books fixed -- you know, he would be ready to go, so we was
24 probably there in 40 minutes, maybe 45 or something like that,
25 before they released him.

1 Q. Now, that's after you went over there?

2 A. Yeah.

3 Q. Do you know about what time it was you left the
4 house to go over and get him, and who went with you?

5 A. James Dellinger, my uncle.

6 Q. And did you -- what kind of vehicle did you take
7 to drive?

8 A. It's his wife's Oldsmobile. It's -- I think it's
9 up in the 80's. It's a newer model.

10 Q. Was James Dellinger's truck there at the house when
11 this occurred?

12 A. Yes, it was.

13 Q. Where was it setting?

14 A. It was setting pulled into the side of his trailer.

15 Q. Is there something that sets there from the trailer
16 that -- for example, this tank. Is there a tank that sets there
17 beside the trailer called a butane tank?

18 A. Yes, they are. It's setting in between his
19 driveway and his trailer.

20 Q. The tank is?

21 A. Yes.

22 Q. And was the truck where you could see it, or was
23 it behind the tank?

24 A. It was -- I don't know whether you could see plumb
25 behind it, but I think it was partially behind it. It was

1 pulled way back in there -- all the vehicles, he always pulled
2 way back in there -- you know.

3 Q. When you left to go over there did James Dellinger
4 take anything with him as far as -- did you all take some beer?

5 A. We took some beer with us.

6 Q. Did you take it out of the house, and take it --
7 had you taken the beer in the house when you got there?

8 A. We took it -- yeah, we took it in the house.

9 Q. What did you have, and how was it bagged?

10 A. They just put it in two different -- there was two
11 12 packs, is what they were. They was two 12 packs. I don't
12 remember -- I don't remember who carried the beer when we come
13 out. I remember when I got out I reached and got a 12 pack and
14 took it in. I don't remember whether we took both of them in
15 or not. I really don't remember. I know we took part of the
16 beer in -- at least one 12 pack in the house.

17 Q. Did you take some beer out -- when you left, did
18 you take any beer out with you?

19 A. Yes, sir, we did. We put it back in the bag when
20 we took it out, and put it back in the car.

21 Q. Did James take any kind of clothing or anything
22 with him?

23 A. I can't -- if he did -- I really can't recall
24 whether he did or not. I assume he probably had a jacket that
25 he maybe took to wear. I don't never usually wear a coat. He

1 usually wears one or takes one with him most of the time.

2 Q. Well, don't say what you assume. Did you see him
3 take a jacket with him, and put it in the car?

4 GENERAL SCHMUTZER: Your Honor, this is just
5 leading again. I hate to keep objecting but...

6 BY THE WITNESS:

7 A. If he did I didn't recall. I couldn't say he did
8 or he didn't.

9 Q. Okay. When you got over there to the jail -- did
10 you drive straight over there?

11 A. Yes.

12 Q. Did you have to wait a while?

13 A. Yeah, we was -- approximately about 40, 45 minutes,
14 something like that before they actually released him.

15 Q. Was there other people around there, anybody that
16 you noticed, and don't go into great detail, but was there a boy
17 there that was hurt?

18 A. Yes, there was a boy there that was hollering --
19 said an officer had hit him, and he had a big hole in the front
20 of his face where he was -- where it had been bleeding bad, and
21 he wanted something to smoke, and I remember James there lit him
22 a cigarette and held it for him because they had him handcuffed
23 behind his back, and he held it for him so he could smoke some
24 of it.

25 Q. Now, you stayed there, and you paid to get him out?

1 A. James did because I was just about broke myself.

2 Q. And you got him out of jail. When you were leaving
3 -- as you were going out of the jail, did you -- what did have
4 on? Did he have on...

5 A. He didn't -- all he had on was a pair of blue
6 jeans. He didn't have no shirt on when we got him out.

7 Q. Did James take a shirt and give it to him?

8 A. Yes, he took his own shirt off, and gave it to him.

9 Q. Did he ever go back over to the car with you?

10 A. No, he didn't.

11 Q. What did he do after he come out?

12 A. We come out, and come up the steps, and the girl
13 was standing on the outside of the jail -- that he had got with
14 earlier. And they started swapping a few words back and
15 forwards, and James had done told him that his trailer had
16 burned, and stuff, and -- you know, he kept saying that he was
17 lying and stuff, that Connie -- if anybody done it, that Connie
18 might have burned it. Why he would assume that -- state that,
19 I don't know, but -- you know, they was so close, Connie and
20 Tommy was, and -- but Tommy and girl argued around there for a
21 little while -- you know, and Tommy said he was going to go on
22 with her. He said, "Don't worry about me, I'll be on home after
23 while." And I looked over in the car -- it was setting there
24 parked across from ours, and I seen shadows in the car. I don't
25 know who was in the car, I don't know whether it was shadows

1 from kids or adults, or who it was. I never walked over to the
2 car.

3 Q. Did you tell the officers about this when they
4 asked you?

5 A. Yes, I did.

6 Q. And then you left there, and where did you go from
7 there?

8 A. We left there, and come back, and come back down
9 the same road that we had going down there -- back down the "Y"
10 road coming home.

11 Q. Approximately what time did you get home on that
12 occasion?

13 A. It was -- I guess it was somewhere around
14 midnight, maybe 12:30, somewhere in that area. It was about
15 midnight, 12:30.

16 Q. Did you even look at the time to know what time it
17 was?

18 A. No, I didn't. I'm just guessing.

19 Q. Did you stay there for a while or did you leave?

20 A. We was there -- we wasn't there that long. I mean,
21 we come in, and everybody was talking about they was hungry, and
22 stuff, and was wanting to order a pizza, and I -- everybody said
23 it was too late -- you know, to order pizza, so we went to a
24 Huddle House -- it's a new place up here in Pigeon Forge -- and
25 eat breakfast.

1 Q. Who all went up there?

2 A. Me, James, Linda, and Carolyn.

3 Q. What about the other girl that was there when you
4 left -- I believe they called her Angel? Was she there?

5 A. Angel, no. She was gone when we got back home.
6 I think she went home.

7 Q. So you ate up there, and you stayed up there. Do
8 you have any idea what time it was when you got back home?

9 A. No, I don't. We was up there probably an hour and
10 a half to two hours the whole time. From the time we left and
11 eat and everything, I'd say it was about 2:30, maybe even 3:00
12 when we got back.

13 Q. Okay. Did you stay there at James' that night?

14 A. Yes, I did. I spent the rest of the night there.

15 Q. The next day would be Saturday, then, is that
16 correct?

17 A. Yes, that's correct.

18 Q. Did you get -- did you go somewhere Saturday
19 morning?

20 A. Yes, I did.

21 Q. And what was the purpose of going somewhere?

22 A. We got up Saturday morning, and Linda didn't have
23 no stuff -- they was talking about fixing something for
24 breakfast -- you know, and she didn't have no bacon or --
25 anyway, she didn't have nothing there much to fix -- you know,

1 she hadn't been to the store. I wanted to ride out and see if
2 my check had come.

3 Q. You rode out to your house to check on your check?

4 A. Yes.

5 Q. Is that out there close to where Mr. Sutton lives?

6 A. Yes, that's right beside Earl Sutton.

7 Q. And was your check there?

8 A. No, it was -- my dad had got it out of the mailbox.
9 He had been over there -- he come over there -- he tends garden
10 there -- you know, and he just comes over all the time -- you
11 know.

12 Q. He got the check. All right. Anyway, you went
13 back -- where did you leave from there, and where did you go to?

14 A. We just -- after we went out there -- after we had
15 went out there to look for that we stopped and got a beer, and
16 started riding and drinking a beer -- you know, and stuff.

17 Q. And what was you riding in at that time?

18 A. It was the truck -- I don't know what model.

19 Q. Let me ask you regarding -- did you ride around in
20 the truck on that day?

21 A. Yes, I had all day.

22 Q. Do you know whether or not you rode any in that
23 truck on Friday the day before?

24 A. No, I don't think I'd been in it on Friday.

25 Q. Do you remember giving a statement to the officers

1 when you first told them about going over with Tommy -- over -
2 - what you did on Friday?

3 A. Yes.

4 Q. Did you tell them about the truck, or what did you
5 tell them? Did you tell them about the car, or what did you
6 tell them?

7 A. Well, I had told them in the statement that I was
8 driving the truck, and I thought I was because on Saturday --
9 I drove the truck -- you know, on Saturday -- you know. I had -
10 - I had drove the truck on Saturday. I got my days mixed up.
11 I told them on Friday I thought I was driving the truck, but I
12 wasn't.

13 Q. You was driving the Camaro?

14 A. Driving my Camaro.

15 Q. No question about it?

16 A. No question about it.

17 Q. You later on told them different -- called them
18 back, and explained that?

19 GENERAL SCHMUTZER: Well, Your Honor, this is
20 leading again.

21 MR. DANIEL: Well, Your Honor, I think in that
22 nature it's different because there was testimony
23 about the officers -- you know, he's made some
24 statements, and I think...

25 THE COURT: So what was the exact question again,

1 Mr. Daniel?

2 MR. DANIEL: I'll just go ahead, Your Honor.

3 BY MR. DANIEL:

4 Q. That was --- did you then, sometime that day, go
5 over -- and go back over toward Maryville, or get in that area?

6 A. Yes, we did. We rode over through Wears Valley,
7 and rode over in the Townsend area to look and see if we could
8 find Tommy or see Tommy anywhere.

