

Q. Were you Circuit Clerk in November of 1978?

A. Yes sir, I was.

Q. Can you describe your duties as Clerk on that day or during that month?

A. Responsible for all records, keeping records in Circuit and District Court, Juvenile Court or any Court here in Coosa County.

Q. I'll ask you whether or not that includes the preservation of evidence admitted into those courts?

A. That is correct.

Q. I ask you if you ever had the occasion in November of 1978 to receive any evidence that was admitted at a preliminary hearing in the case involving Mr. Davis and the victim Mrs. Alford?

A. Yes, I did.

Q. Do you recall when that was?

A. It was on November 17, I believe.

Q. What specifically of that, please sir?

A. It was some photographs and also a billfold with some checks in it.

Q. I show you what has been marked as State's Exhibit No. 25, and I will ask if you can recognize it?

A. Yes sir, I do.

Q. What is it?

A. It is a brown leather billfold.

Q. Have you seen it before?

A. Yes, I have.

Q. Where have you seen it before?

A. I seen it on the record in the file in this case.

- Q. Is that the one and the same billfold that you referred to seeing?
- A. That's correct.
- Q. Do you recall the witness from whom you received it when it was introduced into evidence?
- A. Mr. Hudson.
- Q. Ted Hudson?
- A. That's correct.
- Q. I ask you to open it?
- A. O. K.
- Q. Is there anything inside?
- A. There is.
- Q. Since you have taken them from inside, I show you State's Exhibit No. 26, 27, 28, 29 and 30 and I ask you if you can recognize each of those?
- A. Yes, I can.
- Q. What are they, please sir?
- A. These are 5 checks that were in the billfold at the time they were turned over to me.
- Q. From Mr. Hudson's testimony?
- A. That's correct.
- Q. I will ask you to put them back in the billfold please?
- A. O. K.

MR. SIMS: May I have the witness on
voir dire, your Honor?

BY THE COURT: Yes sir.

VOIR DIRE EXAMINATION

BY: MR. SIMS:

Q. Gerald, where has that billfold been kept?

A. It has been kept with the file.

Q. It has been in the file?

A. Yes, sir, it has.

Q. The file been locked up?

A. It is locked every day.

Q. In the office where is it kept?

A. It is kept in the file jacket over in the file shelf on the back wall of the Clerk's office.

Q. How many people have access to the file?

A. The ones in my office and if anyone comes in and requests that is related to the case.

Q. How many people have been through the file since the billfold was put in the file?

A. The State has looked at it and I believe you and Mr. Sikes, has also looked at it.

Q. Has there been times when you are not present in the office?

A. Possibly, but some of my personnel would be there.

Q. How many people do you have working for you?

A. I have three.

Q. All of them would have access to the file?

A. Yes, they would.

Q. Anybody that come in the office, it not locked up would have access to the file?

A. Yes sir.

That's all.

CONTINUED DIRECT EXAMINATION

BY: MR. WILLIAMS

Q. Gerald, I will ask you again to look at the wallet, State's Exhibit No. 25, and ask you if it is in substantially the same condition today as it was when you received it from Mr. Ted Hudson, when it was introduced into evidence at the preliminary hearing?

A. It appears to be, yes.

Q. I ask you to examine State's Exhibit No. 26 through 30, the checks?

A. O. K.

Q. I will ask you if today they are substantially in the same condition today as they were when you received them from Mr. Ted Hudson, as they were admitted into evidence, inside the wallet?

A. Yes sir, with the exception of the button marks on the corners they are more visible now than they were at that time.

Q. I will ask you whether or not from the time you received the wallet and the checks, as a part of the evidence in connection with your duties if they have remained under your care and control?

A. Yes sir, they have.

Q. Until when?

A. Until this trial started, until I handed them over to you.

MR. WILLIAMS: We move for their admission.

MR. SIMS: We object and would like
to state our grounds.

BY THE COURT: Yes.

MR. SIMS: We object on the ground No. 1, there has been no showing that on the day, July 20, 1978, the billfold was in the Alford Store. No. 2, we move in our objection that the billfold has been in the file with a lot of different people having access to the file over a period of months and months, it has not been locked up. We feel the chain of custody for the billfold has not been established.

MR. WILLIAMS: Does the Court wish a
response?

BY THE COURT: No, the objection is
overruled.

MR. WILLIAMS: We move to admit the bill-
fold as State's Exhibit No. 25.

MR. SIMS: Object to that.

BY THE COURT: No. 25 is in, over the
objection of the defendant, it is in.

COURT REPORTER: The court reporter at the
direction of the Court upon the ad-
mission of State's Exhibit No. 25,
removed the Exhibit Sticker marked
State's Exhibit No. 6.


Court Reporter

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 25, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 25, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEEDRE.)

MR. WILLIAMS: We move to admit State's Exhibit No. 26, a check which was in the billfold.

MR. SIMS: Object to that.

BY THE COURT: Overruled, 36 is in.

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 26, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 26, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. WILLIAMS: State's Exhibit No. 27.

MR. SIMS: Objection.

BY THE COURT: Overruled, it's in.

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 27, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 27, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. WILLIAMS: State's Exhibit No. 28,
a check that was in the billfold.

MR. SIMS: We object.

BY THE COURT: Overruled, it's in.
(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 28, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 28, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8TH DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. WILLIAMS: State's Exhibit No. 29,
that was in the billfold.

MR. SIMS: Objection.

BY THE COURT: Overruled, 29 is in.
(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 28, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 28, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. WILLIAMS: State's Exhibit No. 30,
another check that was in the
billfold.

