

THE TRUTH.)

DIRECT EXAMINATION

BY: MR. SIMS

Q. State your name please and address?

A. Earline Davis Hill.

Q. Are you related to Tim Davis?

A. I am his mother.

Q. I am going to call your attention to July 20, 1978, did you have an occasion to see Tim on that day?

A. Yes, sir.

Q. What time that morning did you see him, if you saw him?

A. Before he went to work.

Q. Did he leave to go to work?

A. Yes, sir.

Q. Do you know where he worked?

A. Yes, sir.

Q. Where?

A. Distribution Center.

Q. Did you go to work that day?

A. Yes, sir.

Q. What time did you get home that afternoon?

A. Around 10 or 11 after 4:00.

Q. Was Tim at home when you arrived?

A. Yes, sir.

Q. Who was present at the house that afternoon?

A. When I arrived, my mother was there, Pam, his wife, was there, and Tim was there and myself.

Q. What did ya'll do, if anything?

A. We sat around and watched TV and mother and Pam hadn't got supper ready at that time, when supper was prepared later, we ate.

Q. Now, did anybody come to the house that afternoon?

A. Yes, sir.

Q. Who came to the house?

A. A boy by the name of James Richardson.

Q. What happened when he arrived?

A. He came inside the house and set down just a little bit, he said that he was going to the store.

MR. WILLIAMS: We object, that's hearsay.

BY THE COURT: Sustained.

Q. Was Tim present?

A. Yes, sir.

MR. WILLIAMS: We move to exclude.

BY THE COURT: I exclude the answer going to the store, I exclude that from your consideration, Ladies and gentlemen of the Jury.

Q. Was Tim present?

A. Yes, sir.

Q. Now, may I ask that question?

MR. WILLIAMS: Same objection, Judge, it would be - - -

BY THE COURT: Wait just a minute, he asked the Court might he ask that question, he has a right to ask whatever question he wishes.

Q. What did you hear said in Tim's presence, that

afternoon?

MR. WILLIAMS: Object to hearsay.

BY THE COURT: Sustained.

Q. What happened after Mr. Richardson arrived, did he have a conversation with somebody?

A. He and Tim talked.

Q. What happened after he and Tim talked?

A. He went to the store on Tim's motorcycle.

MR. WILLIAMS: Object that would obviously be without her knowledge.

BY THE COURT: Sustained that objection and exclude. I exclude her answer as to where he went, from the Jury's consideration.

Q. Did you see him leave?

A. Yes, sir, he left on the motorcycle.

Q. Now what did you and the family do?

A. We finished supper, we watched TV for a while, off and on, I did.

Q. Was Tim present?

A. Yes, sir.

Q. All during this time?

A. Yes, sir, all during this time.

Q. Then what happened?

A. We went ahead and finished making supper and then we ate supper.

Q. What time was this around 5:00 o'clock?

MR. WILLIAMS: Object to leading.

BY THE COURT: Sustained.

Q. Do you know what time it was, that you was eating supper.

A. Right around five, a little after.

Q. Did Richardson return?

A. Yes, sir.

Q. Do you know what time he returned?

A. 5:15.

Q. How do you know that?

A. I was setting at the table having a cup of coffee and I glanced at the clock and it was 5:15 by the kitchen clock.

Q. Was he riding anything when he returned?

A. He rode up on the motorcycle.

Q. What happened then - - - was Tim present when he returned?

A. Yes sir, he was on the back porch feeding his dog.

Q. What happened then?

A. He went around the house, when Richardson pulled up, Pam went through the house, Richardson got off the motorcycle and they came in the house, the both of them and Tim said "I am taking Richardson home".

MR. WILLIAMS: We object to hearsay.

BY THE COURT: Sustained to anybody

said, what anybody said, I sustain that and exclude the answer that contains what somebody else said, from the Jury's consideration.

Q. Then what happened?

A. Tim carried the little boy home.

Q. Then did he return?

A. He came home.

Q. How long was he in going and coming?

A. I imagine it was around 5:17 when he got back.

Q. Just a minute or two?

A. Yes, sir.

Q. Then what happened?

A. He said he was going to ride.

MR. TEEL: Object to what he said.