9 Q. Had he ever called you -- of course, he hadn't
10 showed up?

11 A. No.

12 Q. Did you see anyone over there then at that time
13 that you knew -- sometime, in that area?

14 A. Yes, we did. We had pulled over beside of the
15 road. I -- if you're familiar with Townsend, right when you get
16 into Townsend there at the bridge, you make a right, and go back
17 to Maryville, and there's a pull over there -- down in there,
18 and it pulls down in there at the river -- you know, where most
19 people stops and uses the bathroom or whatever. And we had
20 pulled in there to use the bathroom, and we was about to back
21 out -- was backing out to leave, Connie come by, and I heard
22 a horn blow. So she went out, and turned around and come back,
23 and pulled in.

24 Q. Then did you have a conversation with her there?

25 A. James did, I didn't.

1 Q. And where did you go from there?

2 A. She wanted to go over to -- she asked James about -
3 - you know, about us being at Howie's bar and stuff the night
4 before, and she asked James, she said, "Do you reckon he's been
5 back over there?" And James said, "I don't know." She said,
6 "Will you ride over there with me?" James come up there and
7 asked me did I care, and I said, "I really hate to go back over
8 there and us drinking" -- you know, because I didn't really want
9 to get back on the road and go in the city limits -- I'd been
10 drinking. And he told her that, so she said she would drive the
11 truck. She said, "If you'uns want to go back over there, I'll
12 drive."

13 Q. Where did you all go, then, and pull her -- and
14 take her vehicle?

15 A. They's a shopping center below there, and we went
16 down and parked her vehicle at the shopping center, and she got
17 in the truck, and she drove.

18 Q. And did you all drive back down there to the bar?

19 A. Yes.

20 Q. Went in the bar -- the same place you'd been the
21 day before?

22 A. Yes.

23 Q. Was -- did you all -- did Connie drink anything at
24 that time?

25 A. Yes, she did. She was drinking when I first seen

1 her at the river. When I first got in the truck she had beer
2 herself -- she had herself, that she had bought.

3 Q. She had some beer also?

4 A. Yeah, she was already drinking. And...

5 Q. All right. After she got in there did she ever
6 tell you anything as to whether or not she wanted you to tell
7 that she'd been over there?

8 A. No, she didn't want nobody to know that she'd been
9 over there.

10 Q. What did you state to you regarding that?

11 A. Well, she was -- her and her husband was having a
12 lot of marital problems, and stuff, and she was afraid to leave
13 him in a way -- you know, she kept saying he'd take everything
14 she had -- you know, and everything, and she just didn't want
15 nobody to know that she'd been over there because he had
16 admitted her in a mental place just shortly before that, and she
17 said, "If he found out I was in here, he'd put me right back in
18 there." She was scared to death of going back down there
19 because he had admitted her there just shortly before this.

20 Q. Okay. Now, did you -- how long did you all stay
21 there?

22 A. We was there probably -- I'd say probably an hour
23 and 45 minutes, maybe even two hours. I think I drunk about
24 three beers, maybe four.

25 Q. Any dancing there?

1 A. Yeah, she danced with James there two or three
2 times, and even right at the end of the one song there, I was
3 sitting there -- you know, it's just a real small place, and -
4 - you know, they ain't really no place to dance -- you know.
5 She was just dancing there at the corner of the pool table, and
6 she reached over and got me by the arm and jerked me up, and it
7 was just right at the end of a song, and I finished dancing the
8 rest of it with her.

9 Q. Was there somebody else there she talked to?

10 A. Yes, they was some sort of older gentleman there,
11 and he was -- she was setting there talking to him. I remember
12 her setting there talking to him.

13 Q. Did she talk to some other gentleman that was in
14 there in addition to that?

15 A. I don't know -- she talked to some guy up at the
16 bar there, I think.

17 Q. Could you hear what conversations that she was
18 talking to people about? Were you able to hear?

19 A. No, I couldn't. I remember I heared her asking a
20 girl there once -- you know -- when we first come in -- you
21 know, I heared her ask the girl there once, when she come over
22 there -- asked her did -- had she seen Tommy, and...

23 Q. Did she have a picture of Tommy?

24 A. Yes, she did.

25 Q. Did she shoot some pool while she was there?

1 A. Yes, she did.

2 Q. She drank some more beer?

3 A. Yes, she did.

4 Q. Was she happy or sad, or how would you describe her
5 actions?

6 A. She was happy. She just -- like she didn't have
7 a care in the world -- I mean, she was happy, and having a good
8 time.

9 Q. Okay. Now, do you know about what time you left
10 there?

11 A. It was -- I don't know real specific time, but best
12 I can remember, it was still daylight. It was -- it had to be
13 somewhere -- at that time of year it got dark -- you know,
14 fairly early, so I'm going by the daylight -- the daylight hours
15 -- it was probably about 6:30. It may have been 6:00...

16 Q. And where did you all go after you left there?

17 A. We left there, and I drove when we left. We was -
18 - I was pretty intoxicated, too, but she was too. We all was,
19 really. So we come back out, and I drove because I didn't like
20 her driving too good. I mean, that's the first time I'd ever
21 rode with her, but I didn't like her driving too good ont the
22 way down there, so I drove back up to her car.

23 Q. Okay. Did you let her out there at her car?

24 A. Yes, I did.

25 Q. Now, what did she -- did she make any statements

1 to you or say anything there after you let her out, or as you
2 were getting in the process of leaving? What conversation was
3 held?

4 A. Well, she said she had one more place she had to
5 check that she thought Tommy might be. I remember hearing her
6 say something earlier about she didn't think he would go back
7 down there. She wanted us to proceed on and help her hunt for
8 her, and -- you know, I told her, I said, "I've got to get back
9 to the house," because I done --- I told Carolyn I'd be back home
10 earlier, and I said, "I need to get back to the house." I said,
11 "Tommy will show up tonight or tomorrow or the next day one."
12 He was always bad about getting out and straying out -- you
13 know, which I guess I was a little too at times.

14 Q. And you left there, and where did you go from
15 there?

16 A. Well, we went on back to the house -- back to
17 James' house.

18 Q. How did you go back this time? Did you go back a
19 different way than you went over there earlier?

20 A. No -- well, no. We just went back the valley. We
21 turned on -- I don't know what this one little road name is.
22 We cut on one road that leads you -- I'm not that familiar with
23 the road signs -- the name of the signs.

24 Q. Anyway, you drove back home -- you went back up
25 there?

1 A. Yes.

2 Q. Went back home. What time did you get back home,
3 approximately?

4 A. It was -- I usually wear a watch all the time, but
5 when I work -- you know, I don't never wear one. But we got
6 home -- it was in the neighborhood, I'm thinking, close to 8:00.
7 It was around that early.

8 Q. And who was there when you got back?

9 A. Carolyn and Linda.

10 Q. Did you ever leave again, and go out that Saturday
11 night after you got back?

12 A. No, we didn't.

13 Q. What about the following Sunday? Did you have a
14 phone call from somebody?

15 A. Yes, I did. I got up Sunday morning, and Amy
16 Franklin, the girl that testified earlier, had called. She had
17 called my brother's and my brother told her that I was over
18 there. She told my brother that she'd called my house, and
19 she'd called down there, and he told her I was over there, so
20 she called me over there.

21 Q. Did you talk with her on the phone?

22 A. Yes, I talked with her a little bit, and she wanted
23 me to come somewheres and meet her. I told her I couldn't --
24 I said, "Carolyn's here with me," and I said, "I can't."

25 Q. Did you tell her to call back in a little bit?

1 A. Yeah, I told her to call back a little later, you
2 know, so she...

3 Q. Did you talk to her again there?

4 A. Yes, the best I can remember she called back in
5 about 15 or 20 minutes, right before I left. She called back,
6 and she had told me that she was going to come on over, so I
7 didn't know really what I was going to do or what I was going
8 to say -- you know, she knowed Carolyn was there -- you know,
9 the girl that I was dating and living with -- you know, and I
10 thought -- well, I didn't want to be in the position with her
11 pulling up and Carolyn there, so I -- I was wanting to go get
12 me some clothes and stuff -- you know, out of my house -- you
13 know, so I went ahead and left.

14 Q. And you drove -- did you drive Mrs. Dellinger's
15 car?

16 A. Linda's Oldsmobile.

17 Q. And where did you go, and who -- did anybody go
18 with you?

19 A. Yes, Carolyn went with me.

20 Q. And this would be Sunday about what time?

21 A. It was about 10:00 that morning, I guess -- 10:30,
22 something like that.

23 Q. Where did you go -- without going into great
24 detail, just tell us basically where you went.

25 A. It's out in Kodak. You cross the bridge there at

1 the dam, and make the first road to the left, and it winds back
2 down the river.

3 Q. And that's where you went?

4 A. Yes.

5 Q. How long did you stay over there, approximately?

6 A. I was probably there an hour, I guess, something
7 like that -- hour and a half maybe.

8 Q. And you left there, and where did you go?

9 A. We went, and went to the grocery store, and picked
10 up some stuff for Linda to fix breakfast -- you know, and eat,
11 and stuff.

12 Q. And did you see the girl again after that -- this
13 Franklin girl?

14 A. Yes. We had went back over, and Linda fixed
15 breakfast, and stuff, and we eat, and -- I don't know, after we
16 eat it wasn't very long after that that she pulled up.

17 Q. Did you pass her or see her in any vehicle at any
18 time?

19 A. No, I didn't see her. She said she saw me when she
20 come back over there -- said she had passed me, but I didn't see
21 her.