MR. SIMS: Objection.

BY THE COURT: Overruled, it's in.
(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 28, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 28, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

Q. Gerald, was you present in Court when that wallet

was introduced into evidence?

A. Yes sir, I was.

Q. And the checks.

A. Yes sir, I was.

Q. Gerald, I'll ask you whether or not you know the defendant, Timothy Charles Davis?

A. Yes sir, I do.

Q. Have you seen him on few or many occasions?

MR. SIMS: We object to that.

BY THE COURT: Overruled.

A. Several occasions.

Q. Have you ever had an occasion to see him use a pen or pencil as if he were writing?

A. Yes, I have.

Q. When was that, please sir?

A. Last Monday afternoon.

Q. Do you recall what hand he was using, in using that pen?

A. Yes sir, his left hand.

That's all.

CROSS EXAMINATION

BY: MR. SIMS:

Q. Is your testimony Tim Davis is left handed?

A. I just saw him writing left handed.

That's all.

BY THE COURT: You may step down.

MR. WILLIAMS: We move for State's Exhibit No. 42, which is the right tennis

shoe, and State's Exhibit No. 43, which is the left tennis shoe, I failed to ask the Court to admit them at the end of Mr. Hudson's testimony, I mean Mr. Landrum's testimony last night, we move their admistion.

Mr. SIKES: Object.

BY THE COURT: Each is admitted as identified.

MR. WILLIAMS: They are State's Exhibits No. 42 and 43.

MR. SIMS: Object for the record No. 42.

BY THE COURT: Overruled 42 is admitted.

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 42, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 42, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. SIMS: Object to 43.

BY THE COURT: Overruled, 43 is admitted.

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 43, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 43, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8th DAY OF AUGUST, 1980, in ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

BY THE COURT: The Court is satisfied at this time that you don't have a very short

witness , at this time, the Court will take the noon recess. Ladies and Gentlemen it is about 12:00 o'clock, you will have your noon meal with the presence of the bailiff. I am sure they have made arrangements for you to have that meal, and we will come back at 1:15, and continue the trial of this case. Again, I caution you, do not discuss the case and don't make up your minds about it at this time. Please bear that in mind. You are now in recess until 1:15.

(COURT IS IN SESSION AT 1:15 O'CLOCK)

BY THE COURT: Court is open at this point without the presence of the Jury in order for one or two matters might be considered by the Court, prior to the Jury's return to the Courtroom. The State may proceed.

MR. WILLIAMS: We move for the admission of State's Exhibit No. 8, in all honesty, I don't recall, if we moved its admission before the predicate was laid with the testimony of Joe Neighbors on the first day of this trial, which he identified the picture as truly and accurately depicting some clothes, that were laying at Mrs. Alford's feet on the day he first saw her body, on July 20, 1978, we move its admission.

MR. SIKES: Object on the previous grounds.

BY THE COURT: Objection is overruled, it is

in, what number?

MR. WILLIAMS: Eight.

BY THE COURT: It is in, State's Exhibit
No. 8.

(WHEREUPON THE ABOVE MENTIONED STATE'S EXHIBIT NO. 8, MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NO. 8, WAS RECEIVED INTO EVIDENCE BY THE COURT, AND THE SAME WAS FILED IN THE OFFICE OF THE CIRCUIT CLERK OF COOSA COUNTY, ALABAMA, ON THE 8TH DAY OF AUGUST, 1980, IN ACCORDANCE WITH THE ALABAMA RULES OF CRIMINAL PROCEDURE.)

MR. SIKES: The State's next witness is Tracy Allen Bignault, who was a fellow detainee, with the defendant in Savannah, Georgia, at Chatom County Juvenile Detention Center. Mr. Bignault gave a statement to Investigator Abbott and to former Sheriff Veston Peters, on August 31, 1978, wherein among other things he says that the defendant confesses certain acts to him. He goes further in the written statement and he states not only what the defendant has alleged to have said to him, also what a Mr. Hodges, who was at the time, a child Social Worker at the Detention Center, said to Tracy Allen Bignault about the defendant. That is obviously hearsay, as to this defendant, and the allegations made are obviously, something that I would like to preclude based upon my conversation with Mr. Bignault today. I expect he would deviate significantly from the written and what he testifies to to the Jury. I would like to use the written statement to cross

examine him, but I would like to limit his response and to preclude him from going into or to excise from this statement before marking it for introduction, the portion that has to do with what Mr. Hodges told Mr. Bignault, not anything having to do with what the defendant allegedly told Mr. Bignault, only what Mr. Hodges allegedly told Mr. Bignault.

BY THE COURT: The understands that, but I don't understand that you are moving the Court, in limine, or whatever to do that, or do I.

MR. SIKES: Yes sir, this would be a Motion in Limine, to instruct the witness in advance that he cannot go into what Mr. Hodges allegedly said to him, at the same time to permit me, and in keeping with that Motion in Limine to excise from his statement, the written statement, I am going to use in cross examination, the things Mr. Hodges said.

MR. WILLIAMS: Are you going to offer his excised statements?

MR. SIKES: Yes sir.

MR. HILL: Judge, I think - - -

MR. WILLIAMS: That would give us a problem, I see where Stan is coming from.

MR. HILL: I don't have any objections of the witness being advised ahead of time that he cannot testify to anything that somebody told him besides the defendant. However, I don't think you can admit a

document into evidence, or just admit part of it.

MR. TEEL: That is supposed to be his statement, it would certainly be unfair to just chop it up.