BY THE COURT: Sustained.

Q. What happened then, did Tim then leave the house?

A. He left riding his motorcycle.

Q. I show you what has been marked as State's Exhibit #37, and ask you, if you know are those the pants Tim had on that day?

A. This is the pants he wore to work.

Q. I will ask you if State's Exhibit No. 38, if that is the shirt he had on?

A. Yes, sir, this is the shirt he had on.

Q. When did Tim return to your house?

A. Approximately 5 - - - 20 till 6:00.

Q. What happened then?

A. I was sitting on the front porch, my mother and myself, he said, "call the police quick", I said, "why son", he said, "I went to the store, and the lady at the store is dead", I said, "Son, there is no use in calling the police right now", I said "he just passed".

MR. WILLIAMS: We are going to have to

object to this; what he said - - -
what she said at this particular
point and time.

BY THE COURT: I will not allow what
he said, but I would allow what
she said.

Q. What did you say?

A. I said "son, the police has just went by, I don't
know if it was a police or State Trooper, or what, the
car just went flying by the house.

Q. Then what happened?

A. He said, "Mom,

MR. TEEL: Object.

BY THE COURT: Sustained.

Q. What did you say as the result of the conversation
with him?

A. "Let me change clothes, and I will carry you back,
son".

Q. So, did you go back, to

A. I went back to Alford Grocery.

Q. Who was with you when you went back?

A. Tim and Pam got in the back seat of my car, my
sister-in-law, Annis Neese, and I were in the front.

Q. Is Mrs. Annis Neese, is she sick now?

A. She is slowly dying with cancer.

Q. She is not able to be here today?

A. No, sir.

Q. What occurred when you got to the store?

A. There was a bunch of cars already over there, I had

to pull down, I didn't get near the store at all, I stayed on the same side of the road where the Store is at, Tim and Pam got out of the car at that time, while I got parked, and he and her went down the road to the store, when I got the car parked, I walked down.

Q. Did you have a conversation with anyone there?

A. Yes, sir, I don't remember his name, that black-headed State Trooper.

Q. Sgt. Boggs, what did you say to Sgt. Boggs?

A. I said, "I brought my son back over to be a witness".

Q. Then, what happened?

A. By then, I didn't have my son.

Q. Now, how are you sure about the time that Tim left?

A. I know the time that the motorcycle was brought back.

Q. How do you know that?

A. I was sitting at the kitchen table, drinking a cup of coffee, when I heard the motorcycle I looked at the clock.

Q. Now, has Time ever been in any trouble before?

A. No, never.

MR. WILLIAMS: Object and exclude.

BY THE COURT: Sustained and I exclude her answer from the Jury's consideration.

Q. You love your son, don't you?

A. I love him very much.

Q. You sure don't want to see him electrocuted, do you?

MR. WILLIAMS: We object.

BY THE COURT: Sustained.

That's all.

CROSS EXAMINATION

BY: MR. WILLIAMS

Q. Mrs. Hill, you have seen this State's Exhibit No. 1 before, haven't you, this map.

A. I have but I don't know anything about it.

Q. I want you to hold it a little bit and see if you can orientate yourself to it, are you orientated to State's Exhibit No. 1, the map.

A. That is where we live - - -

MR. SIMS: Let's turn it right side up, like that.

BY THE COURT: I think it was right side up, is that what you mean.

MR. WILLIAMS: It is all right, Stan.

BY THE COURT: That would be the right side position, up, I would like -

MR. SIMS: O. K.

BY THE COURT: I'm not sure the Jury can see it.

Q. How long have you lived with your mother?

A. I moved back July 31, of '75.

Q. You are familiar with the Fishpond Road; also known as Highway No. 259, that would be running this way (INDICATING)?

A. I know the Highway you are talking about, but I

travel 22.