22 Q. You don't remember seeing her?

23 A. No.

24 Q. Then she came over to your house -- over to James'
25 house. About what time was this, Gary?

1 A. It was sometime shortly after dinner.

2 Q. Now, you -- did you ever see Tommy again after you
3 left him there at the jail?

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

5 Q. With that girl?

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

7 Q. Did you ever see Connie again after you left her
8 at Townsend when she got back in her car?

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

10 Q. You came up here then, and that would have been -
11 - Friday was the 21st, Saturday would be the 22nd. I believe
12 Tommy's body was found sometime about the 25th, would that be
13 correct?

14 A. Yeah, it was on a Monday.

15 Q. On the following Monday?

16 A. Yeah.

17 Q. Did you come up to the courthouse -- jail here in
18 Sevierville, and talk to some officers from over in Blount
19 County concerning it?

20 A. Yes, I did, twice.

21 Q. Is this the time that you told him about the -- you
22 told him about the Camaro and the truck?

23 A. Yes.

24 Q. Did you get mixed up on that?

25 A. Yes. I told them I was driving a truck on Friday,

1 which I thought I had...

2 GENERAL SCHMUTZER: We've been over this, Your
3 Honor. I object to it, it's repetitious.

4 BY MR. DANIEL:

5 Q. Well, anyway, did you also -- did they ask you any
6 questions about whether or not you had been back over to Howie's
7 Lounge the last time you was over there? Do you remember them
8 asking you that question?

9 A. Yes, I did.

10 Q. Did you tell them anything about Connie Branum at
11 that time?

12 A. They asked me -- I really didn't know whether to
13 tell them -- she told me, and the best I can remember, the guy
14 over at the bar over there not -- to be sure not to tell nobody
15 that she had been over there because she was afraid Boyd would
16 have her put back in the mental institution. So I told them -
17 - they asked me, and I had to -- had I been in Howie's Lounge
18 with Connie Branum, and I said, "Yeah." He asked me when was
19 the last time I had been in there, and I said -- the best I can
20 remember, I told him it had been a while -- you know, I didn't
21 give him a specific time. We went on, and I started realizing
22 that, maybe, they was something...

23 Q. Well, let me stop you now. That would have been
24 on the 28th. When you left those officers on the 28th, did they
25 tell you to get back in touch with them, or give you any numbers

1 to call?

2 A. Yes, they did.

3 Q. And on the following day, the 26th, did you try to
4 get in touch with them?

5 A. I called, I believe his name is Jim Widener, in
6 Blount County. I called him for two days straight in a row, and
7 left messages and stuff, and before -- and I couldn't get hold
8 of him. They kept telling me -- you know, he was out -- you
9 know, and everything.

10 Q. Then did you finally, again, on the 28th, get a
11 chance to talk with him?

12 A. Yes.

13 Q. Did you meet him back over here at the jail?

14 A. Yes, I did.

15 Q. And did you tell him at that time about Connie?

16 A. Yes, I did.

17 Q. Had she shown up at that -- she hadn't shown up?

18 A. No, she still hadn't showed up.

19 Q. Did you have any idea that on the 28th when you
20 talked to her that there was any problem -- or on the 25th when
21 you made the statement to the officers, that there was any
22 problem with Connie at that time?

23 A. No, I didn't.

24 Q. And then on the 28th when you met, they asked you
25 some -- you told them you had been over there with her?

1 A. Yes.

2 Q. Had her body ever been found, to your knowledge,
3 at that time?

4 A. No, it hadn't.

5 Q. And you talked with them on the 28th. After you
6 talked to them a while did they accuse you -- start accusing you
7 of things?

8 A. Yes, I went in voluntarily on the 28th, and I told
9 them -- you know, I told them -- I went ahead and told them then
10 because I realized that maybe they was something wrong. I went
11 on the 28th and told them that I had been over there with
12 Connie, and told them everything -- what time I had been over
13 there with her, and everything -- you know. And while I was
14 setting talking to them -- you know, they started -- you know,
15 getting pretty rough and stuff, and jerking me around -- you
16 know, so I told them -- you know, I said, "I voluntarily come
17 in Tuesday, and I voluntarily come in today, but if this is the
18 treatment I'm going to get" -- you know, I said, "I want an
19 attorney."

20 Q. Okay. Did you -- you made a statement to them, and
21 you signed a waiver, is that correct?

22 A. Yes, I did.

23 Q. Waived your right to an attorney when you started
24 talking to them on the 28th?

25 A. Yes, sir.

1 Q. Did you -- was that statement recorded?

2 A. Yes, it was.

3 Q. Do you have any objection to that tape being played
4 to the jury -- what you told them on the 28th?

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

6 Q. What about the 25th, basically? Do you have any
7 problems with playing that tape for them?

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

9 Q. And then they -- so they quit questioning you, I
10 guess, after you asked -- you got in the argument, and you asked
11 for an attorney?

12 A. Yes, sir.

13 Q. Then later were you arrested? Did they finally
14 bring charges against you?

15 A. Yes, on March the 5th.

16 Q. March the 5th. Now, after that occurred, were you
17 in your cell sometime around March the 9th when someone came to
18 your cell, and told you that someone wanted to talk with you?

19 A. Yes, I was.

20 Q. Had you requested or asked anybody to have any
21 officer come to see you at that time?

22 A. No, I hadn't because I had done revoked my rights,
23 ever what it was -- ever what you call it, I done -- David Webb
24 had signed a piece of paper that I was not to be took out and
25 interrogated without him being present.

1 Q. And did you then -- did they come and get you, and
2 take you somewhere?

3 A. Yes, they did. They come back, and as they do,
4 they've got electric doors. They popped my door, and I come out
5 of my cell, and I remember I asked him where was we going, and
6 he said, "Don't worry about where we're going." They normally
7 don't tell you where you're going, so you don't know where
8 you're going till you actually get to where you're going -- your
9 destination -- you know.

10 Q. Did you show up somewhere -- did you wind up
11 somewhere?

12 A. Yes.

13 Q. And where was that?

14 A. They took me to a room out front that was just a
15 regular -- they use it for everything, a visiting room,
16 interrogation room, just whatever -- you know.

17 Q. And who was there -- who was there at that time?

18 A. They -- when they took me the room, and opened the
19 door, and took me in, they was one person there that I didn't
20 remember ever seeing before by the name of David Davenport, and
21 one that I did know, Mark Turner.

22 Q. Okay. Did Davenport have a rights waiver that he
23 wanted you to sign?

24 A. Yes, he did.

25 Q. Had you signed one -- had you signed a rights

1 waiver on the 28th?

2 A. Yes, I did.

3 Q. Let me show you Exhibit #31. Is that where you
4 signed your rights waiver when you gave them the voluntary
5 statement on the 28th?

6 A. Yes, it is.

7 MR. DANIEL: I believe the jury has already seen
8 this.

9 THE COURT: I believe they have, but if you want
10 to pass it, you may.

11 BY MR. DANIEL:

12 Q. There was another waiver form -- Mr. Sutton, let
13 me show you another Admonition and Waiver. It says, "T.B.I. and
14 Sevier County Sheriff's Department." Is this the same type of
15 waiver you signed on the 28th?

16 A. Yes.

17 Q. And I notice down here, it says, "I have initiated
18 this conversation with law enforcement. I do not want David
19 Webb present, or any other attorney at this time, and I'm
20 willing to talk to law enforcement without an attorney present."
21 Who wrote that in there?

22 A. David Davenport did.

23 Q. Did you tell him that?

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

25 Q. I notice a place here to sign, and it says,

1 "11:40," and then it's witnessed at 11:45, is that correct?

2 A. That's correct.

3 Q. Did he ask you to sign that?

4 A. Yes, he did.

5 Q. What did you tell him?

6 A. I told him that I wasn't going to sign it, that I
7 didn't have nothing to say unless he wanted to get -- you know,
8 let me get in touch with my lawyer, and I informed him about my
9 rights -- you know, I'd done invoked it, and that I was not to
10 be took out, interrogated, and asked any kind of questions
11 unless my lawyer was present.

12 Q. Had Mr. Webb written a letter or something to the
13 jail in that regard?

14 A. Yes, he had, that I was not to be interrogated in
15 no kind of way.

16 Q. Without telling all of the words that was said, was
17 there some curse words that passed between you and Mr.
18 Davenport?

19 A. Yes, they was. He stated to me he was -- the first
20 few words he said when I first come in -- you know, he
21 introduced hisself to me as a T.B.I. agent and stuff -- you
22 know, and he told me, he said, "I like to give every man a
23 chance and opportunity to talk to me." He said, "That's the
24 reason I stopped by here today, Gary." I said, "I ain't got
25 nothing to say unless my lawyer's present," and he sort of went

1 off then -- you know, and started making threats for my kid, and
2 stuff -- you know, and...

3 Q. Just tell the Court and jury what he told you.

4 A. Well, he told me, he said, "I'm just going to tell
5 you," he said, "I'm going to throw all the cards on the table."
6 He said, "From what we've found and everything we've got," he
7 said, "We don't believe you done this, or don't believe you had
8 anything to do with this," and he said, "I've even talked to the
9 majority of the Griffin family." He said, "The Griffin family
10 don't think you do," but he said, "I'm just going to throw the
11 cards on the table, and I believe you know who did." And he
12 said, "I'm going to tell you right now, I've been in law
13 enforcement for almost 20 years, and very seldom I ever lose a
14 case," and he said, "I don't plan on losing this one. I don't
15 care if I had to make evidence, if that's what it takes."