MR. SIKES: May it please the Court, if they concede that he can be limited on his oral testimony to the Jury, and should be limited on his oral testimony to the Jury.

MR. WILLIAMS: By law we are.

MR. SIKES: The same is equally as to a written statement that he gave.

BY THE COURT: Who proposes to introduce the statement, if anybody?

MR. SIKES: I do, if he testifies as expected, at great variance to his written statement.

BY THE COURT: For what purpose.

MR. SIKES: Impeachment.

BY THE COURT: Can the Court physically, not legally, physically, obliterate, or cause to be obliterated, or hidden from the view of the Jury, those statements the defense counsel objects to.

MR. SIKES: Yes sir, it can be done with a pair of scissors and I believe that they will agree as to what portion. They may not agree on my point of law, but I don't think we will have any disagreement which portion.

BY THE COURT: The part that is pertinent?

MR. SIKES: Yes sir.

MR. WILLIAMS: We did not disagree to the portion, we didn't want the Jury to think when they take this statement here the first page very carefully snipped and perhaps there would be nothing on the last page that would be snipped, but maybe the bulk of it would be missing, a one-third - - -

MR. SIKES: Just one paragraph and the last half of one sentence.

MR. WILLIAMS: What sort of instructions - -

BY THE COURT: Let's go back to the motion that is pending, that is verbally before the Court by the defense counsel, and that has to do with the defendant moving the Court in limine to restrict the testimony of Mr. Bignault, a witness for the State, as to any matters which was discussed with him by Mr. Hodges, if I understand that is what you moved?

MR. SIKES: Yes sir.

MR. WILLIAMS: No objection.

BY THE COURT: The Court would grant that motion and instruct State's counsel to so advise the witness, Mr. Bignault, not to testify, mention, or in any way allude to that type testimony or that part of any conversation or statements; then at the time the offer is made, if it is by defense counsel, allow into evidence the written rendition of Mr. Bignault's statement, for the purpose, if it appears

appropriate to defense, to offer it to impeach the witness, the witness' testimony, or attack his credibility, then the Court, in response to the request by defense counsel, shall cause that part that is objectionable to be struck or obliterated or excluded from the exhibit that is received into evidence, if it is otherwise due to be received.

MR. SIKES: Yes sir.

BY THE COURT: I think that should suffice.

MR. WILLIAMS: A point of clarification Judge, will the State have the opportunity to object to the document, when it is offered?

BY THE COURT: Yes sir, I think my phraseology was such that it would take that into consideration, point being that the Court would not, at this time, rule on the admissability of the statement as an exhibit.

MR. SIKES: If I understood you correctly, we can go on and excise the part that is to be excised, and it is totally open as to whether we can use that other part or not based upon his testimony.

BY THE COURT: That is correct, I say that you do that by way of picture copy of the statement, in order that a copy in its complete form

might be preserved.

MR. SIKES: Yes sir.

MR. SIMS: Your Honor, one more thing, that we took up yesterday, a ruling which the Court overruled our objection to the undershorts coming into evidence, as a result of a derivity of a statement made by Tim Davis, while in custody, it was left open about whether or not that it would be put in the record, the statements that the Court read. I don't remember how it was resolved.

BY THE COURT: As to what.

MR. SIMS: The undershorts.

MR. WILLIAMS: The statement that you read.

BY THE COURT: Yes, it was not marked and placed in as an Exhibit for the Court. It would be a Court's exhibit, and not a parties' exhibit, I would think. Only designated in that respect in that we would be sure the Jury would not have access to that, because it was something the Court had to use as a matter of law, to make such ruling.

MR. SIKES: Because of the number of exhibits and to preclude any mistake, why don't we wait until after the Jury retires to mark and get the Court Reporter to mark it as part of the trial.

MR. WILLIAMS: The Court does understand that we intend to object on the grounds that it is not the entire statement.

BY THE COURT: Yes, and you certainly

have that right.

BY THE COURT: The Court must adjourn for proper attire. The record will show that the Jury is not present in the Courtroom, but counsel for the State, the defense, and the defendant, in his own proper person are present.

(BY THE COURT: Bring the Jury in please! Court being in session and you may continue please.)

(THIS IS THE DIRECT EXAMINATION BY MR. WILLIAM R. HILL, OF MR. TRACY ALLEN BIGNAULT, WHO SWORE TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH.)

DIRECT EXAMINATION

BY: MR. HILL

Q. State your name, please?

A. Tracy Allen Bignault.

Q. Where do you live, Mr. Bignault?

A. Apt. 386, Club Rivera, Savannah, Georgia.

Q. Are you employed?

A. Yes, I am

Q. How are you employed?

A. Georgia Stone and Brickface, laborer.

Q. How old are you?

A. Seventeen years of age.

Q. Have you ever had the occasion to make the acquaintance of anybody by the name of Timothy Charles Davis?

A. Yes, I have.

Q. Is he in the Courtroom today?

Q. Would you point him out, please sir?

A. He is sitting right there.

Q. What is he wearing?

A. A blue suit, white shirt.

MR. HILL: Would the record reflect he
identified the defendant, your
Honor.

BY THE COURT: It will so reflect.