Q. You travel 22 up here (INDICATING)?

A. Yes.

Q. Ya'll's house is somewhere - - you turn off 22 at Ray Church?

A. Yes, sir.

Q. Ya'll are pretty close to the Alford Grocery, are you not?

A. Pretty close.

Q. You have traded there before - - - never?

A. No, sir.

Q. How long, reckon, it would take for you to drive from your house to Alford Grocery?

A. I have no idea, for I have never timed it.

Q. Never timed it.

A. I never go there - - - I never went.

Q. You went that night.

A. Yeah, I went that night, don't make me try to say, what I did that night.

Q. I understand. I take it after Tim got back, everything got sort of confused?

A. No response.

Q. Were you upset or calm?

A. Well, I took him over there - - -

Q. Were you upset or calm when he came back?

A. I was calm when he came back.

Q. You son had just found Mrs. Alford, he said, is that right?

A. Yes, sir.

Q. And yet you were calm.

A. I didn't want the lady to be dead, but I had no reason, you know, to really get upset.

Q. You weren't upset that your son had found her?

A. I was upset because he had found her.

Q. So, you weren't calm, I understand - - Who is James Richardson?

A. The little black boy up the road from us.

Q. He is a friend of your son, is he not?

A. A short time friend.

Q. How long had your son been living with ya'll at Mrs. Neese's house there?

A. Five weeks.

Q. Five weeks before this happened?

A. Five or either six.

Q. Where did he live before that, if you know?

A. He was with his daddy.

Q. Where was that.

A. In Virginia.

Q. You saw him when he got dressed that morning didn't you?

A. Yes, sir.

Q. He wore that - - -

A. This is what he worked in that day.

Q. Are you sure?

A. This tee shirt and this pair of pants.

Q. This tee shirt right here?

A. Yes, sir.

Q. I'm referring to what has been admitted as

State's Exhibit #38.

BY THE COURT: The shirt.

MR. WILLIAMS: The shirt he wore that day, his mother says.

Q. These were the blue jeans, State's Exhibit No. 37, that he wore that day?

A. That he wore to work.

Q. You got home about 4:10 or 4:11?

A. Yes, sir.

Q. That afternoon - - - why 4:10 or 4:11, is there some reason why you know it was 4:10 or 4:11?

A. Normally, I get home every day at 4:10.

Q. Could it have been 4:09?

A. It was always after 4:10.

Q. Could it have been 4:12 - - you didn't look at a watch?

A. It was 4:10 or 4:11.

Q. Did you look at a watch?

A. I looked at the kitchen clock the first thing, I always do, when I go home and have a cup of coffee and put the water on the stove.

Q. Every day?

A. Every day.

Q. Did you work last week?

A. Yes, sir.

Q. Did you look at the clock when you came home, last Wednesday?

A. Yes, sir.

Q. What time did you come home?

A. Ten after four.

Q. Exactly.

A. Exactly.

Q. Always around in there?

A. Right around 10 after four.

Q. I believe Tim was already home?

A. His wife?

A. Yes sir.

Q. Your mother?

A. Yes sir.

Q. Mr. Richardson came?

A. Later.

Q. He got on Tim's motorcycle and left?

A. Yes, sir.

Q. He came back at exactly 5:15?

A. Yes, sir.

Q. Because you looked at the clock?

A. I was sitting at the kitchen table.

Q. You remember times very well?

A. I have always been a great time watcher.

Q. And you remember times well?

A. Yes, sir.

Q. Your clock is accurate?

A. The one on the kitchen stove, the one I always went by.

Q. Do you have a watch today?

A. I don't have a watch, I quit wearing one.

Q. Quit wearing one?

A. No response.

BY THE COURT: Mrs. Hill, be sure that you respond aloud, to these questions, because this gentlemen has to write down what you say, and the Jury has to be able to hear you and the Judge does, and the other lawyers, please.

Q. In your experience, does all clocks have the same time?

MR. SIMS: We object, unless she has seen all clocks.

BY THE COURT: I sustain the objection.