16 Q. Were you all cursing each other at this time?

17 A. Yes, we were, and I was trying to get him to take
18 me back to my cell, and he stated then that -- he said, "I know,
19 and I've been checking, and you've got a three year old
20 daughter," and he said, "From what I hear, you'uns are all real
21 close," he said, "you and your daughter is." He said, "Off the
22 top of my head," he said, "the best I can recollect just
23 thinking," he said, "If you're lucky, you might be out of prison
24 by the time you're 86 years old, and she'll be probably 60 years
25 old." He said, "It will be one hell of a way to spend your life

1 with your daughter, won't it?" And I sort of went off at that
2 point -- you know, and I told him, I said, "The best thing to
3 do is take me back to my cell. I'm not listening to this no
4 more." So he jumped up, and he got mad, and went out of the
5 room, and Mark Turner apologized and stuff to me for the way he
6 talked to me, and stuff, and he told me, he said, "Gary, we just
7 like to give everybody a chance to talk." He said, "Nobody here
8 believes that you're guilty."

9 Q. All right. Let me ask you this. Did you at that
10 time ever tell him that the car that you had just had one
11 headlight?

12 A. No, I did not.

13 Q. You've seen that statement that he wrote out, is
14 that correct? Exhibit #44 regarding an interview on March the
15 9th, the first page talks about what all they're advising you,
16 and that you understood your rights. And the first thing you
17 said -- you said you'd been locked up for something you hadn't
18 done. It says, "Sutton stated that he and James Dellinger were
19 together all day Friday, Saturday, and Sunday." Did you tell
20 him that?

21 A. No, I did not. That was what he wanted to put in,
22 I guess.

23 Q. Did you ever tell him that the car that you had -
24 - as I understand it, and you heard him testify that you
25 initiated this, and this was all something -- he didn't even

1 question you. And he stated that you told him...

2 GENERAL SCHMUTZER: I would object, Your Honor,
3 about testimony, and what they've said or not said,
4 if the Court please. What he said is not accurate
5 anyway. I object to him -- let's let him testify
6 to what he...

7 THE COURT: Okay. Ask him what he was asked, and
8 what he said.

9 BY MR. DANIEL:

10 Q. Did you ever tell him that your car just had one
11 headlight?

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

13 Q. In fact, did it have one headlight?

14 A. No, all my headlights work on my car.

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

16 THE COURT: Yes, sir.

17 BY MR. DANIEL:

18 Q. When did you first learn that Tommy Griffin was
19 dead?

20 A. It was on a Monday -- Monday evening. I think Boyd
21 Branum called Linda, and told Linda.

22 Q. And did you -- I'll ask you this, Gary. Did you
23 ever kill Tommy Griffin or Connie Branum or anybody?

24 A. No, sir, I didn't. I never -- I've never even had
25 a harsh word with either one of the people, never have.

1 Q. Do you have any animosity or any problems with
2 either one of those people?

3 A. No, sir, I haven't -- never have.

4 Q. Did you ever see anybody kill them?

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

6 Q. You told the officers, and they've asked you on
7 different -- how many different occasions -- they've asked you
8 did you kill them, and you've always told them the same story?

9 A. Sure have.

10 MR. DANIEL: That's all I have at this time.

11 THE COURT: Mr. Miller?

12 MR. MILLER: Your Honor, I need...

13 THE COURT: The Court will take a short recess, and
14 let you get some water, Mr. Miller. Half our
15 courtroom is sick, I've heard people coughing all
16 week. I'll give you a short break.

17 (COURT STOOD IN RECESS)

18 SHERIFF OGLE: Were you notified that Mr. Drinnon
19 is here?

20 THE COURT: He is here?

21 SHERIFF OGLE: He is here. They notified me just
22 during this last testimony.

23 THE COURT: Okay. I am advised, gentlemen, that
24 Mr. Drinnon is here. Are we ready to bring the
25 jury back in? All rise for the jury.

1 SHERIFF OGLE: One of the jurors had to make a
2 phone call. It will be just a minute.

3 THE COURT: Okay. Advise Mr. Drinnon not to leave
4 here today until I see Mr. Drinnon, unless he
5 testifies, okay?

6 SHERIFF OGLE: I'm sorry, Your Honor, I didn't hear
7 you.

8 THE COURT: Tell Mr. Drinnon that unless he
9 testifies here today to see me here before he
10 leaves. I want to talk to him -- don't leave,
11 okay?

12 SHERIFF OGLE: Yes, Your Honor. The jury's ready.

13 THE COURT: Okay. All rise for the jury.

14 (JURY IN)

15 THE COURT: Waive the call for the State?

16 GENERAL SCHMUTZER: Yes, Your Honor.

17 THE COURT: For the defense?

18 MR. MILLER: Yes, Your Honor.

19 MR. DANIEL: Yes, Your Honor.

20 THE COURT: You may be seated. Mr. Miller?

21 MR. MILLER: Thank you, Your Honor.

22 **

CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Sutton, just a few questions. You've told this jury what good friends you and Tommy Griffin were. You will agree that James Dellinger and Tommy Griffin were also good friends, would you agree to that?

A. Yes, sir.

Q. And the three of you were all good buddies, good friends?

A. Yes, sir.

Q. Would you agree that James was also as close to Tommy as any other -- Tommy's other family?

A. Yes, sir.

Q. And on Friday morning sometime, you all three got together, is that correct?

A. Yes, sir.

Q. And for the record, James didn't work regular, is that correct?

A. No, sir.

Q. He had a disability that kept him from working?

A. Yes, sir.

Q. And on Friday, he and you and Tommy went over to Blount County?

A. Yes, sir.

Q. And he was with you all over there at Howie's

1 Hideaway?

2 A. Yes, sir.

3 Q. He was with you at all times up until Tommy left
4 with the girl, is that correct?

5 A. Yes, sir.

6 Q. And then returned back to, I believe, his house
7 that night, is that correct?

8 A. Yes, sir.

9 Q. Now, on Saturday he was also with you just about
10 all day, is that correct?

11 A. Yes, sir.

12 Q. And he went with you over at Blount County?

13 A. Yes, sir.

14 Q. And that's where you all met -- saw -- ran into
15 Connie?

16 A. Yes.

17 Q. James was -- as a result of his disability, you
18 were aware that he ran into a little bit of settlement money,
19 is that correct?

20 A. Yes, sir.

21 Q. And he was generous with that money, you would
22 agree with that, wouldn't you?

23 A. Yes, sir.

24 Q. Did he pay for a lot of the beer, and stuff that
25 you all would go out and drink?

1 A. Yes.

2 Q. Did he ever hesitate to give Tommy anything he
3 needed?

4 A. No, sir.

5 Q. On Saturday, you testified, I believe, that Connie
6 was dancing and shooting pool, and having a good time?

7 A. Yes, sir.

8 Q. Likewise, on Friday, was Tommy having a good time?

9 A. Yes, sir.

10 Q. And you testified about -- you came in here and
11 gave some statements voluntarily to the police officers?

12 A. Yes.

13 Q. And specifically, I think Detective Widener and
14 Detective Gorley, is that correct?

15 A. Yes, sir.

16 Q. And did they, as well as David Davenport, give you
17 an opportunity to talk, so to speak, and tell what you knew
18 about it?

19 A. Yes, sir.

20 Q. Did they -- and telling you that they didn't think
21 you had -- that you did it, but they wanted to know who did --
22 wanted you to tell them, is that correct?

23 A. Yes, sir.

24 Q. Do you remember them telling you that there's two
25 punishments for first degree murder; one was the electric chair,

1 and one was life in prison?

2 A. Yes, sir.

3 Q. And did you take that to mean that they was willing
4 to make a deal if you'd tell them that James did it?

5 A. Yes, sir.

6 Q. And they told you that there was a possibility
7 you'd get the electric chair if you didn't tell them James did
8 it?

9 A. Yes, sir.

10 Q. And at no time did you tell them James had anything
11 to do with this?

12 A. No, sir.

13 Q. And you were with James the better part of the day
14 Friday and Saturday, and you know for a fact that he didn't have
15 anything to do with the death of Connie Branum or Tommy Griffin,
16 is that correct?

17 A. That's correct.

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

19 THE COURT: General Schmutzer?

20 **

21 CROSS-EXAMINATION

22 BY GENERAL SCHMUTZER:

23 Q. Mr. Sutton, you say you told the same story here
24 you've told all along?

25 A. Yes, sir.

1 Q. Is that right?

2 A. Yes, sir.

3 Q. The truth of the matter is that when you talked to
4 those officers back on February the 25th, the first time you
5 voluntarily went in there, you never once told them anything
6 about being in Howie's Hideaway with Tommy Griffin, did you,
7 sir?

8 A. I don't recall. It seems like I did, but I don't
9 recall whether I did or I didn't. I remember I told them we
10 were up here that day, and...

11 Q. Isn't it true, sir, what you told them was that you
12 had "...rode around, drunk beer that day, went to the mountains
13 and stuff. We went to Pudgie's, shot a few games of pool, and
14 then we went down the name of the road where Maxie's car lot
15 used to be, and there we bought some beer." And that's when you
16 told them about him -- Tommy getting in with this girl?

17 A. I told them. To the best of my knowledge -- I
18 really didn't -- if I didn't leave it out of there -- he shut
19 the tape off on the end when I was still trying to tell him
20 stuff -- he shut the tape off.

21 Q. Well, let me show you, sir, the transcript of that
22 tape, and ask you, sir, where it is -- where he asked you about
23 this. Doesn't it say, "We got together here. We rode around.
24 We rode around there all day, and just drunk beer -- you know -
25 - no, mountains and stuff -- you know. Rode around and drunk

1 everywhere. We went down to Pudgie's and shot a few games of
2 pool -- you know, and stuff, and rode around. I don't know the
3 name of the store, really. It's on -- I don't even know the
4 name of the road. Out there about -- somewheres out there,
5 about where Maxie's old car lot used to be. We pulled in there
6 to get some more beer, and went in and got some more beer, and
7 we come out -- we were coming back out, and some girl I
8 never..." Then they asked you the directions about the place,
9 and you said it may be a Citgo.