Q. Mr. Bignault, where did you make Tim Davis's
acquaintance?

A. In the Juvenile Detention Center in Savannah, Georgia.

Q. When did you make this acquaintance?

A. Approximately, August of 1978.

Q. Were you an inmate in the center, at the time?

A. Yes sir, I was.

Q. Why were you there?

A. Burglary.

Q. Did you have the occasion to have any conversation
with Mr. Davis?

A. Yes, I did.

Q. How many conversations did you have?

A. Three.

Q. When did the first conversation take place?

A. Approximately, August 22.

Q. Who was present at the time of that conversation?

A. Myself and Tim Davis.

Q. Where did that conversation take place?

A. Between the door of his cell and unit 3 of the
Juvenile Detention Center.

Q. Do you remember what you said and what he said?

A. Yes, I do.

Q. Would you tell us what you said and what the defendant said?

MR. SIMS: We object, your Honor.

BY THE COURT: Overruled.

A. I asked him what he was in the Juvenile Detention Center for, and he told me "murder and robbery". And I asked him if he did commit the crime and he told me, and he started to talk and then he changed the subject as to go to ask me what I was in the Juvenile Detention Center for.

Q. Did you tell him what you was in the center for?

A. Yes, I did.

Q. Did you have a later conversation with the defendant.

A. Yes, I did.

Q. Where did that conversation take place?

A. Juvenile Detention Center gymnasium.

Q. When was that?

A. Approximately, August of '78, 23rd day.

Q. Can you give us a time sequence in relationship of the first conversation and the second conversation.

A. About one or two days.

Q. Where did the conversation take place?

A. The second conversation that you are speaking of?

Q. Right.

A. In the gymnasium.

Q. Who was present?

A. Myself and Tim Davis.

Q. Do you remember what you said and what he said?

A. Yes, I do.

Q. Tell the Jury what was said, please sir?

MR. SIMS: We object.

BY THE COURT: Overruled.

A. I asked him again if he had committed the crime of murder and robbery and he told me that he had, and I asked him what happened and he told me that one day, he went to a little country store, near his house, where he was staying with his grandmother, and when he went up to the store, there was a woman behind the counter, he went in and robbed the woman at knifepoint, made the woman come out from behind the counter, made her strip off her clothing, made the woman suck his dick, and then after so which, he stabbed her in the back 17 times. He went out the front door with the wallet and some money, he had robbed from the woman, he threw the knife directly across the street, into some tall weeds, or some grass, he left on his motorcycle and went down to a creek, somewhere in the vicinity, went down a dirt road, crossed over a bridge, went down past the bridge somewhere and there was a turn around spot, before he turned around he threw the wallet off into the right direction, he spun his motorcycle around and flung the money in the right hand direction; then he went back over the bridge, went down to a creek, washed his hands, and he went home to report to his wife, what had happened, and at which

time he changed clothes and went back up to the store, where he was later apprehended for suspicion of murder.

Q. Did you have a subsequent conversation with him after that?

A. Yes, I did.

Q. Where did this conversation take place?

A. In the hallway of the Juvenile Detention Center.

Q. When did it take place?

A. Same month, August 78, approximately 2 days after I talked to the District Attorney.

Q. Who was present at this conversation?

A. Myself and Tim Davis.

Q. Do you recall what you said and what he said?

A. Yes, I do.

Q. Would you tell the Jury what you said and what he said?

MR. SIMS: Object.

BY THE COURT: Overruled.

A. Tim approached me and asked me if I had spoken to the District Attorney about what he had told me. I didn't reply in anyway. He asked me again and I still didn't reply, then he said, "if you did talk with the District Attorney, I want you to go back and tell them that you lied", and I told him no way, shape or form, whether I would or whether I would not.

Q. How old were you at the time you had this conversation with the defendant?

A. 15 years old.

That's all.

MR. SIKES: May we approach the
bench?

BY THE COURT: Yes sir.

(Off the record)

(Back on the record)

CROSS EXAMINATION

BY: MR. SIKES

Q. How old are you today, Mr. Bignault?

A. 17 years old.

Q. Do you understand the oath that you took?

A. Yes, I do.

Q. Are you telling the Ladies and Gentlemen of this
Jury, the truth?

A. Yes, sir.

Q. Is that what you have done?

A. Yes, I have.

Q. You are sure about that?

A. Yes, I have.

Q. Mr. Bignault, I ask you whether or not, you ever
had the occasion to meet Investigator J. H. Abbot,
of the Alabama Bureau of Investigation?

A. Yes, I have.

Q. You ever had the occasion to meet former Sheriff
Veston Peters of Coosa County?

A. Yes, I have.

Q. You ever have the occasion to give a statement to

them?

A. Yes, I have.

Q. Specifically, on Thursday, August 31, 1978?

A. Yes sir.

Q. Will you tell the Ladies and Gentlemen of the Jury, what that is, Mr. Bignault?

A. It is my statement that was given to Mr. Abbott and Mr. Peters in the Juvenile Detention Center.

Q. On August 31, 1978?

A. Yes, sir.

Q. Flip to the very end of it?

MR. WILLIAMS: I believe for the record that is a copy of the statement?

MR. SIKES: Yes, sir, this is a machine copy of the statement.

Q. Do you recognize the signature, Mr. Bignault?

A. Yes, I do.

Q. Is that your signature?

A. Yes sir, it is.

Q. Would you tell the Ladies and Gentlemen of the Jury what it says just above the signature?

A. This is a true and correct statement to the best of my knowledge.

Q. Is that a correct statement?

A. Yes sir, it is.

Q. I understood that you had already talked to the quote District Attorney; end quote, prior to making this statement, is that correct?

A. Yes sir.

Q. Would you tell the Ladies and Gentlemen of the Jury where in that statement there is one mentioned by Tim Davis to you of robbery.

A. Sir?

Q. Tell the Ladies and Gentlemen of the Jury, where in that statement that you gave Mr. Abbott and Sheriff Peters, you say Tim Davis told you that he robbed Mrs. Alford?