Q. You are familiar with the various sundry of clocks at your house, - - - are there any?

A. More than one?

Q. Yes, mam.

A. Yes, sir.

Q. Do they all happen to show exactly the same time?

A. I went by the stove, the kitchen.

Q. Do they all show exactly the same time?

A. I couldn't tell you that?

Q. You don't know?

A. If all of them was at exactly the same time, I don't know.

Q. You watch times a lot?

A. The kitchen clock.

Q. Your watch, when you had it, always the same time as the kitchen clock?

A. Not always.

Q. Could have been different, couldn't it?

A. Because the clock on the stove was electric and mine is a wrist watch.

Q. At 5:15, Richardson comes back, right?

A. Yes, sir.

Q. Tim leaves at 5:17, correct.

A. Yes, sir.

Q. Tim comes back, when?

A. At 20 to 6.

Q. Twenty to 6, again I assume you looked at the kitchen clock when he came back?

A. That time, I didn't, I am guessing at that time.

Q. Could it have been - - -

A. I was on the front porch at that time.

Q. Could it have been 25 after 6 - - I'm sorry, 25 to 6, quarter till 6?

A. It wasn't that late.

Q. Could it have been 5:30?

A. It was later than that.

Q. About all these times, you have been in the courtroom through out this trial, haven't you?

A. Through out the trial.

Q. You heard Curtis Smith, I believe, testify that Tim was at the covered bridge at 5:30, didn't you?

A. That is what he said.

Q. You heard a gentlemen testify he saw a motorcycle, a white male, yellow helmet, with blond hair, sticking out the back, at Alford's Grocery, at 5:05, didn't you?

- A. Yes, sir.
- Q. You have heard about all the other times in this case, haven't you?
- A. I have.
- Q. Did you tell any police officer at the scene that Richardson came in at 5:15 and your son, left at exactly 5:17?
- A. No, sir, they didn't ask, and I didn't tell them because they were all busy over there.
- Q. Did you tell anybody the next day?
- A. That is all I got to tell them, just what I stated right here.
- Q. Did you tell anybody the next day about 5:17.
- A. When Richardson had brought the motorcycle home, I had told my mother and them it was 5:15.
- Q. A police officer, a law enforcement officer.
- A. I wasn't home the next day, I was doing something else.
- Q. Did you tell them the following day about 5:17?
- A. By then I had hired the lawyers.
- Q. Did you tell a police officer ever, that you son left at 5:17, that you exactly remembered that?
- A. Not that I remember ever telling one.
- Q. Did you consider the time 5:17 important in this case?
- A. 5:15 was very important when the motorcycle came back, because I was upset, the little boy had had it so long.
- Q. Did you tell anybody about 5:15, any police officer

about 5:15?

A. Not that I ever remember ever telling.

Q. That was important to you?

A. Yes, sir, it was very important.

Q. It is important to you son?

A. It was important to me, because the little boy had kept it so long.

Q. Now, it is important to your son, isn't it?

A. I'm not going to abide by that now, I just know of the time.

Q. I'm sorry, what did you say?

A. I just know the time, the little boy brought it.

MR. SIMS: We object to what - - - to
and what - - - that isn't proper
cross examination.

BY THE COURT: Overruled.

Q. It is important to your son that the motorcycle came back at 5:15, isn't it?

A. I know that is the time that it came back.

Q. Please answer my question, isn't it important to your son, that the motorcycle came back at 5:15, you have been in the courtroom, is it important?

A. I don't know.

Q. Now, did your son have blood on him, when he returned at 5:17?

A. There was none on his shirt.

Q. Did he have blood on him, please mam?

A. A little.

Q. Where?

A. One speck on his pant's leg, there were two specks on his pant's leg.

Q. Did he change clothes, or did he go to Mrs. Alford's Store in the same clothes?

A. He changed clothes.

Q. Did you tell him to?

A. I told him I had to change.

Q. Did you tell him to change?

A. Not that I remember.

Q. Did anybody that you remember tell him to change?

A. Not that I remember.

Q. Did he have any blood on his tennis shoes?

A. I didn't notice.

Q. Any on his hands?

A. No.

Q. He didn't have much on his blue jeans?

A. Just what I told you.

Q. You knew from your son when he came in, or had reason to believe, when he came in, that somebody had been killed?

A. He told me he found the lady.

Q. You didn't call the police?

A. I told you why I didn't call the police.

Q. I didn't ask you that, you didn't call the police?

MR. SIMS: Your Honor we object,
that answers the question.

BY THE COURT: The objection is
overruled, answer the question,
please.

A. No, I didn't call the police, one had just passed.

Q. I believe you said on your direct examination, that you didn't know if it was a Trooper, Police car, could it have been an ambulance?