10 And then you come on down here, and it says, "The
11 closest one that sells beer." And then you come on down, and
12 you said, "But anyway, this girl -- you know, she just
13 approached us, and asked us did we know about any smoke."
14 That's what you told them, wasn't it?

15 A. That's -- if I -- really didn't feel it was that
16 important if I did leave it out because I'd seen them later on
17 that night -- I mean. That wasn't the last time I'd seen him -
18 - I mean, I'd seen him later on that night in jail.

19 Q. Sir, didn't they ask you to tell them about every
20 place you'd been, and what all you had done that day, and
21 everybody that might have seen him that evening?

22 A. At my knowledge, I told them everything I could
23 remember at my knowledge. I was intoxicated pretty bad myself.

24 Q. Well, you were certainly able to remember that you
25 bought two 12 packs at this place, weren't you?

1 A. Well, I can remember buying a case of beer. We
2 went in and bought a case of beer. That was the reason for
3 stopping at the store.

4 Q. Well, of course, you can remember, too, counting
5 out \$5 bills to him. You remember all that.

6 A. I remember giving it to him, yes, sir.

7 Q. You remember the description of this girl.

8 A. Yes, I do.

9 Q. Real well.

10 A. I don't...

11 Q. Isn't it true, though, sir, that you couldn't
12 remember...

13 MR. DANIEL: Your Honor, I'm going to object to -
14 - if the General will let him answer the question
15 without cutting him off.

16 THE COURT: He was answering. He may complete his
17 answer.

18 BY GENERAL SCHMUTZER:

19 Q. Complete your answer.

20 A. Well, ask the question.

21 Q. I think your lawyer said you had another answer.
22 Do you have some more to add?

23 MR. DANIEL: I didn't say that, Your Honor. I said
24 to just let him answer the question.

25 GENERAL SCHMUTZER: Well, I thought I did, Your

1 Honor.

2 BY GENERAL SCHMUTZER:

3 Q. Do you have some more to answer? Otherwise, I'll
4 go on.

5 A. Just ask the question.

6 Q. Now, you also didn't tell them a thing -- you told
7 them about leaving there after you supposedly left Tommy off
8 with this girl?

9 A. Yes, sir.

10 Q. You told them about going back, but you never once
11 told them about going by your brother's house, did you?

12 A. Yes, sir, to my knowledge, I did.

13 Q. You told them that?

14 A. To my knowledge, I told them about I got the truck,
15 yes, sir.

16 Q. Well, you just got through saying, sir, that you
17 told those officers that you were in a truck all day.

18 A. Well, I...

19 Q. That you got mixed up.

20 A. I did get mixed -- I was mixed up. They was so
21 much going on, I thought I was driving a truck on Friday.

22 Q. Well, if you were driving a truck all day there
23 would have been no reason for you to go back -- tell them about
24 going by your brother's and getting a truck, was there?

25 A. Well, I just -- I may have got mixed up and

1 confused on what days -- 'cause we drove the truck, and we drove
2 her car, and drove my car. We drove so many different vehicles.

3 Q. Sir, this was only a few days -- this was like the
4 21st to the 25th -- four days later, and you did not tell them
5 anything at all about going to your brother's.

6 A. To the best of my knowledge, I did. It's in the
7 thing.

8 Q. It's in here? You had a copy of this -- yes, sir.

9 A. To the best of my knowledge it is.

10 Q. Let me ask you this specifically. You told them
11 that, "We went on to the house." You said after you let him
12 out, "We were pretty intoxicated, but we had found somewheres
13 there at the first -- somewhere, winding back around and on down
14 the wide road, and we came to the house. We came to the house."
15 "Through Maryville and Chapman Highway?" "Yeah, yeah, the
16 Chapman Highway, but we come to the house -- you know. We just
17 took our time. We hit all them old back roads -- you know,
18 coming through drinking beer. So we had told James we was going
19 to go back to Pudgie's and shoot some pool, but I told James,
20 I said, 'No, we better get on to the house' -- you know. I said
21 'We need to get on to the house.' We both was in bad shape --
22 you know, to be out on the highway -- you know, so we went on
23 to the house -- you know." Now, you never once told them
24 anything at all about being at your brother's, did you?

25 A. To the best I remember to my knowledge, I told them

1 about my water pump was messed up on my car, and it was
2 overheating, and I stopped and got the truck.

3 Q. That's what you told them back on March the 9th
4 when you talked to Agent Davenport, was it not, sir?

5 A. I didn't even give Davenport no statement.

6 Q. You never once even talked to him?

7 A. I was took to the room and cussed and threatened,
8 and told if I didn't know something -- didn't tell it, there was
9 going to be evidence brought against me to...

10 Q. So he was going to make up evidence on you?

11 A. Make evidence.

12 Q. And, of course, Mark Turner was there, the
13 detective?

14 A. Mark Turner talked to me nice and polite in every
15 way, yeah.

16 Q. He talked to you real nice. He never threatened
17 you or anything at all -- never had no problems at all with Mark
18 Turner, but he would have been there, and heard every bit of
19 this?

20 A. He sure would have.

21 Q. He would have known exactly what went on in there?

22 A. Sure would.

23 Q. He would have known how you were threatened?

24 A. Sure does.

25 Q. He will know exactly how you were told that this

1 man was going to make up evidence on you?

2 A. Sure does.

3 Q. The fact of the matter is, sir, this statement
4 doesn't accuse you of anything, does it?

5 A. No, just the fact that he wanted -- said I told him
6 I'd been with James Friday, and Saturday, and Sunday, and the
7 fact that this car had been seen over there that had a headlight
8 out, and my didn't. He wanted that in his statement. I'd done
9 revoked my...

10 Q. Did he -- I'm sorry, go ahead.

11 A. I'd done revoked my rights to have an attorney
12 present. My lawyer had done fixed it through the jail house,
13 wrote a letter that I was not to be taken out and interrogated.
14 That's the whole deal -- saying that I asked somebody to, but
15 I never asked nobody to see David Davenport. If I wanted to see
16 somebody, I would have informed my attorney that I wanted to see
17 somebody, if I had wanted to see somebody. I didn't ask to be
18 took out there and cussed out, and threatened for my life, or
19 my little girl, and stuff.

20 Q. Well, so you're saying that the Agent took you out,
21 and all he wanted to get out of you is that your headlights --
22 one of your headlights was out, and that you were with James on
23 Friday, Saturday, and Sunday? And that's what he was making up
24 against you?

25 A. That's the only thing I could figure.

1 Q. Sir, if he was going to make up evidence against
2 you, he'd make up a confession, would he not?

3 MR. DANIEL: I object to that, Your Honor. It's
4 argumentative, and...

5 GENERAL SCHMUTZER: This is his statement, Your
6 Honor.

7 MR. DANIEL: Well, Your Honor, again, I'd make an
8 objection.

9 THE COURT: Sustained as to the form of the
10 question, General Schmutzer.

11 BY GENERAL SCHMUTZER:

12 Q. Now, further going back to your story, of course,
13 on the 25th you really concerned about the fact that Tommy --
14 you learned that Tommy was dead, had been murdered over there
15 in Blount County -- a friend of yours?

16 A. Yes, sir.

17 Q. Connie had been missing since Saturday, and she had
18 gone out looking for him, and she was missing?

19 A. Yes.

20 Q. Figured probably -- scared to death something
21 probably had happened to her under the circumstances, is that
22 right?

23 A. That's right.

24 Q. Okay. And you knew these officers were trying to
25 find out everything they could to try to figure out who it was

1 that had killed Tommy?

2 A. Yes, sir.

3 Q. And you also knew that they were also trying to
4 locate Connie?

5 A. Yes, sir.

6 Q. Pretty serious situation, wasn't it?

7 A. Yes, sir, it is.

8 Q. And yet, when you came over there, not only had you
9 not told them anything about being at Howie's Hideaway with
10 Tommy, you also told them, when they asked you specifically
11 about being at Howie's Hideaway with Connie Branum, you told
12 them that you hadn't been there in two or three weeks?

13 A. To the best of my knowledge, they asked me had I
14 been to Howie's Hideaway Lounge with Connie, and I told them,
15 yes, I had. They asked me how long it had been, and to the best
16 I can remember, I told them a while, because she did not want
17 nobody to know she had been over there. She was scared her
18 husband would put her back in the mental institution.

19 Q. Do you remember these questions being asked, sir,
20 and you giving these answers? "Has she ever been to Howie's,"
21 talking about Connie. "Has she ever been to Howie's Hideaway
22 Lounge out there on the long highway?" "Yes, I think she has."
23 "Have you ever been with her?" "Yeah, I believe -- yeah, I've
24 been over there." "And when was the last time you were there?"
25 "It's been a while." "Well, how long has it been?" "I don't

1 know, probably a couple of weeks ago, I guess, or something like
2 that, I guess." You don't remember giving that answer, sir?

3 A. I don't -- I ain't saying I didn't, maybe I did.

4 Q. They further asked you, they said, "Was Tommy with
5 you?" "No." "Well, who all was with you?" And you said, "Me
6 and her and James."

7 A. Yes, sir.

8 Q. You're saying that the reason why you didn't tell
9 them you were there with her on Saturday was because she didn't
10 want her husband to know that she had been out with James?

11 A. That's right.

12 Q. What would make the difference, sir, as to whether
13 she was out with James on Saturday or two weeks ago?

14 A. Well, I -- she didn't want nobody to know she was
15 there on account of...

16 Q. Well, if she didn't want anybody -- I'm sorry, go
17 ahead.

18 A. She didn't want nobody to know she was there.
19 That's what she stated. She didn't want nobody to know she was
20 there.