A. There is nowhere in that statement, sir.

Q. It is not in the statement, is it?

A. No sir, it is not.

Q. Where in that statement that you gave, may I pause just a minute, your Honor?

BY THE COURT: Yes sir.

Q. Mr. Bignault, the statement has been marked as Defendant's Exhibit No. 2, where in that statement did you tell Investigator Abbott and Sheriff Peters that Tim Davis told you that he had committed an unnatural sex act to Mrs. Alford?

A. It is no where in the statement, sir.

Q. You telling the Ladies and Gentlemen of the Jury, it is not in that statement?

A. Yes sir.

Q. Where in that statement, Mr. Bignault, is there one mention of Tim Davis having told you that he went out the front door?

A. It does not say the front door, it says the door.

Q. Where did he tell you in that statement, that he threw the knife, according to your statement?

- A. In the bushes.
- Q. In the bushes?
- A. Right.
- Q. Is there one word in that statement about going to a creek?
- A. No sir, there is not.
- Q. Is there one word in that statement about throwing away a wallet?
- A. I believe so.
- Q. That Mr. Davis said to you?
- A. If I am not mistaken, I believe there is.
- Q. That Mr. Davis told you in that statement, that he threw the wallet away?
- A. If I am not mistaken.
- Q. Please refer to the statement and see if Mr. Davis said that to you?
- A. Yes sir, I am mistaken.
- Q. What does it say in there about the wallet or the billfold or money?
- A. Tim did not tell me anything about the billfold or money.
- Q. Speak up, where the Ladies and Gentlemen of the Jury can hear you, Mr. Bignault.
- A. It says that Tim Davis didn't say anything about the wallet or the money.
- Q. That is what you told Investigator Abbott and Sheriff Peters on August 31, 1978?
- A. Yes sir.
- Q. Mr. Bignault read to the Ladies and Gentlemen of

the Jury what your statement to Investigator Abbott and Sheriff Peters was on August 31, 1978, Defendant's Exhibit No. 2?

- A. On Tuesday, 8-22-78, between the hours of 6:00 P. M. and 8:00 P. M., I was in the gym of the Juvenile Detention Center in Savannah, Georgia. I had been in the center approximately 5 weeks. I am being held at the detention center until I am transferred to Milledgeville Georgia, where I will be serving 4 to 6 months for burglary. I have been knowing Tim Davis for approximately 4 weeks. Tim is also in the Juvenile Detention Center. While in the gym that Tuesday night I went to Tim Davis and told Tim, that Mr. Hodges, a worker at the center, that Mr. Hodges had a uncle in Alabama, who is a Senator. That Mr. Hodges probably could help him out by pulling a few strings with his uncle. After talking with Tim Davis, I went to Mr. Hodges and told Mr. Hodges what I told Tim Davis. On Sunday, 8-27-78, at approximately 9:30 A. M., I was in Unit 2 where the television is located, seated beside Tim Davis, and Tim Davis told me to tell Mr. Hodges that he would like to talk with him. When Mr. Hodges came to work at midnight, when Mr. Hodges came in to work on Sunday night, I told him that Tim wanted to see him. On Monday

8-28-78, at approximately 7:30 A. M., Tim and I were standing in the hallway. Tim approached me and told me that he had talked to Mr. Hodges, and that Mr. Hodges was going to try to help him. Tim did not state to me what way he was going to help him. On that same evening during cleanup while in the gym at approximately 10:30 P. M., I asked Tim if he killed that woman, Tim told me that he did kill the woman by stabbing the woman in the back. I asked him what he had stabbed the woman with and Tim told me a knife. Tim told me when he came out of the door that he threw the knife in the bushes. Tim would not tell me anything else about killing the woman, but Tim did say if I wanted to know anything else about it go talk to Mr. Hodges. Tim did not tell me anything about the billfold or money, I have not been asked by anyone to talk to Tim Davis. The story about Mr. Hodges' uncle in Alabama was just a joke. I wanted to see if Tim would admit to murder or just say he was not worried about it because he was not guilty. This is a true and correct statement to the best of my knowledge,
signed Tracy Allen Bignault.

Q. Mr. Bignault, you have done a lot of embellishing to the Ladies and Gentlemen of the Jury today as

compared to what you told to Investigator Abbott and Sheriff Peters on August 31, 1978, have you not?

A. Pardon me, I don't understand that word.

Q. Embellishing, making up, adding to.

A. No sir, I don't believe so.

Q. You believe you told them just a few minutes ago, exactly what is written down on this statement that you signed?

A. No, I don't believe I have.

Q. There was a lot of embellishing on the statement of August 31, 1979, that you gave to Mr. Abbott and Sheriff Peters too, wasn't there?

A. No sir, there was not.

Q. That is the truth?

A. Yes sir.

Q. Is that the truth or is what you told the Jury today, the truth?

A. The statement which was made here the part about the sexual contact was left out due to the reason I did not want to be embarrassed and I was scared.

Q. You was scared?

A. You would be too, sir.

Q. You was scared?

A. Yes sir.

Q. You was scared and here you are concocting some kind of tale about a Mr. Hodges uncle that was a Senator in Alabama, that is going to help Tim Davis, going around, playing games in your own words, was

a joke, and now you say you are scared, or was
scared?