A. It had the siren on, that is why I knew it was something - - - it looked like a car.

Q. Did you know - - - You didn't see it, you just heard it?

A. It was a brown car or either the State Trooper.

Q. You saw it.

A. We were on the porch.

Q. You saw it?

A. I saw it but not enough to determine if it was a State Trooper or the Sheriff.

Q. You didn't know if it was going to Alford's Grocery, did you?

A. I had no idea where it was going, the rate it was going.

Q. Why didn't you call the police, if you had no idea where it was going? And your son had just told you he had found a body?

MR. SIMS: We object your Honor to his speech.

BY THE COURT: Let him finish his question.

Q. Why didn't you call the police?

MR. SIMS: Object.

BY THE COURT: Sustained.

Q. You didn't know where the car was going with the siren?

MR. SIMS: Object to the speech your Honor.

BY THE COURT: The Court felt like it was a question and I think it is a proper question, so I overrule the objection.

Q. You didn't know where the car was going that had the siren, do you?

A. No, I didn't.

Q. You son had told you he had found a dead body, hadn't he?

A. He had told me that.

Q. You didn't call the police even after that, did you?

A. No.

Q. You love your son, I believe you testified?

A. I love him very much.

Q. You would do just about anything for him, I would imagine?

A. I will not get up here and lie for him or you either.

Q. I am sure no one has asked you to lie have they?

A. I wouldn't lie for anybody, I'm just not that type.

Q. To save your son's life, you would not lie?

A. No, sir, I'm not that type.

Q. Now, Mr. Smith testified, do you remember, Mr. Smith testifying about the covered bridge?

A. I remember it, some of it.

Q. You remember when he said at 5:30, when your son was down there?

A. I remember it.

MR. SIMS: We object to him going back to prior testimony may it please the Court.

BY THE COURT: Overruled.

Q. Remember when you said your son's shirt had an emblem on it, when it was down here at the covered bridge?

A. Yes, sir.

Q. I show you what has been admitted as State's Exhibit No. 15, and ask if you recognize the person in that picture?

A. That is my son.

Q. Is that the way he appeared on the night of July 20?

A. Yes, sir.

Q. With that shirt on?

A. With the Chevy van.

Q. Does it have an emblem on it?

A. It has the Chevy.

Q. Does State's Exhibit No. 38, the shirt you said he wore?

A. He wore that to work.

Q. Does it have an emblem on it?

A. That one doesn't.

Q. He stayed with you after he came home?

A. Yes, sir, until he took Richardson home.

Q. After he came back with the blood on the blue jeans, he stayed with you until he got to Alford's Grocery?

A. Yes, sir.

Q. He didn't go back down there (INDICATING)?

A. No, sir.

Q. Did you see him put on this shirt at your house?

A. He put that shirt on in the bathroom in our house, yes, sir.

Q. You saw him?

A. Yes, sir.

Q. When did he put this shirt on?

A. After he came home - - -

Q. After?

A. And before we went back to the store.

Q. After he got back from Mrs. Alford's Store?

A. Yes, sir.

Q. Ya'll don't trade with Mrs. Alford?

A. Anybody has the right to go to a store.

Q. Ya'll don't trade with Mrs. Alford?

MR. SIMS: Object to what ya'll do.

BY THE COURT: Overruled.

Q. Can you answer my question?

A. No, I don't trade with them.

Q. Where is Mr. Brant's store?

A. It is over on 22 at the Church.

Q. Right around here (INDICATING) if this is the Ray Church, can you please come down and draw an "X" where Mr. Brant's store is?

A. Right here (INDICATING).

Q. Would you mind writing the word Brant, B-R-A-N-T, above the arrow?

A. Witness writes B-R-A-N-T above the arrow.

Q. This shirt here, was not the shirt he wore when he said he was going to the store?

A. That was the shirt he wore when he come home, these are the clothes he worked in, sir.

Q. What clothes was he wearing when he went to the store, the first time; by himself, on the motorcycle?

A. That.

Q. This shirt right here?

A. That, no this shirt, I'm sorry.

BY THE COURT: Let's identify these, please, this shirt means what, for the record, now this shirt.

MR. WILLIAMS: This shirt is State's Exhibit No. 38.

BY THE COURT: That was your answer.

MRS. HILL: This is the clothes he wore to work and he had on, when he went to the store, sir.

BY THE COURT: That is what I want the record to show. The State's attorney is holding before you an exhibit that is a photograph, that shows another shirt, now, some of these questions have been about that photo, I want the record, Mr. District Attorney to be straightened out.

Q. The shirt listed on State's Exhibit No. 15, he did not wear to the Alford Grocery, did he?

A. That 15?

Q. Yes, mam.

A. These are the ones he wore to the store.

Q. That is 37 and 38 and not 15, which is this?

A. That is the one - - - I don't know - - -

Q. I show you State's Exhibit No. 38, State's Exhibit No. 37, when Mr. Richardson came back was Tim wearing these clothes?

A. When he came back from where?

Q. When Mr. Richardson came back with his motorcycle.

A. Yes, sir.

Q. Was Tim wearing this shirt?

A. Yes, sir.

Q. When he came back and told you he had found a body, were these the clothes?

A. That was the clothes that he had on.

Q. Did you son tell you that he had been to the covered bridge?

A. Sir?

Q. Did your son tell you, when he came back he had been to the covered bridge?

A. I don't remember.

Q. Could he have?

A. I don't remember, because when he came back he wanted me to take him back to the store to be a witness.

Q. You don't remember if he said 'I had been to the covered bridge', or not?

A. I don't remember.

- Q. I show you what has been marked as State's Exhibit No. 47, and I will ask you to examine it please, what is it?
- A. It is a steak knife.
- Q. You have heard the testimony about this knife, have you not?
- A. I have heard all of the testimony about it.
- Q. Do ya'll have similar knives?
- A. We don't have a knife like this.
- Q. Do you have similar knives, longer, perhaps?
- A. We have one longer and one shorter.
- Q. One longer.
- A. Yes, sir.
- Q. One shorter.
- A. Yes, sir.

Believe that's all.

MR. SIMS: Come down.

BY THE COURT: Just a minute, the Court will determine that, have you concluded your examination?

MR. WILLIAMS: Yes, sir.

BY THE COURT: Do you have anything further?

MR. SIMS: No, sir.

BY THE COURT: Now, you may stand down and you are excused.

(Off the record)

(Back on the record)

(THIS IS THE DIRECT EXAMINATION BY MR. SIMS, OF DONALD JOHNSON, WHO SWORE TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.)

DIRECT EXAMINATION

BY: MR. SIMS

Q. Mr. Johnson, did you have an occasion to see a motorcycle on July 20, 1978?

A. I did.

Q. Show on the map which direction it was traveling?

A. It was going this way, South.

Q. Where is Alford's Store?

A. It is up North from my house.

Q. What time was that?

A. It was around 5:25.

Q. Did you have an opportunity to see if the person had a beard?

A. He had long hair, I couldn't tell whether he had a beard, he had a helmet on.

Q. Can you identify the defendant as being the person riding the motorcycle?

A. No, sir.

Q. How far away were you from it?

A. Approximately 50 yards.

Q. That was at 5:25?

A. Yes sir.

That's all - - excuse me, one more question.

Q. What color was the motorcycle, if you remember?

A. I couldn't tell you that.

That's all.

CROSS EXAMINATION

BY: MR. TEEL

Q. Mr. Johnson, you say you can't identify the person?

A. No, sir.

Q. Did you see his face very well?

A. No, sir, I couldn't see his face to amount to anything, I couldn't tell, he was a white boy - - - a white man.

Q. You could tell he was white?

A. I could see his arms and back, his shirt was up in the back, I could tell he was white.

Q. Was the wind blowing his shirt up and you could tell it wasn't a black person?

A. No, sir, it wasn't a black person.

That's all.

MR. SIMS: No further questions.

BY THE COURT: You are excused and you may stand down.

BY THE COURT: Ladies and Gentlemen we have a 10 minute recess, please retire to the Jury room.

BY THE COURT: Let the record show at this time, that the Court is in chambers outside the Courtroom proper, and that with the Court being present and the Court Reporter taking this down, the proceedings here, that there is also present the