21 Q. Well, at that point, though, when you were talking
22 to these officers, she was missing, and you certainly wanted to
23 find her?

24 A. I come back in, and told them after I -- I didn't
25 think they was no problem -- I didn't realize then that maybe

1 they was even a problem, I mean...

2 Q. Well, didn't you just get through telling this
3 Court and jury that you were very much concerned about her?
4 There was obviously a problem, she'd been missing for four days.

5 A. Well, I didn't know what the problem was.

6 Q. Well, you still didn't know what the problem was
7 on the 28th, did you?

8 A. I didn't -- no, I didn't know what the problem was.
9 She hadn't been found, and I come in voluntarily again, and give
10 a statement, and told them I had been there when she hadn't been
11 found then, or whatever. I come back in voluntary, and give a
12 statement, and told them I had been there because I was getting
13 bad concerned then.

14 Q. You got concerned because you found out that the
15 officers had determined that, in fact, you had been there that
16 evening with her, didn't you?

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

18 Q. But you still -- when you came back the second
19 time, you still hadn't told them anything about being at Howie's
20 Hideaway with Tommy Griffin?

21 A. To the best of my knowledge, I did. I may have not
22 have -- I mean, there was so much going on, and I really didn't
23 feel it was that important. When I first come in and told them,
24 I'd seen him that night anyway, and I didn't feel like it was
25 important -- maybe something earlier that day I didn't tell

1 them. To the best of my knowledge, I did tell them. We set
2 there, and he -- you know, I was trying to still talk to him and
3 everything I could, and he shut the tape. We set and talked
4 after that.

5 Q. Well, there was nothing on there, sir, where you
6 telling them about going to Pudgie's and all where it shows
7 where any tape was cut off, and you've had an opportunity to
8 listen to all this, is that not true?

9 A. Yes.

10 Q. All right. Now, when the officers talked to you
11 again on the 25th, where you were trying to cooperate with them,
12 you told them specifically that Connie had called over there,
13 and told you all Tommy's trailer was on fire, did you not?

14 A. I never talked to her. That's just what I was
15 told. The phone -- I don't -- who all called, and who didn't.
16 I know they said that Connie called, and she was somewhat
17 concerned about Tommy, and afraid maybe he'd got over there at
18 Blount County, and got with some people -- got into maybe some
19 kind of trouble or something. I didn't talk to her. I think
20 James talked to her, and his wife talked to her.

21 Q. Well, isn't it true, sir, that you told them that
22 the first time you learned about the fire was not when Jenny
23 Branum came over there, but was when Connie called your house,
24 and told you that his trailer was on fire?

25 A. I don't remember. The phone was -- they was people

1 on the phone calling, and I remember the little girl coming to
2 the door -- I remember somebody coming and knocking on the door,
3 and hollering. I never went to the door. I was there close
4 enough to where I could hear the little girl saying that Tommy's
5 trailer was afire. I walked to the front door, and opened it,
6 and seen out the window that it was afire.

7 Q. You've never told those officers that a little girl
8 came to the trailer, and knocked on the door, did you?

9 A. I don't remember whether I did or not, just to be
10 honest with you. I'm not denying it, but I don't know whether
11 I did or not.

12 Q. In fact, you told them that Connie called three or
13 four times -- that she called the first time, and told you it
14 was on fire, called the second time, and asked where Tommy was,
15 and called again, and that's when you all told her that he was
16 with a girl, and she called you back the last time, and asked
17 you to go -- to call around, and ask where he was.

18 A. She didn't tell me nothing. I never talked to her.

19 Q. Well, you told the officers about that, though,
20 didn't you?

21 A. I told him what I was -- they said they talked to
22 her. I never talked to her neither time. I know the phone rung
23 several times. They was occasions they called out, and they
24 called back. I don't know who all was on the phone or whatever.

25 Q. Well, did you not tell the officers that, sir?

1 A. Tell the officers what?

2 Q. Did you not tell the officers that those phone
3 calls were made?

4 A. They -- James told me, or Linda one, there, that
5 Connie had called over there, and she was concerned that Tommy
6 may be in the trailer, and James got on the phone, I think, and
7 told her that he was not in the trailer, that he was in Blount
8 County with a girl, and not to worry about it.

9 Q. Did you tell the officers, sir, that Connie called
10 over there -- called over there, and said Tommy's trailer was
11 on fire...

12 MR. DANIEL: Your Honor, please, I'm going to
13 objection to repetition. That's been asked and
14 answered.

15 GENERAL SCHMUTZER: I'm going to go specifically
16 to it, Your Honor.

17 BY THE WITNESS:

18 A. Yes, I probably did.

19 Q. Then you told them that she called back, and said
20 she was still worried about him, is that right?

21 A. Yes, sir.

22 Q. Said that she called back again, and wanted you all
23 to call the hospital or somewhere to see if he was all right?

24 A. Yes, sir.

25 Q. Said that she called at least three times?

1 A. Yes, sir.

2 Q. The fact of the matter is she never did call once,
3 as far as you know, do you?

4 A. I never talked to her. All I know is that they
5 said they did, and set there and talked. I couldn't hear the
6 other end of the line.

7 Q. Of course, you all had come in that evening after
8 leaving him over there, is that right?

9 A. That's right.

10 Q. And he told you that he had fallen in with this
11 girl -- he had found a girl, and she had a car?

12 A. That's right.

13 Q. Said he would be back in three or four or five
14 hours?

15 A. That's right.

16 Q. So you certainly had no reason to be concerned
17 about him?

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

19 Q. There was no reason to call the hospital about him,
20 was there?

21 A. Well, like I said...

22 Q. Just answer my question, sir. There was no reason
23 to call the hospital...

24 MR. DANIEL: I object to...

25 THE COURT: Your Honor, I object to him not

1 answering the questions.

2 **MR. DANIEL:** He can answer the question, and then
3 explain any answer.

4 **BY THE WITNESS:**

5 **A.** Well, we figured maybe he'd got into something over
6 there -- I mean, on account of the drug deals that they was
7 getting in on because he was done supposed to been home. He
8 told us he would be on home in a little bit.

9 **Q.** Sir, this was at 9:00, only two hours after you'd
10 let him out.

11 **A.** This was -- yeah, somewheres around there, or a
12 little later, I guess.

13 **Q.** Right. The phone calls were made from 9:17 to
14 9:30. You saw that, didn't you?

15 **A.** Yeah, I did.

16 **Q.** Okay, sir. And you testified here it was around
17 7:00 when you let him out.

18 **A.** Well, she was concerned, and wanted to try to get
19 hold of him because his trailer had burned, and stuff.

20 **Q.** What I'm asking you, sir, he told you he was going
21 to be gone from three to five hours?

22 **A.** He didn't give -- he just said, "I'll be home after
23 while." He said, "I'll...

24 **Q.** Did you not tell this Court and jury, sir, that he
25 said he'd be home from three, four, to five hours when your

1 attorney asked you that?

2 A. Well, it may have been somewhere that numerous
3 count, three -- two, three, four hours.

4 Q. And, of course, there was no reason to worry about
5 it anyway because you had already been back to the jail earlier
6 that evening, and tried to pick him up, and the officer told you
7 you had to come back later because he had to build four hours?

8 A. No, sir, I hadn't.

9 Q. And when you got back there with Linda Dellinger
10 and your girlfriend, Carolyn Weaver, you never once told them
11 either that you had been in Howie's Hideaway with Tommy Griffin,
12 had you, sir?

13 A. I don't recall whether I did or I didn't.

14 Q. Well, you and James were certainly talking about
15 it?

16 A. Yeah, we may have been -- I don't recall whether
17 we told them we'd been in the -- Howie's Hideaway or not.

18 Q. Well, if she said, sir, that you had never told her
19 that you had been in Howie's Hideaway, even as late as March the
20 5th, I take it you won't say she's lying, would you?

21 MR. DANIEL: Your Honor, I object to that. That's
22 an improper form of that question.

23 THE COURT: Sustained as to the form of the
24 question, General Schmutzer.

25 BY GENERAL SCHMUTZER:

1 Q. Had you told her, sir, up until March, or at any
2 time during this period of time -- you all had never told her
3 that you had been in Howie's Hideaway...

4 A. Told who?

5 Q. ...with Tommy Griffin?

6 A. Told who?

7 Q. Told Linda Dellinger?

8 A. I don't know whether we had or not. I don't recall
9 whether I had or not.

10 Q. Well, the fact of the matter is you did go over
11 there, and you were with Connie Griffin (sic) at the Howie's
12 Hideaway?

13 A. That's right.

14 Q. You went in there, and she was anxious, looking for
15 her brother?

16 A. That's right.

17 Q. Connie and her brother were very close, weren't
18 they, sir?

19 A. Yes, sir, they were.

20 Q. And there was no reason in the world for Connie to
21 be calling over, and asking you all to call the hospital. She
22 had a telephone herself, didn't she?

23 A. She -- she knew -- me and James was the ones that
24 usually always took care of him. I mean, she did, too. We all
25 three did.

1 Q. She wanted to know something about him, didn't she?

2 A. She -- James told her where he was at to the best
3 of my knowledge.

4 GENERAL SCHMUTZER: Your Honor, he's never answered
5 -- I'm going to ask that he be instructed to answer
6 my questions, and then explain if he wants.

7 THE COURT: So what is the specific question,
8 General Schmutzer? What is the specific question
9 that you asked him?

10 GENERAL SCHMUTZER: Your Honor, I had asked him
11 about telling Connie Branum -- telling about Connie
12 Branum.

13 THE COURT: The officers or Linda Dellinger?

14 GENERAL SCHMUTZER: Linda Dellinger.

15 THE COURT: Okay. Answer that question.

16 BY THE WITNESS:

17 A. Ask the question again. What...

18 Q. Isn't it true, sir, that you had -- when you all
19 were in there with Linda -- I mean, with Connie Branum in
20 Howie's Hideaway, she was trying to find out where her brother
21 was?

22 A. We all were.

23 Q. All three of you?

24 A. That's right.

25 Q. Yet, when you went up to the bartender, the girls

1 there, James told them that, "We were in here yesterday after
2 we got him out of jail," didn't he?

3 A. I didn't overhear that conversation.

4 Q. Are you saying that conversation wasn't said, or
5 you just didn't overhear it?

6 A. No, I'm not denying it. I'm not -- it may have...

7 Q. Well, that wouldn't have been -- I'm sorry.

8 A. I might have not denied it, but that may be the in
9 the words they said it. I'm not denying that they did.

10 Q. You're not denying that James Dellinger told them
11 that?

12 MR. DANIEL: Your Honor, object to the form of that
13 question. He's done answered that he didn't hear
14 it, so the General's asking him now to comment on
15 something he didn't even hear.

16 GENERAL SCHMUTZER: Your Honor, he went on to say
17 he didn't deny it, Your Honor, but he was saying
18 that they said it. I said James Dellinger said it.

19 THE COURT: Do you know whether James Dellinger
20 made that statement?

21 THE WITNESS: No, I don't. I'm not denying that
22 he did or he didn't. I didn't hear it.

23 BY GENERAL SCHMUTZER:

24 Q. Well, if he did make it, that wouldn't be right,
25 would it, sir?

1 A. I didn't...

2 Q. That would be a lie, wouldn't it?

3 A. Well, I didn't hear it.

4 Q. I didn't ask you, sir, if you heard it or not, I
5 asked you if he did say that, that would be a lie, wouldn't it?

6 MR. DANIEL: I would object to the form of that
7 question.

8 GENERAL SCHMUTZER: It's perfectly stated, Your
9 Honor.

10 THE COURT: You may answer that question.

11 BY THE WITNESS:

12 A. What would be a lie?

13 Q. That he, in fact, had gone over there -- that he,
14 in fact, had told them that you all had been in there with Tommy
15 Griffin after you'd gotten him out of jail?

16 A. Yes, if that was told, it would be. We never was
17 back in there.

18 Q. The fact of the matter is you hadn't even told
19 Connie Branum that you all three had left there together, had
20 you?

21 A. Yes, we had.

22 Q. You told her that before you went in there?

23 A. Yes, we had.

24 Q. But the fact of the matter is, you were standing
25 right there when she told the bar -- one of the girls -- she

1 asked them, rather than tell them, she asked them, said, "Who
2 did Tommy leave with?"

3 A. That was the whole reason of going back to the bar
4 to where we was at the night before to see if maybe he'd come
5 back, and see if...

6 Q. Just answer my question, sir, and then you can
7 explain it. Did you not -- did James Dellinger not -- strike
8 that. Did Connie Branum not ask the girl there at the bar who
9 her brother had left with that night -- that Friday night?

10 A. Not at my knowledge. If she did, I didn't hear
11 her.

12 Q. Well, there would certainly be -- to your
13 knowledge, is there any reason why Terri Lilly or Jamie Forsythe
14 would come in here, and swear to anything that wasn't true?

15 MR. DANIEL: I object to that, Your Honor. He said
16 he didn't hear the statement. The General goes
17 further, and then asks him to comment on somebody
18 else's...

19 THE COURT: He said he didn't hear the statement.

20 GENERAL SCHMUTZER: That's correct, Your Honor, but
21 I think I have a right to ask him if he knows any
22 reason why they would come in, and swear to
23 anything that wasn't true. They said that he was
24 there.

25 THE COURT: Gentlemen, I have sustained both sides'

1 objections on comparing testimony, so I'll be
2 consistent.

3 BY GENERAL SCHMUTZER:

4 Q. So you didn't hear that either then, is that right?

5 A. No, sir, I didn't hear it.

6 Q. And I take it, then, you didn't hear when Dellinger
7 cut them off before the girl could tell her who he'd left with?

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

9 Q. He told her to go get the beer?

10 A. I didn't hear none of that conversation take place.

11 Q. The fact of the matter is, sir, the reason why you
12 were so concerned about the statement that you made to Agent
13 Davenport and Mark Turner was you know that headlight being out
14 put you out on Alcoa Highway fighting with Tommy Griffin?

15 A. No, sir, I've never told him my headlight was out
16 because it's not.

17 Q. I didn't ask you, sir, whether you told him. I
18 said that's the reason why you are concerned about that
19 statement.

20 MR. DANIEL: Your Honor, object to what he is
21 concerned with.

22 THE COURT: Well, he can ask him that.

23 BY THE WITNESS:

24 A. No, I'm just saying I didn't give it. I didn't
25 give the man no statement.

1 Q. I didn't ask you...

2 GENERAL SCHMUTZER: Your Honor, he's not being
3 responsive to my questions.

4 THE COURT: Answer the question, and then you may
5 explain it, Mr. Sutton.

6 BY THE WITNESS:

7 A. Yes, I'm concerned with something I didn't do.

8 Q. I'm asking you, sir, isn't that the reason why
9 you're concerned with the statement because you realize that if
10 there's a headlight out on that car, that put you out on Alcoa
11 Highway fighting with Tommy Griffin?

12 A. Well, the form that you're putting it -- yes, I'm
13 concerned with the statement.

14 Q. All right, sir. And, of course, you had those
15 headlights in that car? You put them in here in evidence, is
16 that right?

17 A. Yes, sir.

18 Q. And one of them is brand new, is that right?

19 A. I've never even looked at the headlights.

20 GENERAL SCHMUTZER: I would ask they be passed to
21 the jury.

22 THE COURT: Sure.

23 GENERAL SCHMUTZER: May I finish my cross
24 examination and pass them to them?

25 THE COURT: Sure.

BY GENERAL SCHMUTZER:

Q. The truth of the matter is, sir, when you all left Howie's Hideaway, you got in an altercation with your good friend, Tommy Griffin, and left him there on the Alcoa Highway without his shirt on?

A. No, sir.

Q. That after you did that, you came back, couldn't find him, and you went to the jail, and asked them how long -- when you could get him out -- asked if he was in there. You found out he was, and wanted to know if you could get him out, and they told you you would have to come back in four hours?

A. No, sir.

Q. And you were with James Dellinger during that period of time, weren't you?

A. Yes, sir.

Q. And when you couldn't get him out, you then came on back over here to Sevier County?

A. We come back to Sevier County, and left my car -- I never was on Alcoa Highway.

Q. And you came back with your Camaro, and changed cars, and got in your truck?

A. Yes, sir.

Q. Drove back up into Gibson Hollow?

A. Yes, sir.

Q. And when you drove back up into Gibson Hollow you

1 stopped off and set fire to Tommy Griffin's trailer?

2 A. No, sir.

3 Q. And after you set fire to his trailer, you drove
4 on up and pulled into James Dellinger's driveway, didn't you,
5 sir?

6 A. No, sir.

7 Q. You came back that evening and pulled into that
8 driveway, didn't you, in a white truck?

9 A. In James driveway, yes, sir.

10 Q. No other cars or trucks came in there and pulled
11 in there -- white trucks, other than you and this defendant, did
12 they?

13 A. No, sir.

14 Q. It was -- when you got home, you told Linda and
15 Carolyn that you had left Tommy over there with a girl?

16 A. Yes, sir.

17 Q. And yet, once they came over, and started talking
18 about the fire, you then decided we better start looking about
19 him, but you couldn't tell Linda at that time...

20 MR. DANIEL: Object to the form of the question.
21 He's asking him two or three questions. He asks
22 one question, and then starts on another question
23 without even giving him -- this witness a chance
24 to answer the question.

25 THE COURT: Rephrase, General Schmutzer.

BY GENERAL SCHMUTZER:

Q. The fact of the matter is, sir, if Connie Branum called over there at 10:00 and asked where he was, you would already have known where he was, wouldn't you?

A. Do what now?

Q. If Connie Branum had called over at 10:00, and asked where he was, you would have already known where he was?

A. I know he was with a girl. That's all I knowed.

Q. Well, at 10:00, sir, you had already called the hospital, and already called the jail.

A. Well, I never talked to her. I never talked to Connie.

Q. I'm not asking you that, sir. I'm saying didn't you -- at 9:30 you would have already known because you just told this Court and jury that you all had called over to the hospital, and called to the jail, and learned that he was in jail, and you got the phone and talked to them.

A. Yes, I'm not exactly sure on the time, but it was somewhere in that neighborhood of 10:00, yeah.

Q. Well, sir, did you not see the telephone records?

A. Yes, I believe I did. I don't remember exactly what time it was.

Q. There's no reason to believe those telephone records would lie, is there?

A. No, I'm not saying I didn't. At that time, I just

1 don't remember exactly what time it was.

2 Q. You all rode back over there, changed cars again,
3 got into Linda's car?

4 A. Yes.

5 Q. The truck ran okay?

6 A. Yes, sir.

7 Q. You left out of the hollow, and went over there,
8 and got him out of jail?

9 A. Yes, sir.

10 Q. Took him out, stopped on the side of the road --
11 off the road there at a remote spot to take another leak?

12 A. No, sir.

13 Q. Been drinking beer?

14 A. No, sir.

15 Q. You all hadn't been drinking beer?

16 A. We'd been drinking beer, yeah.

17 Q. And you all were stopping along from time to time,
18 and taking leaks just like you did Saturday there in Townsend?

19 A. Me and James was, yeah, on the way home. I guess
20 we stopped and took one.

21 Q. Well, you all stopped to take a leak, and that's
22 when you shot him in the back of the head with James' shotgun?

23 A. No, sir.

24 Q. You came back, and the truth of the matter is, you
25 didn't get back until around 1:00, is that not true?

1 A. To the best of my knowledge it was about 12:00,
2 maybe a little after, I guess.

3 Q. Connie was worried to death, wasn't she?

4 A. She, I think, talked to James or Linda later on
5 that night.

6 Q. Well, you weren't home later on that night. You
7 left right then, and went on to the Huddle House.

8 A. They was -- when we got back home, James or Linda
9 one talked to Connie. I don't remember which one talked to her,
10 but told her -- I don't remember whether they called her or
11 whether Connie -- I don't know.

12 Q. And, of course, the following day you all were out
13 together, you and James again?

14 A. Yes, sir.

15 Q. Driving around drinking?

16 A. We went out to get my check, yes, sir.

17 Q. Saw Connie?

18 A. Yes, sir, later on that evening, yes, sir.

19 Q. She was asking about her brother?

20 A. Yes, and we was all...

21 Q. Real concerned about her brother?

22 A. We all were.

23 Q. You went to Howie's Hideaway, and every time she
24 started making inquiries, James Dellinger started breaking her
25 off, and wouldn't let her make anymore inquiry -- cutting in?

1 A. I never heard him cut into nothing that she had
2 to say.

3 Q. Proceeded to get drunk, didn't she?

4 A. We all did.

5 Q. She was drunker than you all?

6 A. No, she wasn't no drunker than -- I was -- I guess
7 we all was intoxicated. I couldn't say who was...

8 Q. You all were walking around on either side, and
9 helped her out of there, didn't you?

10 A. No, sir, we didn't.

11 Q. You took her out, and you brought her over here,
12 sir, and murdered her because she was getting too close?

13 A. No, sir.

14 Q. Let me get this straight. You are telling this
15 Court and jury that Tommy Griffin got in with this girl, a black
16 headed girl in a Falcon?

17 A. Yes, sir.

18 Q. Ended up getting thrown in jail?

19 A. I don't know nothing about that.

20 Q. You didn't get him out of jail?

21 A. Yes, but I don't know nothing about him getting
22 throwed in there or how he got throwed in there. I don't know
23 nothing about that.

24 Q. I didn't ask you about how he got thrown in there.
25 I asked her -- you knew that he got with this girl, and sometime

1 later that evening got thrown in jail?

2 A. Yes, sir.

3 Q. And yet, when you came out of that jail, he went
4 with that girl again?

5 A. Yes, sir.

6 Q. And, in fact, even when you told him about his
7 trailer burning -- there was no reason for you all to lie to
8 him, was there?

9 A. No, sir, sure wasn't.

10 Q. Wasn't any reason for him to believe you'd be lying
11 to him, was there?

12 A. No, sir.

13 Q. And he didn't even bother to call his sister or
14 anyone to find out about his trailer burning down.

15 MR. DANIEL: Your Honor, I object to that. I don't
16 see how this witness would know who Tommy Griffin
17 called. I object to the form of that question.

18 GENERAL SCHMUTZER: Well, he was in his presence.

19 THE COURT: Any statements made by Mr. Sutton to
20 Mr. Griffin, or vice versa, is allowable.

21 BY GENERAL SCHMUTZER:

22 Q. He never made any calls, did he, sir, while you
23 were with him?

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

25 Q. He just left with that girl, you're telling this

1 Court and jury?

2 A. Yes, sir, he did.

3 GENERAL SCHMUTZER: No further questions.

4 MR. DANIEL: You may come down.

5 THE COURT: Approach the bench, gentlemen.

6 GENERAL SCHMUTZER: While we're doing that, Your
7 Honor, can I go ahead and pass those?

8 THE COURT: You sure may.

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

10 THE COURT: Because of the time, I will give you
11 the option -- if you want to put Mr. Drinnon on
12 tonight, I will let you do that, or I will let you
13 bring him back in the morning.

14 MR. DANIEL: How much rebuttal have you got, Al,
15 do you know?

16 GENERAL SCHMUTZER: They've already rested, Your
17 Honor.

18 THE COURT: I'm sorry?

19 GENERAL SCHMUTZER: I would point out that
20 Dellinger has already rested.

21 THE COURT: Subject to Mr. Drinnon. He rested
22 subject to Mr. Drinnon.

23 MR. WEBB: We've not called -- that's your
24 decision.

25 THE COURT: Well, is he also subpoenaed by you?

1 MR. WEBB: I don't know if I actually subpoenaed
2 him, but, of course, we adopted all their
3 subpoenas, as the Court knows.

4 THE COURT: I guess what I'm telling you gentlemen
5 is, if you -- because it is now 8:00, and it, quite
6 frankly, took somewhat longer than the Court
7 anticipated -- if you want to call Mr. Drinnon now,
8 I will let you do that, or if you want to wait and
9 call Mr. Drinnon in the morning, I'll let you do
10 that, Mr. Miller, Mr. Webb, Mr. Daniel.

11 MR. DANIEL: It went longer than we thought it
12 would.

13 MR. WEBB: Well, if he's here, and if anybody wants
14 to call him, they better call him because he may
15 not be here tomorrow.

16 THE COURT: That's up to you, Mr. Miller. The
17 Court will give you that option. If you to let him
18 -- if you want to bring him back in the morning,
19 I'll bring him in here and read him the act.

20 MR. WEBB: Just call him, and get it over with.

21 THE COURT: I'll give you that option.

22 MR. WEBB: All right.

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

25 THE COURT: Call Mr. Drinnon.

26 **

1 RON DRINNON was called, and being duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WEBB:

5 Q. Mr. Drinnon, state your full name to the jury,
6 please.

7 A. Ronald Mitchell Drinnon.

8 Q. And do you live over in the Walden's Creek area?

9 A. Yes, sir.

10 Q. I believe that you talked to -- I'm looking at a
11 statement that you gave...

12 GENERAL SCHMUTZER: Your Honor, it would be
13 improper at this point to make reference to the
14 statement. I think he needs to ask...

15 MR. WEBB: Okay, I'll ask him. I'm just trying to
16 move along, Your Honor.

17 BY MR. WEBB:

18 Q. Did you give a statement...

19 GENERAL SCHMUTZER: Well, I'm just objecting to
20 giving a statement...

21 THE COURT: Well, he can ask him if he gave a
22 statement, and then...

23 MR. WEBB: That's what -- I thought that's what
24 I...

25 BY GENERAL SCHMUTZER:

1 Q. Did you give a statement to Sheriff Ogle?

2 A. Yes, sir.

3 Q. And that was back in August of '92?

4 A. I'm not sure of the date.

5 Q. Okay. That's fair enough. And were you over at
6 Howie's bar on Saturday, February 22nd of last year?

7 A. Yes, sir.

8 Q. And do you recall seeing a lady who you now know
9 as Connie Branum?

10 A. Yes.

11 Q. Did you know her by name, or did you know her by
12 family trait?

13 A. I just knowed by her appearance that she was a
14 Griffin -- I thought Griffin. I didn't know her name was
15 Branum.

16 Q. Okay. Did she have an occasion to come up, and
17 talk to you?

18 A. When I told her I recognized who she was, yeah.

19 Q. And what did she tell you?

20 A. She just asked how -- where -- or where did I know
21 her from, and I said, "I'm not sure of any particular place, but
22 I've just seen you before." I don't really know where I'd ever
23 seen her or -- I'd just seen her around. I know the sisters
24 look alike. I could not even have been her -- you know.

25 Q. Let me ask you this. Was there any time where she

1 asked you not to tell anybody where she was at?

2 A. She told me not to tell anyone I'd seen her over
3 there.

4 Q. Did she tell you that more than one time?

5 A. I think so.

6 Q. Okay. Did you know Mr. Sutton -- there he is right
7 there. Did you know him?

8 A. I don't think so.

9 Q. How about Mr. Dellinger? Do you know him?

10 A. I've heard the names before, that's all. I
11 don't...

12 Q. Did you ever see either of these people -- strike
13 that. Did either of these people try to keep you from talking
14 to Connie Branum?

15 A. No, one of them said -- I'm not sure which, said,
16 "Come on over here, and leave that boy alone," or something of
17 that sense.

18 Q. Okay. Did anybody go over and grab her, and push
19 her away from you?

20 A. No.

21 Q. Was she drinking?

22 A. I didn't see on in her hand, but I think she was,
23 yes.

24 Q. From the way she was acting could you tell she had
25 been drinking?

CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Drinnon, when these officers took your statements, they were asking you if Ms. Branum was under these men's control, were they not?

A. Were they?

Q. Were they asking you if Ms. Branum was under these men's control?

A. I don't recall the questions.

Q. Do you remember them asking you if these men were interrupting her from talking to people -- trying to keep her quiet?

A. I don't remember if I said anything about that or not.

Q. Do you remember the officers asking about that is my question.

A. No, I don't remember them asking a question like that.

Q. It's been a long time ago, hasn't it?

A. Yeah.

Q. But at any rate, you didn't ever see Ms. Branum - excuse me -- Mr. Dellinger or Mr. Sutton, either two of these men, interrupt Connie Branum, or try to keep her from talking to anybody, did you?

A. They just wanted -- like I just said, the one said,