A. Yes sir.

Q. Truth of the matter is, you were behind bars
and you wanted out, yes or no?

A. No.

Q. You didn't want out?

A. I wanted out but I didn't have to make up a story
or as you say embellish, to get out.

Q. You did make one up, didn't you?

A. No sir, I did not.

Q. Mr. Bignault, if Tim Davis had told you what you
know, tell the Ladies and Gentlemen of the Jury
he told you, why didn't you tell Investigator
Abbott and Sheriff Peters on August 31, 1978.

A. Number 1, I was too scared, it is not everyday that
I hear somebody tell me that they murdered somebody.

Q. Mr. Bignault, you was too scared, you say, to tell
them the whole truth, but you told them that Tim
had told you that he had stabbed her?

A. Yes, I did.

Q. Yet, the murder is what you say you are scared of?

A. Yes sir.

Q. Mr. Bignault, if as a matter of fact, you wanted to
get out, you would do most anything to get out
wouldn't you?

A. No sir, I would not.

Q. Let me ask you this, why did you go running to the
quote, D. A., end quote?

A. I did not go running to the D. A. I asked to see him for the matter of what Tim Davis had told me, I thought ought to have been brought out.

Q. You say the District Attorney 2 days after this statement?

A. Yes sir, I did.

Q. I am talking about 2 days after the alleged statement Tim made to you?

A. I saw him 2 days after the correct statement that Tim Davis made to me.

Q. What did you tell him?

A. Exactly what is on this statement.

Q. Told him the same thing you told Officer Abbott and Sheriff Peters?

A. Yes sir.

Q. How much longer did you serve after you gave the statement?

A. In Juvenile Detention Center I served approximately 30 more days and I was transferred to Augusta.

Q. Not to Milledgeville?

A. No sir.

Q. To Augusta?

A. Right.

Q. Augusta is another Juvenile Detention Center?

A. No, it is a Youth Development Rehabilitation Center.

Q. All right, that took place 30 days approximately, after you made this statement?

A. Yes sir, it did.

Q. Mr. Bignault?

- A. Yes Sir?
- Q. This thing about the Uncle was a lie was it not?
- A. Yes sir, it was.
- Q. The thing about the wallet, the billfold and money, was either a lie in your statement of August 31, or it is a lie here today, is that not correct?
- A. It could have been, I did not tell them for the reason I was scared, but you could say it was a lie in that statement, yes sir. It is not a lie now, because he did tell me that.
- Q. So it is a lie in the statement, is what you want the Ladies and Gentlemen of the Jury to believe?
- A. Yes sir, it is.
- Q. The thing about the knife was a lie was it not?
- A. No sir, it was not.
- Q. The thing about the 17 stab wounds was a lie, was it not?
- A. Yes sir, in the statement it was, but here it is not.
- Q. So, you are saying the statement is a lie, but what you are saying to the Ladies and Gentlemen of the Jury is not a lie?
- A. Yes sir.
- Q. Where he threw the knife, is either a lie today or a lie on August 31, 1978, was it not?
- A. It was neither a lie on either occasion.
- Q. You said he threw it in the bushes here, but today you say he threw it across the road?
- A. Across the road in the grass sir.
- Q. When did you learn that the knife had actually been

- across the road, Mr. Bignault?
- A. When I was brought into Alabama.
- Q. That was when you decided to tell the Ladies and Gentlemen of the Jury what you said about the knife being thrown across the road, did you not?
- A. No sir, it was not.
- Q. Mr. Bignault, the burglary charge, is that the only burglary you ever committed?
- A. Yes sir.

MR. WILLIAMS: May we approach the bench.

BY THE COURT: Yes sir.

(Off the record)

(Back on the record)

- Q. This burglary, Mr. Bignault, this the only burglary you have committed?
- A. It is the only one I have committed.
- Q. What did you do?
- A. I broke into a house and stole several items.
- Q. What did you steal?
- A. Thirty dollars in cash, a lamp and TV.
- Q. Anything else?

MR. WILLIAMS: We object to this line of questioning, what he did with the burglaries, Mr. Sikes can certainly impeach him that he was charged with a burglary without what he did, the burglary speaks for itself, the cases are clear

that he cannot go into details.

BY THE COURT: I agree and sustain that objection.

Q. You had been in the Center, you say, approximately 5 weeks, is that true?

A. Yes sir, it is.

Q. Was the first time you had ever been detained?

MR. WILLIAMS: We object.

Q. First time you had ever been behind bars?

MR. WILLIAMS: We object.

BY THE COURT: Overruled.

A. No sir, it was not.

Q. When was the first time before that, that you had been detained and been behind bars?

MR. WILLIAMS: We object.

BY THE COURT: Sustained.

A. I was placed in the Juvenile Detention Center for drinking underage.

Q. When was that?

A. Maybe a month before that, I am not too sure on that.

Q. Did you get out quickly that time?

A. Yes sir, I did.

Q. Matter of days?

A. Matter of hours.

Q. This is the first time that you had ever been held behind bars for any period of time, had you not?

A. No sir.

Q. When had you been held behind bars for a period of time?

- A. When I was under investigation for arson.
- Q. When was that?
- A. Approximately a year before this statement.
- Q. How long were you held behind bars that time, Mr. Bignault?
- A. Approximately 4 to 5 weeks.
- Q. Had you ever been held behind bars before that?
- A. Yes sir.
- Q. What had you been held behind bars for this time?
- A. Possession of marijuana.
- Q. At what age did you possess marijuan?

MR. WILLIAMS: We object, the proper predicate has not been laid to impeach, on the grounds of moral turpitude if that is what Mr. Sikes is doing.

BY THE COURT: To the last question.

MR. WILLIAMS: The last question and the continuing line of questioning, unless Mr. Sikes lays his predicate to impeach, Judge, showing crimes involving moral turpitude and convictions, we would contend that all this stuff about his prior record is irrelevant. He can impeach by showing he has been convicted of moral turpitude, not whether he has been charged, not whether he has been behind bars, which is another way of saying he has been charged, we object to this line of questioning, unless he narrows

it down to convictions of crimes of moral turpitude.

MR. SIKES: Your Honor, the witness is a juvenile even today, therefore, he would have no convictions in the classic sense, being a juvenile, that is the reason I am asking the questions the way I am.

MR. WILLIAMS: In that case, we will move to exclude all the questions and all the answers concerning his past record because the only way you can impeach him is to show a crime of moral turpitude that he has been convicted of a crime of moral turpitude. That would make all these questions and all these answers irrelevant. We move to exclude all those answers and instruct the Jury.

MR. SIKES: Your Honor, he opened the door with the burglary.

BY THE COURT: The Court understands that, however, it would appear to the Court at this point, that some requirement ought to be met, even though this is cross examination, even though this matter has been delved into, to some point by both sides, but the Court feels that it is important that the offense which this witness is questioned about and which he admits being involved in they be offenses under our

statutes involving moral turpitude and the court would then, would sustain the objections of the State with the qualifications that it have - - - you may go forward in a limited way. Confine to offenses that involve moral turpitude.

Q. Mr. Bignault on the occasions prior to the marijuana that you mentioned, what was involved in that matter?

MR. WILLIAMS: Object it is not a proper question.

MR. SIKES: I don't know what he is going to say, whether it is going to be moral turpitude or not.

BY THE COURT: I am sorry, what was the question, I missed one word of it.

MR. SIKES: I asked him prior to the marijuana, what was the - - - what he last testified to.

BY THE COURT: Prior in his life or prior in the testimony, you are developing here.

MR. SIKES: Prior in his life, ask him what it was on that occasion.

MR. HILL: Object again, basically on the idea of that, until there is some showing of a conviction, that is simply not admissible evidence, and even in cases of conviction

they have got to come up with something that involves moral turpitude, under Alabama law, a mere charge, in and of itself is not proper impeachment.

MR. SIMS: May I be heard?

BY THE COURT: Very briefly, gentlemen.

MR. SIMS: If the witness is convicted of the sale of marijuana, and it does involve moral turpitude, the question I think that is being asked, what was involved was you convicted of possession or were you convicted of the sale, that is what he is getting out with the question.

MR. HILL: Mr. Sikes, knows how to ask the proper question. Why don't he ask him has he ever been convicted of a crime involving moral turpitude, specifically whatever crime he is interested in.

BY THE COURT: The Court overrules the State's objection and you may restate that question, or either restate it in the same word or different words and then I will rule on it again.

Q. I'm not asking you this Mr. Bignault, at this point in time, about the marijuana situation, I have backed up in your life, to the time previous to that, when you were detained behind bars for a period of time, I ask you what were you delinquent of on that charge, what was the underlying basis for the delinquency?

MR. WILLIAMS: Object your Honor, no evidence that he was declared delinquent on it.

BY THE COURT: Overruled, you may answer.

A. I don't understand your question.

Q. Mr. Bignault, would you tell the Ladies and gentlemen of the Jury, first how many times in your entire life you have ever been detained behind bars and then we will try to take them one at a time.

MR. WILLIAMS: Same objection on behind the bars, being an arrest unless he can show a conviction of involving moral turpitude that evidence will be irrelevant for impeachment purposes.

BY THE COURT: Overruled.

A. I don't know how many times I have been detained, numerous times.

Q. More than 10?

A. Yes sir.

Q. Would you tell the Ladies and Gentlemen of this Jury, Mr. Bignault, what all you have been detained for?

MR. WILLIAMS: Object your Honor, unless it is a conviction. He cannot show to impeach this witness, one might be arrested and detained and not have a conviction.

BY THE COURT: I agree with that, the question as stated is too broad.

Q. Would you tell the Ladies and Gentlemen of this Jury, Mr. Bignault, how many times you have been adjudged to be delinquent?

A. I don't know.

Q. More than 10?

A. No sir.

Q. More than 5?

A. Are you talking about how many time I have been of any crimes?

Q. Yes sir.

A. Twice.

Q. Was that adult crimes that you were convicted of?

A. There were not adult crimes they were delinquent crimes.

Q. Mr. Bignault on the occasions of your detention were delinquency petition filed, do you know what I am talking about?

MR. HILL: Judge, this is fundamental.

BY THE COURT: Just a minute, gentlemen, you state your grounds?

MR. WILLIAMS: We object on the grounds it does not show convictions of crimes involving moral turpitude, he has admitted, and we are not trying to hide anything.

BY THE COURT: Make your objections and state your grounds if I want an

argument from any of you I will ask for it.

MR. WILLIAMS: Our grounds is we object to the question, it refers to an arrest and detaining and the charging of delinquent acts not the convictions of delinquent acts. An arrest is not sufficient.

BY THE COURT: I sustain the objection.

Q. Is this the first time you ever testified in a Court other than the times involving yourself?

A. No sir, it is not.

Q. On what other occasions have you testified in Court?

A. I have testified on one other occasion on armed robbery.

Q. What did that involve?

A. It involved me seeing somebody rob a gas station.

Q. Let me ask you this, Mr. Bignault, how old were you when you were first adjudged to be delinquent?

A. I still don't understand what you are saying.

Q. Mr. Bignault, on August 31, 1978, when you talked with Investigator Abbott, and Sheriff Peters, you did not tell them about the alleged conversation with Tim Davis wherein according to you, he told you that he wanted to go to the District Attorney, and tell the District Attorney, what you had told the District Attorney was a lie, or did you?

A. No sir, I did not.

Q. Why didn't you tell them that?

A. I don't know if it would make any large, you know, bearing on it.

Q. Can you tell the Ladies and Gentlemen of the Jury today?

A. Yes sir, I did.

Q. Mr. Bignault, on August 31, 1978, did you not tell them because you were scared?

A. No sir.

Q. Mr. Bignault, on August 31, 1978, according to you, Tim Davis, had quote confessed to murder, end quote, in your written statement according to what you are telling these ladies and gentlemen today, Tim Davis had, quote confessed end quote, to a lot of other things on August 31, 1978, and you had already been to the District Attorney, would you please tell the Ladies and Gentlemen of the Jury why, one more time, you did not tell Investigator Abbott and Sheriff Peters the truth.

A. Because I was scared.

Q. Mr. Bignault, the truth is, Tim Davis, never told you anything isn't that the truth?

A. No sir, it is not.

Q. Mr. Bignault we have established have we not that you are a thief?

A. No sir, we have not.

Q. Mr. Bignault, did I not hear you tell the Ladies and Gentlemen of the Jury that you burglarized a house?

A. Yes sir, you did.

Q. Is that theft?

A. Yes sir, that doesn't necessarily classify somebody as a thief.

Q. Mr. Bignault we have established that you have lied either to Sheriff Peters and Investigator Abbott or to this Jury have we not?

A. Yes sir, we have.

Q. Mr. Bignault, if we have established that you have lied and I am going to ask you one more time the truth of the matter is, Tim Davis never told you anything?

A. That is not correct.

Q. That is not correct.

That's all Judge.

REDIRECT EXAMINATION

Q. Tracy?

A. Yes sir.

Q. Who was the District Attorney that you talked to?

A. I don't recall his name.

Q. Where was he located?

A. He was located in the Juvenile Detention Center I believe his name was Jackel.

Q. In what state was that in?

A. Georgia.

Q. How long did you stay in jail after you talked with this District Attorney?

A. In the Juvenile I stayed approximately 30 days longer before I was transferred.

Q. Where were you transferred?

A. Augusta, Georgia.

Q. How long did you stay in Augusta, Georgia?

A. Approximately 4 or 5 months.

Q. Did you go anywhere else?

A. No, sir, I did not.

Q. Tracy, tell these Ladies and Gentlemen of the Jury, have I or anybody in my office, or any District Attorney in the State of Georgia, made any deals with you, giving you any special treatment, or giving you anything for your testimony today?

MR. SIMS: Object to that, a self-serving statement by the District Attorney.

MR. WILLIAMS: Your Honor, they have impeached him.

BY THE COURT: Overruled.

A. You may answer.

A. No, sir, you have not.

Q. Tracy, tell these Ladies and Gentlemen, one more time, are all the statements you made in the Courtroom today, the truth?

A. Yes, sir, they are.

That's all.

RE CROSS EXAMINATION

BY: MR. SIKES

Q. Mr. Bignault, when you were transferred not to Milledgeville but to where you say it was?

A. Augusta, Georgia.

Q. Tell the Ladies and Gentlemen of the Jury, look over there and tell the Ladies and Gentlemen of this Jury, the layout at Augusta, does it have fences, and does it have bars?

A. No, sir, it does not.

Q. Look at them when you tell them.

A. No, it does not have bars or fences.

That's all.

BY THE COURT: Anything further?

MR. WILLIAMS: That's all.

BY THE COURT: You may stand down.

MR. WILLIAMS: May he be excused?

MR. SIKES: No objection.

BY THE COURT: You are excused.

MR. HILL: Judge, may it please the

Court, the State of Alabama rests.

MR. SIKES: Could we approach the bench.

BY THE COURT: Ladies and Gentlemen of the Jury, under our procedure, it is necessary that the Court place you in recess at this time in order that the Court might consider some matters of law, of course, they have to be considered outside your presence and hearing, this is one of those time, during our trial procedure that our procedure requires that we excuse you. I am not sure you will be out more than 15 or 20 minutes, it will be in that neighborhood of that time. The Court is in recess until 2:30.

BY THE COURT: Court is in session before the Court bring the Jury back, Gentlemen, the Court will take up a matter of business that needs to be taken up at this time and placed in the record.

MR. SIKES: May it please the Court, we move the Court to exclude the State's evidence or in the alternative order a directed verdict in favor of the defendant. May I state the grounds?

BY THE COURT: You may state the grounds.

MR. SIKES: First we state title 12-15-67 precludes the offering as to this defendant virtually all of the items entered into physical evidence, such as pants, underwear, the evidence does not prove a prima facie case.

BY THE COURT: In consideration of the motion stated by the defendant through his counsel, and the grounds stated in support thereof, the Court does not deny the motion to exclude and does deny the motion for directed verdict. Are you ready to go forward for the defendant?

MR. SIMS: Yes, sir.

BY THE COURT: Bring the Jury in, please, sir. Who is your first witness.

MR. SIMS: Your Honor, the defendant calls Earline Hill.

(WHEREUPON AT THIS TIME THE DEFENDANT PRESENTED EVIDENCE ON HIS BEHALF AND THE FOLLOWING PROCEEDINGS WERE HAD AND DONE.)
(THIS IS THE DIRECT EXAMINATION BY MR SIMS, OF EARLINE HILL, WHO SWORE TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT