

No. 18-8030

---

---

In The  
**Supreme Court of the United States**

OCTOBER TERM 2018

---

CHARLES RUSSELL RHINES,

*Petitioner*

v.

DARIN YOUNG, Warden, South Dakota State Penitentiary,

*Respondent*

---

**On Petition For A Writ Of Certiorari  
To The United States Court of Appeals For The 8<sup>th</sup> Circuit**

---

**RESPONDENT'S APPENDIX: VOLUME 1 of 2**

---

JASON R. RAVNSBORG, South Dakota Attorney General  
PAUL S. SWEDLUND, Assistant Attorney General  
*Counsel of Record*

OFFICE OF THE ATTORNEY GENERAL  
STATE OF SOUTH DAKOTA

1302 East Highway 14, Suite 1

Pierre, SD 57501-8501

Telephone: 605-773-3215

Facsimile: 605-773-4106

paul.swedlund@state.sd.us

*Attorneys for Respondent Young*

---

---

# APPENDIX

## Volume 1

<i>Habeas Corpus</i> Transcript Excerpts	Appendix 00001
Rhines Autobiography	Appendix 00014
Kennelly Report	Appendix 00081
Arbes Report	Appendix 00086
Psychosocial Report	Appendix 00090
Ertz Affidavit	Appendix 00093
Gilbert Affidavit	Appendix 00099
Groff Affidavit	Appendix 00118
Harter Affidavit	Appendix 00184

## Volume 2

Allender Affidavit	Appendix 00217
Hernandez Affidavit	Appendix 00331
Tarango Affidavit	Appendix 00342
Larson Affidavit	Appendix 00362
Brooks Affidavit	Appendix 00364
Miller Affidavit	Appendix 00365
Jundt Affidavit	Appendix 00367
Stonefield Letters	Appendix 00368
Order Appointing Psychiatric Experts	Appendix 00370
Criminal Trial XIII	Appendix 00372
Confession Transcripts	Appendix 00402
Docket 72	Appendix 00430
Docket 150	Appendix 00433
Docket 272	Appendix 00452
Docket 289 Excerpt	Appendix 00468

DSM IV ADHD Entry

Appendix 00470

Military Records Excerpt

Appendix 00491

Franks Report

Appendix 00504

Schacht Report

Appendix 00510

Kooiker Letter

Appendix 00529



First State Habeas

Hearing

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH DAKOTA )  
COUNTY OF PENNINGTON ) :SS

IN CIRCUIT COURT  
SEVENTH JUDICIAL CIRCUIT

CHARLES RUSSELL RHINES, )  
Petitioner, )  
vs. )  
DOUGLAS WEBER, )  
Warden of the South Dakota )  
State Penitentiary, )  
Respondent. )

CIV. NO. 97-1070  
HABEAS CORPUS  
PROCEEDINGS

BEFORE: THE HONORABLE MERTON B. TICE, JR.,  
Circuit Court Judge, Seventh Judicial  
Circuit, Rapid City, South Dakota, on  
April 6, 1998.

APPEARANCES: Mr. Michael W. Hanson  
Attorney at Law  
Sioux Falls, South Dakota,  
For the Petitioner;  
  
Mr. Robert Mayer  
Mr. Grant Gormley  
Ms. Sherri Sundem Wald  
Attorney General's Office  
Pierre, South Dakota,  
For the Respondent.

COPY

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Petitioner's Witnesses

Page

Michael Stonefield

Direct examination by Mr. Hanson ..... 3  
Cross-examination by Ms. Sundem Wald ..... 59  
Redirect examination by Mr. Hanson ..... 107

Wayne Gilbert

Direct examination by Mr. Hanson ..... 108  
Cross-examination by Mr. Mayer ..... 142  
Redirect examination by Mr. Hanson ..... 165, 168  
Recross-examination by Mr. Mayer ..... 168, 169

Joseph Butler

Direct examination by Mr. Hanson ..... 169  
Cross-examination by Mr. Gormley ..... 171

Petitioner's Exhibit

Marked

Offered

Ruled On

Rhines Exhibit No. 1 - 118 119 119

1 witness, that he would have been subject to being  
2 impeached.

3 And I -- I can't -- guilt phase trials are one thing.  
4 When you get into that penalty phase where the jury has  
5 so much discretion, I remember my feeling at the time  
6 and I think it's still my feeling that the jury having  
7 not heard about his prior felonies, you know, one of  
8 them was -- was a robbery, that them not having heard  
9 that was a big factor in our favor. Um, so it was a  
10 consideration. It was a -- it was a strong  
11 consideration in my mind.

12 Q Did you or any other member of the defense team make  
13 any attempt before the trial started to see if Charles  
14 Rhines could plead guilty and receive a life sentence  
15 without parole in return?

16 A Yes, we did.

17 Q What response did you receive?

18 A It wasn't me that approached the State's Attorney about  
19 it. It was Mr. Butler. And as I recall, he approached  
20 them early on. As I recall, we -- we began working on  
21 this case in August. As I recall, I think Mr. Butler  
22 approached him in September and I think he also  
23 approached him right before trial, which would have  
24 been right around the end of the year. And it was --  
25 it wasn't going to happen. The prosecutor had his mind

1 hoping to present if you have to come to it, um, and  
2 from what I learned about it in discussions, I remember  
3 I think we talked about attempting to show what we  
4 could from his -- from his life. Um, but again as we  
5 went through this and thought about what it was that we  
6 could present, we were confronted again with this  
7 problem of the -- of the prior criminal record and the  
8 fact that we had kept it out. And I know that when we  
9 -- when the time came for the mitigation case that we  
10 did present which involved Charles's sisters, we were  
11 walking a pretty fine line on the questions that we  
12 asked them to not open the door to where he spent a  
13 good part of his adult life -- that he had been in  
14 prison.

15 So what we ended up presenting or who we ended up  
16 presenting as mitigation witnesses were his two sisters  
17 who were both adults, and they talked about him, what  
18 they remembered from his childhood and the contacts  
19 they have or they had with him more recently. But, um,  
20 I -- I know I saw it this way. I saw us as being  
21 really boxed in in a sense to how much about his life  
22 we could present without opening up the fact that --  
23 that he had spend a good part of the -- his adult life  
24 in prison.

25 Q Did you file any type of motion in limine or make any

1           that we might have opened up, you know, that he had  
2           been -- gone into the service at a young age, but we  
3           had also obtained service records and I don't think  
4           that he had -- that his time in the service was  
5           a particularly good time or particularly productive  
6           time. And had we mentioned that, I think we probably  
7           -- as with some other things in the mitigation case, we  
8           were concerned with the fact that we might be opening  
9           up a door to information that we didn't want to come  
10          in.

11         Q     Were you aware that -- well, let me rephrase that.  
12               Did you ever learn that Charles Rhines had been  
13               stationed while he was in the army on the DMZ between  
14               North and South Korea?

15         A     Yeah, I recall that he had been in Korea.

16         Q     Were you aware that he was -- did you ever learn  
17               whether or not he had been there at a time when there  
18               were hot tensions between the two sides, North and  
19               South?

20         A     Um, that sounds familiar. I believe that -- I believe  
21               I knew that. He may have talked about that.

22         Q     Did he ever talk to you about being at the DMZ shortly  
23               after two American officers had been killed by North  
24               Koreans?

25         A     That doesn't ring a bell, but he may very well have



1 penalty phase argument. And so things were -- what was  
2 said in the other arguments was kind of structured  
3 around his presence.

4 We decided that as far as the penalty closing, we  
5 decided that it would be best for the jury to hear from  
6 all of us and so we all made an argument. The guilt  
7 phase closing, you know, in all honesty, we didn't have  
8 a lot to argue and I think we had -- part of the way  
9 this thing had been structured and how we handled that,  
10 for example, how we handled the witnesses, was in an  
11 attempt to maintain credibility, um, to not appear to  
12 be shifting blame when it was really pretty obvious  
13 where the blame lied -- lay here, that kind of thing.  
14 Um, those kinds of considerations figured into the --  
15 those type of strategies.

16 Q So there was a lot of strategy decisions in terms of  
17 how you would handle the case and who would do what?

18 A Sure there were.

19 Q Okay. What were your biggest obstacles in this case?

20 A Well, as I said before, I guess we -- we came into the  
21 case with a strong prosecution case against us. We had  
22 -- the strongest thing we had going against us were the  
23 statements that Charles had made in Seattle. So the  
24 effort was made to try and keep them out. Once that  
25 failed, it was -- you know, I don't think any of us had

1 a whole lot of doubt what the outcome of the guilt part  
2 of the trial was going to be. The penalty part of the  
3 trial, um, the strongest thing we had going against us  
4 is the carry-over, carry-over of what everybody's  
5 heard. The taped statements were -- were very damning.  
6 And as far as what we could present, as I said to  
7 Mr. Hanson, at least I always viewed it as we were --  
8 we were boxed in in a real substantial way by the issue  
9 of his prior criminal record.

10 Q Would it be fair to say that one of your primary goals  
11 in this trial was to obtain a life sentence --

12 A Sure.

13 Q -- for your client?

14 A That was the number-one goal.

15 Q You've talked about a number of motions that were filed  
16 by yourself and you also mentioned that Wayne Gilbert  
17 filed some motions. Do you remember specifically which  
18 motions Wayne Gilbert might have filed?

19 A Um, well, as I said, I think the preliminary type  
20 things that were filed early on in the case he would  
21 have filed. The motions that were filed later on  
22 dealing with the suppression issue and then dealing  
23 with -- there were a number of motions that were filed  
24 that dealt with the penalty trial and the capital  
25 statutes. I had filed those.

1 case to other cases. I think we were excluded from  
2 that.

3 Q Okay. Do you recall any argument before the jury about  
4 different prosecutors make different decisions, that  
5 kind of argument?

6 A Um, yeah.

7 Q Or anyone on the defense team?

8 A Yeah, I believe that that was an argument.

9 Q Okay. Would you agree that one of the biggest goals  
10 and successes of the defense team was keeping the  
11 Petitioner's prior criminal record from the jury?

12 A Well, I certainly saw it that way.

13 Q That was a real concern in mitigation, opening the  
14 door; is that not correct?

15 A Yes, it was.

16 Q And you were successful in not opening the door; would  
17 you agree?

18 A Yeah, it didn't come in, so we were successful in not  
19 opening the door.

20 Q Okay. You worked closely with Wayne Gilbert during  
21 those months prior to trial and during trial I would  
22 assume?

23 A Well, that's a relative term; relatively closely I  
24 suppose.

25 Q You had strategy sessions and you met and talked on the

1 Q Okay. Were there any specific mitigation witnesses or  
2 specific mitigation evidence that was not used that you  
3 were aware of during the penalty phase?

4 A Well, we had another potential witness who was  
5 Charles's brother, but he decided that he didn't want  
6 to testify. There were other things -- I guess I could  
7 say this. We certainly could have attempted to have  
8 painted a more complete picture of his life, but then I  
9 come back to that idea again about whether we were  
10 going to open up the area of his record that we had  
11 fought to keep out. That was -- that was a big problem  
12 with what we did in the mitigation case.

13 Q I'd like to ask you a little bit about the jury  
14 instructions. You've testified that you prepared those  
15 jury instructions?

16 A Yes.

17 Q Is there anything deficient about the fact that you  
18 were the person that prepared those jury instructions  
19 rather than Wayne Gilbert or Joe Butler?

20 A No, not -- not in that sense.

21 Q Okay. Is it true that the phrase "life imprisonment  
22 without parole" or some derivative appears in the jury  
23 instructions a number of times? Would you agree with  
24 that --

25 A Um, I'm sure --

1 the trial after you received the copy of the victim  
2 impact statement to prepare for it or to attempt to  
3 refute it?

4 A No.

5 Q Did you ever consider the possibility of moving the  
6 Court to allow Charles Rhines to make an unsworn  
7 allocution to the jury before they decided on the  
8 penalty?

9 A Yes.

10 Q What developed as a result of those thoughts? Well,  
11 did you bring such a motion or request?

12 A No.

13 Q Why didn't you?

14 A To the best of my recollection, ah, Charlie decided  
15 that he did not want to do that.

16 Q Was there -- at the pretrial stage of this case; that  
17 is, before the jury selection began, did you or the  
18 other members of your team ever discuss approaching the  
19 prosecutor about a plea agreement which would involve  
20 Mr. Rhines pleading to the charge in return for a life  
21 sentence?

22 A Yes.

23 Q Was such a request made to Mr. Groff?

24 A Not by me personally, but Mr. Butler did or said he did  
25 and I'm confident that he did do it.

1 A Not that I can recall.

2 Q Had there been any discussion amongst the team about  
3 perhaps approaching Mr. Groff with that idea?

4 A That specifically, not that I recall.  
5 (Brief pause.)

6 Q Did -- we discussed this a little bit before I got --  
7 realized my notes got a little mixed up here,  
8 Mr. Gilbert, but if you'll bear with me. Did your team  
9 ever discuss what type of mitigation defense should be  
10 put on in the event this case went to the penalty  
11 phase?

12 A Yes.

13 Q What did your group discuss or think of?

14 A Well, we discussed Charlie himself testifying or making  
15 some sort of allocution statement, his family, members  
16 of his immediate family; and as I said earlier, if we  
17 could come up with someone from Charlie's past such as  
18 teachers or friends, something along that line, talking  
19 to them.

20 Q Did you ever consider putting in Charles' army records?

21 A From what I can recall of those army records, I can't  
22 believe that we seriously considered putting them in.

23 Q How about the fact that he had spent time in the army  
24 on the DMZ in Korea?

25 A Ah, putting in records of that, I don't think so. I

1            putting him on the stand and subjecting him to  
2            cross-examination or would we be able to persuade the  
3            Judge to allow us to do it in the nature of a speech  
4            rather than testimony.

5            Q     And you -- given those concerns, you elected not to?  
6            A     That was one -- that was one aspect of our discussion.  
7            I can't say that that controlled our decision.

8            Q     Another aspect of your discussion or at least your  
9            thought process was that you believed Mr. Rhines was  
10           incapable of showing any remorse, correct?  
11           A     I did.

12           Q     Okay. The plea agreements or negotiations, if you can  
13           characterize them as that, that went on with the  
14           State's Attorney's Office, were those negotiations ever  
15           reduced to writing to your knowledge?  
16           A     The negotiations, no. I believe there was a letter  
17           from Mr. Butler to Mr. Groff that confirmed that they  
18           had had the discussion and Groff said no.

19           Q     Okay. Do you have that letter with you today?  
20           A     Ah, I may if there's a correspondence file in that --  
21           (Brief pause.)  
22           A     I don't find it in here in the portion of the file  
23           where chronologically I would expect it to be. Didn't  
24           I give it to you guys to copy?  
25           Q     Yeah. You never received the original back?

1 A Ah, the Judge granted the motion. I don't recall -- I  
2 know the motion was filed. I know the Judge granted  
3 it. To be honest, I don't recall what position we  
4 took. I'm sure we didn't agree to it, but I don't know  
5 what the arguments were opposing it.

6 Q All right. Why didn't you offer the army records of  
7 Mr. Rhines in mitigation?

8 A Well, I think there were some problems -- I believe  
9 that Charlie had a general discharge anyway for issues  
10 relating to conduct, and I think that the army records  
11 as a whole would not be helpful.

12 Q Were you also concerned that any evidence of admirable  
13 conduct on behalf of Mr. Rhines during his career in  
14 the army may open up the door to his criminal record?

15 A I -- I don't recall actually talking about that as I  
16 sit here today.

17 Q You also testified about any efforts to get the Judge  
18 to instruct the jury that they should not consider  
19 Mr. Rhines's homosexuality after they had submitted  
20 some questions to the Judge. Do you recall that?

21 A The questions here this afternoon?

22 Q Correct.

23 A Yes, yes.

24 Q Isn't it true that you covered homosexually --  
25 homosexuality rather thoroughly on voir dire?





①

Charles Russell Rhines, 36, DOB. 11 July, 56.

Place MSLaughlin, SD.

Elementary school: MSLaughlin Public.

High School: <sup>①</sup>MSLaughlin Public, <sup>②</sup>Wood Public, St. Louis High, Honolulu, <sup>③</sup>US Army, and DM. Camp Casey, Korea) GRADUATED.

2 Years, 8 months U.S. Army Infantry. (Mar. 4, 74 - Oct 13, 76)

Basic: Ft. Leonard Wood Mo; AET: Ft Polk LA.; Duty

Stations: Ft. Carson Colo; South Korea, 2nd Division

DMZ POLICE. <sup>④</sup>General Discharge under Honorable conditions.

Worked: <sup>⑤</sup>Several months Miller Construction MSLaughlin SD

QUIT/Discharged over disagreement of whether or not

I should keep case of explosives + blasting caps stolen from company. Returned Explosives and quit. Was offered job back.

Worked: Holiday Inn - dishwasher 2 months Elko, NV. started Vocational school USD/1s, Electronics.

<sup>⑥</sup>Arrested Oct 77 for 3rd degree Burg. sentenced to 3 years BON HOMME CO.

Paroled after 7 1/4 months - June 78.

Worked: Lundstrom's Black Hills Gold Jewelry CO. Sept 1, 7 thru June 79. <sup>⑦</sup>Terminated for poor punctuality.

<sup>⑧</sup>(Very stormy period of life - counseling, discovering, accepting Homosexuality - first real love/broke heart)

Worked: Midwest Paint Service, Aberdeen, SD. Sept, Oct Nov 79.

<sup>⑨</sup>Arrested Dec 7, 1979 1st degree Robbery / commission of

②

Felony while armed w/ short shotgun.

Plea Bargain: 2 yrs Robbery, 8 yrs comm fel w/ ARMS served 87 months - Flat out. Did Oct 80 - June 86  
⑩ at Washington State Reformatory. June - July 86 Pre-Release Ft. Steilacoom, WA. July 86 - May 15, 87 WORK Release, Seattle WA,

⑪ Worked: Pioneer Industries, Seattle July 86 - Oct 86. Quit.

⑫ Worked: Pine Street Grill, Oct 86 - Feb 87 (out of bus now)

Worked: Winchell's Donut House Feb 23, 87 - March 88. BAK.

Promo. to Asst. Mgr Mar 88 - Sept 88. PROMO TO MGR Sept 88

⑬ MGR Sept 88 - Sept 90. Resigned Position Sept 4, 90.

Worked: Blue Heron Enterprises / PMR SALVAGE Oct 90 -

Dec 90. Ran Paper scam (Payroll checks) Nov 90 - Dec 90

⑭ Went on vacation Dec 14, 90 - Feb 16, 91

Worked: DIF-EM-DONUTS Feb 16, 91 - Feb 20, 92.

Promo to MGR Dec 91, Terminated Feb 20, 92.

Moved to Seattle March 11, 92.

⑮ WORKED PMR SALVAGE / NOAA (National Oceanic + Atmospheric Administration) March 92 - June 92.

⑯ Arrested June 19, 92 3rd degree Burglary (6 counts) + fugitive. Burglaries dropped June 23, 92.

These are the high-lights (or low-lights) and will give a starting point for investigations.

NOTES ON BIO

① QUIT McLaughlin High school sophomore year - did not get along with new English teacher - was bored with class and not doing well academically.

I spent the next year working P/I at Livestock Auction

② Returned to school with sister/husband-teacher at Wood. QUIT Dec 73. It was too difficult to be able to party w/teachers/coaches on evenings/weekends and then be the proper High School student during the day. Too difficult for a 17 year old wrestling with major identity problems.

③ Three year enlistment to US ARMY INFANTRY. BCT FT LEONARD WOOD, MO.; Infantry AIT FT. POLK, LA. 2<sup>nd</sup> Platoon, A Co., 1<sup>st</sup> INFANTRY FT Carson, transferred to 2<sup>nd</sup> Platoon, B Co. 1<sup>st</sup> INFANTRY FT Carson. PCS'd (Permanent Change Station) Nov 75 TO 2<sup>nd</sup> Division, Camp Casey South Korea (2<sup>nd</sup> Platoon, B Co., 1<sup>st</sup> INFANTRY FT Carson) (GP Collier + GP Ollette) (GP)  
(Awarded Imjin scars). Discharged OCT 13, 1976 - chapter 13 (Apathy).

- a) Co Grade Article 15 Disobeying Lawful ORDER Reduce 1 Gr  
15 Restrict
- b) Co Grade Art 15 Disobeying Direct Order 30 day Restrict
- c) Co Grade Art 15 Disrespect to NCO \$100 FINE  
30 day Restrict
- d) Co Grade Art 15 Possession ounce of LESS MARIJUANA \$50 FINE  
15 day Restrict

NOTE ON BIO CONT.

e) Field Grade Art 15 Possession Controlled substance  
Narcotic <sup>\$4000 FINE</sup> 90 day Restrict.

④ Apathy Discharge ~ I quit caring what they did to me. The dice were thoroughly loaded against me and I knew it. I had a black chain of Command and white men could not make rank - especially if you were NON-COMBAT VET.

BLACK TEAM LEADER, BLACK PLATOON SGT, BLACK 1st SGT  
BLACK EXEC., BLACK CO., BLACK Brigade Com. maybe it was all in my mind.

⑤ I wanted to play with 100 sticks 60% commercial dynamite. No charges brought for several reasons:  
a) Explosives had been stored illegally. (IN TOWN)  
b) Explosives illegally stored were NOT secured.  
c) I had done their blasting in a job they would otherwise have lost their shorts on. (NO ROCK CLAUSE IN CONTRACT)

⑥ Stupid Me. Psychological problems associated with sexual identity problems. Extremely low self esteem + subject to ridicule by classmates - Perceived or Real I'm not sure to THIS DAY. Burglarized college dorm room to "Pay them back".

NOTES ON BIO CONT.

III

In SOSP was placed in Group Therapy. It was the first time in my life that I verbalized - said it to another person "I think I'm a homosexual". Talked with Loren Goodale - counselor at SOSP.

⑦+⑧: While on Parole I had an instance wherein I maintained an anger at Bio-in-Law (Kurt Strobel, RC, SD) long enough to cross town and come back with Log chain. He + sister (wife) were divorcing and arguing over who got the blankets.

Kurt and I had had one or two sexual contacts before he married my sister. I had not gone any further w/ identity crisis and probably resented him rather much.

Parole Officer: (Judd Thompson) Required me to undergo counseling at West River Mental Health.

I did this and they helped me "come out" - accept my sexuality. I quit counseling after 3-4 sessions. Later realized that I wasn't ready - really but too late. I thought I burned that bridge.

I met and fell in love with Bryant C. Anderson a charming young man (18) I was 25 at the time. A torrid affair ensued. There were mutterings at work - Landstroms - and one evening I had a "come out"

## NOTES ON BIO CONT.

talk with co-workers that sat next to me.

What I asked be kept confidential was spread all over the company the next day.

At that point I was beginning a major case of rejection. I went from 150 friends one day to being a pariah the next.

This lasted about two months in which my tardiness and absenteeism became more and more frequent until finally I was discharged. Looking back on it, I realize that I just didn't want to go into that

building any more and subject myself to that rejection. I broke up with Bryant in August 77 - went into shock for about a month. I could not function, period. The rejection had been too much and I was an emotional basket case. I'm not sure if I EVER RECOVERED FROM THAT.

I left R.C. in sept. and went to work for MIDWEST PAINT SERVICE - Aberdeen SD. worked on the road for about 3 months and then season was over. I was still nursing emotional wounds and had a plan to aid in my recovery. I planned and did a robbery - got caught.

The original plan was to take the money from robbery + INCOME TAX REFUND, return myself to sosp as no longer a safe bet for parole and wait out

NOTES ON BIO

the 2-3 months until my 3 year term expired and then move to "Bay Mecca" south east - MIAMI/PT. LAUDERDALE. OR ST. PETERSBURG. I did not get very far.

I have come to realize in the last 14 years that what I really wanted was to be punished for failing to keep a relationship alive. Though now I know it really wasn't anyone's fault for the ending.

(9) Arrested, Plea Bargained, sentenced, Transferred to WA St. Reformatory. #272313. served time satisfactorily was discharged on May 15, 1987.

(10) While my prison record at WSR compared to SDSP standards was large and varied, it was normal for that place + time. Comparing Apples + dump trucks. SDSP is and was a highly controlled prison. WSR WAS NOT controlled in any way. Fighting to stay alive was a daily requirement and if you were not armed at all times you would be dead very quickly. OR Robbed or Raped or Beaten or all of the above.

(11) WORK Release: "Madison Inn" - Work Releases in Seattle were owned by Pioneer Human Services, The Parent Co.



of Pioneer Industries. They employed 99% from WORK RELEASES - OWNED BY THEMSELVES.

We did Philanthropic contracts for BOEING AND ROCKWELL AEROSPACE. Mostly small tedious part assembly / manufacturing.

Working conditions were poor at best and catastrophically dangerous at worst and I requested termination to look for WORK MORE IN LINE WITH MY ABILITIES / TRAINING. (WORK RELEASE rules disallowed QUILTS).

(12) I did not find a job in video production - NO-ONE would accept my credentials from WSR, so I took a job as a dishwasher at a toy owned / operated / staffed restaurant. I had the chance to reacquaint myself with people that I knew were of the same SEXUAL / EMOTIONAL PREFERENCE AS MYSELF.

I had found upon returning to society that I had become very "closeted" and was afraid to openly meet other gay men. Working at the Pine Street Grill helped me get over that. Helped me readjust or just plain adjust to an openly gay lifestyle.

(13) a) Quit P.S.G. Feb 87 over pay dispute and went to work as BAKER AT WINCHELL'S POINT HOUSE - downtown Seattle. Current MGR had been waiter at P.S.G. while I was

WORKING There. (It isn't what you know, it's who you know). I had been at w/r 7 months by then and was not sent back for quitting job - it was justified.

(13) b) I WORKED AS BAKER FOR three managers - Last one promoted me to Asst. MGR Training Program and then I was sent out to Run a West Seattle store where MGR HAD QUIT w/out NOTICE. Promotion to MGR candidate on August 3, 88 and sent to MGMT school in California for two weeks.

( TOOK OVER STORE #824 started in and managed it until one month before company closed it. Transferred to #412 and ran it till co closed it. Transferred to #354 and ran it till co sold it to Coffee Company (starbucks) Resigned over disagreement with take over by British Canadian firm (CORPORATE RAIDERS).

c) Went to work for Blue Heron Enterprises installing free-standing hydraulic lifts.

d) Also worked with M. Mighell at AMR salvage - reclaiming NON-FERROUS METALS and selling them.

(13)

e) Ran Paper scam - Went back to work for Winchall's as Baker after discovering payroll checks could be easily altered to any amount desired without possibility of easy detection. MADE \$40,000 IN 6 WEEKS. bought an F-250 4X4. Room-mate / lover at the time tried same thing and got caught - I skipped town Dec 14, 90. Vacationed / hid out - thought I was wanted - till money ran out and settled in Rapid City.

(14)

TOOK BAKER'S JOB AT DIG-EM-DOUNTS FEB 16, 91 WORKED AT THAT UNTIL Dennis Digges offered me \$1/hour raise and MGRS' Job. Dec, 91.

I was terminated over dispute of whether or NOT OWNER/BOSS COULD MAKE US STAY ON PAYDAY FOR "BITCH SESSION" UNPAID. SAM HARTER BECAME RM-MATE / LOVER DEC 13, 91.

(15)

MOVED BACK TO SEATTLE MARCH 11, 92 After: Schaeffer's murder - Lover, Sam Harter, was forced to move back home after Schaeffer's Death.

Went to work for PNR Salvage ~ median rate at \$30-\$40/HOUR.

Started sub contracting for NCHIA June 4, 92. \$6.50/HR 40 hrs/WK - OR MADE.

(16) <sup>FRIDAY</sup> ARRESTED for Burglary June 19, 92 at Winsome Trading Co. Warehouse after leaving NOAA - went to see Business Partner M. Mighell. Arrest took place at 12:30 PM.

Was taken to KCS NORTH PRECINCT and held in holding cell until 5:30 PM. When Steve Alexander & Don BARR showed up to interrogate me.

Some Detective from KING CO, Steve + Don said that if I didn't confess they would make sure Matthew never saw his kids again and I would be to blame.

They informed me of my constitutional rights and when I asked for an attorney they said "all you have to do is call one". There was no telephone in the interrogation room and I was not allowed out of the room for anything until 10:00 PM.

Things NOT COVERED

1) Relationships / Affairs of meaning.

a) Bryant Charles Anderson; MAY 79 - August 79

b) William B. Spetts; @ WSR; May 81 - June 84

c) Curtis N. Taylor; Seattle; Dec 88 - May 91

d) Samuel X. Harter; Rapid City Dec 91 - June 92.

2) Childhood Troubles:

a) Caught smoking - age 5

b) Caught breaking/entering abandoned Railroad house. <sup>NO POLICE ACTIVITY</sup>

c) Caught shoplifting at age 11-12 <sup>NO POLICE ACTIVITY</sup>

d) Rumored about Arson Fire  $\approx$  14-15 - <sup>NO POLICE ACTIVITY</sup>

e) Called BIA POLICE "PIG"  $\approx$  14 - <sup>NO OTHER ACTIVITY</sup> <sub>except</sub> Parents

Generally blamed for most anything that happened during childhood that was unexplained around town (McLaughlin). NO JUVENILE RECORD!

3) Adult Felony convictions:

a) Third degree Burglary: NOV 77 <sup>3 yrs</sup>

{ bI } First degree Robbery: <sup>3 yrs</sup>

{ bII } Commission of felony while armed w/short shotgun. <sup>3 yrs</sup> } DEL 79



(

# BIOGRAPHY + PHILOSOPHY WITH RAMBLING DISSERTATIONS ON RELATED SUBJECTS

(I'm not a writer)

Please try to keep an open mind while  
reading this - I've opened my soul in  
these pages.

Remember ~ your lifestyle is probably  
as foreign to me as mine is to you.

## Prologue To Biography.

I was born 11 July, 1956 at the McLaughlin Public Hospital ~ the day before my parents 9<sup>th</sup> wedding anniversary. Mother was 36 years old and Father was 44 yo.

I am the last of 4 children and, as such, I tended to be spoiled in some ways and rather deprived in other ways.

The spoiling came from my siblings ~ mostly Karl, my big brother who had the "honor" of naming me over the preferences of my mother. (I would have been Russell James).

However my brother had waited 8 years for his brother and when he asked if he could ~~name~~ name me I became Charles Russell.

It turns out that my two maternal Grand fathers donated those names: Charles Rhines and Russell Lipps.

Providing for the needs of a family of 6 proved rather taxing for dad's 500-600/month salary at the Farmers' coop grain elevator where he was manager. So mother had several book-keeping jobs during my childhood - off and on.

I was very much a "Latch-key Kid" through most of my younger years - till I was 15-16.



Mother was a dominant force in the household - Dad was there to provide and fish on Sundays - there was not much else he did.

The one highlight that I remember well, (though parents and siblings would say I couldn't possibly remember - being too young), was a week in the Black Hills one summer.

We stayed in a cabin, one of several, where it was in the Hills, I could not say, but nestled in amongst the pines with a crystal clear, cold creek running by. It was probably the best week of my childhood.

I can think of no other time when life was so pleasant.

I don't really know, but I think I was about 4-5 years old. I got to spend time with both my father and brother without my sisters interference in hiking and such.

The rest of my childhood summers were spent at home. I rather imagine there really wasn't enough money available to vacation much.

And then when there were two in college and two at home it got pretty bad.

I recall seventh grade well. Thirteen years old and becoming aware that a lot of my feelings about "sexual attraction" were "wrong".

I was in love with a neighborhood friend - a younger boy down the block and it was not platonic. The sexual attraction was mutual or possibly he was looking for affection that was missing at home. I don't know. All I knew at the time was that when I was with him (be it in bed or playing football) I felt good about being alive and having him close by. This was 1968 or 1969 and the Stonewall riot had either not happened or was just happening. (Stonewall Tavern, NY. Gay Rights movement started).

There were several other guys around the neighborhood whom I "fooled around with" but he was special to me.

It wasn't until the summer I was 15, that I became totally aware that I was different from my friends. That summer "Bob" turned 16, "Bill" turned 15, "Don" turned 14 and they went off for the summer to Bill + Don's folks' farm in another state. They discovered girls and what girls are good for.

(Nothing from my point of view, except producing potential partners). Bob, one of my steady sexual partners until then came back at the end of summer and wouldn't "play" anymore. He was too wound up chasing girls.

That summer my special friend had moved to another town and I could only see him occasionally.

I could not understand why everyone was so interested in females.

(To be honest, to this day, women do not register with me. I can walk down a busy street and see every male on it but if you made a remark about some woman I would have to agree with you - not having seen her.

Males that are predominantly heterosexual are the same way towards other men. Lesbians don't really notice males much.

(Honey Bees wouldn't notice a Porterhouse steak either - no interest).

I have strayed from my story.

The years of 13-17 1/2 were strange as I look back on them.

I was a grossly overweight, introverted, non-self-aware homosexual attempting to fit into a society that extolled the traits I abhorred. Physical sports, gregariousness, (POPULARITY) and of course the worst thing anyone could be was a "fag".

During my Junior high period 7-8 grade I had a science teacher that allowed me to spend time in the physics lab where I could freely associate with non-threatening things - chemistry experiments, physics apparatus - things that were non-competitive.

Mr. Dorick and I went on field trips hunting fossils near Lemmon, SD - exploring the banks of the Missouri River near Mobridge. He sparked my curiosity - kindled the flame and tried to fill in for the father who was too busy providing survival.

I wet the bed until I was 10 or 11 years old - the day Karl came home from USMC - Boer Camp

Finally I was 15 and the last child at home - a problem child for my parents.

I started my freshman year in high school at 15 - a year behind the people I had grown up with - having repeated the seventh grade. It's not that I was stupid or developmentally disabled. I could not keep my mind on anything not intensely interesting. I would sit in study hall/home room for hours reading an old (c. 1929) physics book but would not do math or english.

My grades for science, social studies and history were just fine but the "New Math" seemed to be beyond my comprehension at the time. English was strange - I could see no reason to split sentences into their various parts - verbs, adverbs, participles, nouns etc... and in my rebellion, simply refused to do any of it.

The strange part of all this was that the math/english teacher didn't tell my parents that I wasn't doing my daily work - taking zero's day in and day out.

Part of that I now know was that Jimmy Brooks was real big on sports and was a coach - I was non-athletic - I wouldn't even show up for gym class.

After failing 7<sup>th</sup> grade several of the teachers proposed a plan for the next year - if I pulled A's my first quarter, they would jump me up to eighth grade - with my friends.

I was still wrapped up in trying to figure myself out - not particularly understanding what quite a few of my class-mates could already see or feel - that I wasn't one of them.

So - I didn't apply myself and stayed in seventh grade the whole year. A bit of a disappointment to say the least.

In seventh grade I also found another love - **SCIENCE FICTION!** I discovered Robert Heinlein, Arthur C. Clarke, Poul Anderson.

I have been an avid reader ever since - not just SCI FI but nearly anything.

At the time though I stuck with SF. and read every SF. Book in the school library.

I could burn through 5 or 6 a day and often did. I did not read, I consumed them.

This gave me something other than entertainment though - it gave me a vocabulary unmatched by my peers. As a sophomore I tested out to a 15<sup>th</sup> grade vocab. (College Trivia)

Anyway, I went through the motions of my freshman year, having managed to make a few friends and finally it was the summer I turned 16.

I started my sophomore year and got about two months into it and finally quit school one day after a row with the English teacher - I imagine that I was a discipline problem for her. (I had been kicked out of English class the week before for disrupting the class - that was okay by me - more time to read SF.) The day I returned to class - she did it again and I gave up on school.

I found a job at the livestock auction - full time at first and then only part-time for the next year.

The really strange part of this whole thing is that Dad didn't say a WORD about it. Mother was in control and all she said was "you'll have to get a job." so I did. That was not overly to her liking but it suited me just fine.

Somewhat less than a year later, my bro-in-law and sister decided, with my folks, that

I needed to return to High School and that the place to do it was with them at Wood, SD.

That lasted about 4 months - just before Christmas of '73 I again quit and by then Dad was willing to sign the releases allowing me to join the U.S. Army Infantry.

I enlisted for 3 years - it really was not a good idea but the folks were at a loss for what to do with me.

(In retrospect, some psychiatric help would have been a pretty good idea but my parents didn't want to think their child would or could need to talk with a psychiatrist - after all, these two people had raised three healthy, normal children - NO parent in 1972-73 could ever consider that their child might be having a sexual identity crisis).

I'm not saying my parents failed me - they did the best job they knew how to do and no-one can expect more than that.

Well, three years in the Army Infantry - Basic Combat Training (BCT) and Advanced Individual Training (AIT) (INFANTRY) were interesting troubled years.



X

Once I was in good shape - really physically fit (home on leave in July 74, 100° day and I'm out running 5 miles in boots and green fatigues).

Oh yeah, I was in top physical condition.

I really ate up weapons training - we learned to fire and maintain just about every weapon most people can think of. (M-16/M203, 45 cal, M-60, 50 cal, 90mm, 81 mm mortar, 45 cal mg, LAW, 106mm RR, tactics of fire and maneuver, house to house fighting, insurgency suppression, chemical/biological/nuclear combat.

In short, I could perform efficiently the functions required of the modern combat soldier.

I came to realize that the Infantry was not the lowest branch of the Army.

The Infantry IS THE ARMY! Everyone else is in support of the Infantry - Everyone!

The Infantry has to take and hold the ground where everything happens. Without the foot soldier there simply is no way to win a war.

For many years - centuries - the Infantry has been considered nothing but cannon fodder - something to shoot at - but not in modern Armies. A dumb Infantryman lasts about 2 minutes in a combat zone.

Thus ensued 32 stormy trouble filled months in the Army.

Nothing had changed, I was merely able to get into more trouble than before as I was more or less on my own.

Within 6 months of arriving at my first duty station the Company Commander had me up to see a Major Psychiatrist - his conclusions were that I was entirely in the wrong branch of the Army. I should have been

a clerk - not a combat soldier. I had the wrong temperament for the job. Introverts do not make real good Infantrymen.

The major problem I had was that I was still rebelling against Authority - in the most Authoritarian institution in the world.

Oh, boy!

I was introduced to the drug culture and having only experienced weed a couple of times before that I jumped into it wholeheartedly.

After all - the Army/Establishment was against it so I was all for it. (Just more rebellion)

I didn't know just where that would lead at the time.

With my permanent change of Station (PCS)  
I found myself in Dopers paradise - South  
Korea. The home of Eighth Army and  
Second Infantry Division. The US Army's  
Best Kept Secret. PARTY CENTRAL!

Stop training in the middle of an ARTEP  
bring the bands (RNR, Country, Soul) to the  
field and have a 2-3 day party.

The civilian drug stores did NOT require a  
prescription and though they were OFF LIMITS  
to US Personnel, they did have back doors  
and people who would sell out the back door.

Codine became a favorite drug for me.  
Marijuana was plentiful and cheap.  
10 dollars would buy about a pound of  
cleaned (no stems, no seeds that you don't need)  
fairly high grade weed.

Ten dollars would also buy 20 joints of  
Thai stick rolled in hash oil.

Ten dollars would also buy a 20 bottle case  
of cough syrup - the source of codine.

Each bottle had 500mg of codine in it -  
I got up to doing 10-12 bottles at a time -  
one hell of a dose of "NOD".

In 1976 we almost jumped off into a shooting war with the North.

The 1/32 (first Battalion of the 32 Infantry Regiment) was stationed at Camp Howse doing DMZ POLICE duty.

A work party had gone out to trim a tree situated only a few feet inside the southern Demarcation Line and were attacked by a platoon from the North - they killed a 1st Lt and a Captain from "Charlie" Company - they beat them to death with AX handles.

We went on alert, were issued live ammo and sat waiting for the go signal for 3 days. It was resolved on the morning of the 4th day.

During the night before, 3 divisions of ROK MARINES infiltrated the area under full camouflage and lay down - totally invisible. In the morning a work crew came out with a chain saw and cut the tree down. When the tree hit the ground, the marines stood up - all 105,000 of them. The incident was over.

I was a tense time for me. I was carrying an M16/M203 grenade launcher and had 30 rounds of High Explosive Ammo strung across me in

bandoliers - thinking "all it takes is one round, and Boom, I'm gone - not to mention that sympathetic Detonation would set off the other 29 Rounds - taking out the whole squad."

That is when reality hits you right between the eyes - it stops being a game and becomes very serious.

During the 4<sup>th</sup> day - after trees fall - we started turning in our issued Ammo and somewhere we had lost a whole Basic Load of "16" ammo - (20 magazines worth). During the search for that bandolier a quantity of C-4 explosive in a Claymore bag was found underneath the pillow on my rack. Oh Boy! explain this one Charlie. I didn't have to explain anything as, according to the MP's that were called, it was "found Gov't Property" and to charge me they would have to charge the other 3 people living in the room also. I guess I skated on that one.

I was discharged from the Army from Korea October 1976.

I was never so happy as when we landed back in the U.S. I got off the plane and kissed the ground.

I collected unemployment for 6 months after getting out of the Army - vactioned and did drugs. And did drugs and did drugs.

Mobridge was 30 miles away and was the central distribution point for the Midwest at the time.

(In Ft. Carson my preferred drug was LSD - I have no idea of how much I did while there - I do recall one extended period of 3 tabs/day for 90 or so days) (speed was another favorite along with lots of weed).

My 32 months in the Army was basically NON-sexual aside from my first Heterosexual experiences - NOT more than 6 or 7 - I tried but couldn't keep much interest. I would rather sit and talk with Randy Huggins than screw a girl! - I guess I had a crush on him.

Wasted years.

☹☹ I know now what "type" brings out compulsive behavior in me. : A minimum of 6-7 years younger than me: 5'6" - 5'10" tall, Trim/Athletic body, dark hair/eyes. I completely lose control of my higher reasoning ability when confronted with this "type". Something about the Characteristics takes over and

my reason goes away. Every Lover I've ever had - the one's I've become emotionally attached to fit this description.

The "turn on potential" is enormous and I find myself powerless to stop it. It is obsessive with me. } }

My sexual preferences - activities - practices - are homosexual dominant "a TOP MAN" in the jargon. I prefer the Leather scene - some s/m but not as a steady diet.

I find myself being able to function well in all areas - from gentle, tender Lover to Dominant Discipline dealing Master. I own handcuffs and leg shackles, Rope + chain. Belts and whips.

These items are used only with experienced, WILLING "BOTTOMS".

#### -Theory-

There is, in every human being, an animal. A vicious primal animal capable of ANYTHING necessary for survival.

The deeper an individual buries that animal, the more URBANE / civilized he/she is. For some people (the majority) he is very deep and never gets out. For others (myself included) that creature is only an inch or so down and

and MUST get out once in a while. If he is kept suppressed for too long - he takes over.

Before living in Rapid City, I had a couple of "Buddies" - Bottoms - to let him spend his rage on in a controlled environment - in a controlled manner.

After about 18 months of no release he was more than ready to act out. He got his chance March 8, 1992. In a moment of lost self control, the animal took over and my own identity - the person, the tender lover, the Father figure was subjugated to the will of rage.

It is quite often that the dominant businessman - boss of the business - becomes a willing slave during sex - totally submissive. And vice-versa.

During my normal daily affairs, I am quite submissive and very low key - avoiding confrontation and conflict. During sex I become dominant. If I am with a willing partner (Leather Bottom) then I become supremely dominant, inflicting pain and suffering as I wish - I allow the animal out on a leash. Slapping a guy around / spanking are warm ups



for what is to come later. Whipping and rape scenes are quite common amongst the leather community. I exist but to fulfill fantasies and when it comes to abusing a guy as he wants it - I'm fairly competent.

A note here - none of my lovers - emotional lovers, have EVER BEEN PART OF THIS SCENE - I won't have it as a steady diet. More like a therapeutic drug needing to be taken at intervals - a catharsis of sorts. It keeps me on an "even keel" by allowing that raging animal to come out in a controlled way.

This is a part of my life that is difficult to explain. I have spent considerable time reasoning this out - with much introspection.

There have been many times during the past 8-10 years when I truly wondered whether or not I had a firm grip on my sanity. - When I would find my self in a deep despair, that somehow I knew that "things were NOT GOING TO BE OKAY".

I dream and down the road - I never know when or how far - the dream comes true. I get "Deja-VU's" all the time - and realize that I dreamed what I was

now experiencing.

I am scared because I can't recall any dreams past this place - like there is no future at all, beyond this jail cell.

Do I live in a fantasy of my own creation? Do I dream myself into the future or do my dreams pluck tid-bits out of a pre-ordained set of events with no way to control them?

Am I forgetting that what is going on around me is not reality?

How and why did I create the mess I've gotten myself into?

Is this all good training for the future and will I enjoy it more if I keep some perspective in mind?

Where, if anywhere, am I going?

I have digressed. A bad habit of mine that tends to get me into trouble. A lot!

So now I am 34 and living in Rapid City, Curtis has left - took my car and I got it back 3 months later. It is November and I've given my notice for the 15<sup>th</sup> of December.

OVER →

XX

And then hope comes through again - in the form of Sam Harter - that sweet young man that has done his damndest to tease me during the past 6 months.

(The times he has put his hands on my ass and wiggled his ass at me and showing how much cream horn he can get into his mouth without biting) (quite a bit, by the way)

Make no mistake, Sam knew I was primarily homo-sexual when he moved in with me in December. He knew because about two weeks before that I had told him so, and I had told him I was very attracted to him and would like nothing better than to take him to bed.

December 13, 1992 Sam came to my hotel room and we watched a couple of movies on VCR - and I made my move - slow and gentle - we had sex twice that day - details are unimportant. That night he called me at work and told me he was moving away from home - and in with me.

Now, look at Sam and recall my description of what makes me obsessive.

□ I AM always had the option to say no and nothing would happen because of it. I wouldn't have made him move home or in any way changed how I treated him.

I have had lovers before that went on living with me even after he or I ended the sexual part of the relationship.

WHEN I tell some-one that I love them, I mean it and that won't stop simply because the physical part of the relationship stops. SEX and LOVE are independent emotions as most people will admit if they think about it for a while.

One need not be in Love to have sex and one need not have sex when in Love. Do you not Love your friends? Do you want to have sex with them? Probably not.

I still have kindly feelings towards my first adult lover - though his treatment of me nearly ruined my life.

SEX when in love with some-one can be and usually is, very satisfying both physically and emotionally.

The fulfilment obtained in a homosexual relationship is not different than that in a hetero relationship.

APPENDIX

How much have I left out of this Bio? Most of what I went through during my years at WSR. (WA St. Reformatory)

It could be important for my defense but also detrimental if the prosecution obtains my central file from WSR.

I had two major infractions for weapons/associated items. They actually found only one. However, they had a snitch report another time that said I had one. The staff couldn't find it so they invented one from a hinge pin and a toilet paper holder. In that one they also found a honing stone - so they were fairly sure I had one somewhere.

I never USED Any weapon in any altercation. I was only in two fights the entire 6 years I was inside the walls - for being an "out of the closet Homosexual" and not having a "Daddy" or a "man", that ain't bad.

I know I had the respect of a good number of the guards from the way I was treated.

There was a young man I was rather

attached to ~ same basic description -  
name of William B. Spelts. <sup>(BILL)</sup> Our quiet re-  
lationship went on for about 4 years ~  
off & on. We lived together for a short  
period of time and I was in heaven.

I have never been more in love with  
anyone than Bill. Truly, for me, the sun rose  
and set on his shoulders.

It was towards the end of this relationship  
that I realized that not only did I not stand  
a chance around a guy with that description  
but that I would become obsessive about  
them. This realization may have been the  
ending of the relationship actually.

The realization that I was in love with a guy  
that I really didn't LIKE very much - I didn't  
like some of the things he did relative to me.

I suppose after a couple of years he was merely  
amused with how I acted towards him. Past is Past.  
Done is Done. You can't go back. You can't go home.

Time flows forward only. Home is a space in  
time ~ not a place in space.

"Home" is Seattle with my partner and friends.

The bond that links your true family is not  
one of blood, but of respect and joy in each

other's life.

Rarely do members of one family grow up under the same roof.

The Mighell family - Mat + Jim are the people I call family. Though I haven't been around Jim as much as I'd like, he is still what I'd call family. Only recently have I gotten to know Jim any better than as a casual acquaintance - the father of my best friend and business partner.

If I had had a choice of Fathers, he would have been it - he wanted children where my own didn't.

I suppose after seeing the carnage wrought in WWII (Germany) and the shit humans can (and often do) do to one another, he had no desire to bring children into this world. Living with the fear of "The Bomb". Riding troop ships off of Japan and seeing the two Bombs dropped probably had something to do with that.

There are few facts I know about my own Father even though he didn't die until August 1957 - he didn't talk about

his younger days. The killing in Germany must have changed him greatly. For a friend of his (George Johnson - Rural Reagan N.D.) let a few things slip a couple of times - but all I really know is his DOB, Place of birth (Minn) that he went to college two years, loved the history of the Civil War + loved to fish - not much else. He didn't talk about himself. I don't know if he had any dreams or desires that went unfulfilled or what?

There is still a good deal of resentment I harbor towards my blood family - while cleaning out the family home in '87 instead of calling me and letting me know so I could come get what I wanted - they sold and threw away all the things I treasured.

I had a Science Fiction Collection that was nearly priceless - first edition volumes. It was not the cost of them - a lot of them are no longer available - I Love Sci.Fic. and many of those volumes held priceless memories for me - there were other things equally precious to me - mementos of younger



Days: the Last SQUARE SIDED GLASS BEER PITCHER FROM THE KORNER BAR. (A Recreation Place where I spent most of my free time). The owner left it specifically for me when she found out she had cancer and sold the place, Elsie Smith.

They sold it for a buck and a half.

The nerve of some people is astounding and the "family" wonders why I don't particularly like them.

Feb 1980 sentenced to 2 yrs + 8 yrs - I got to SDSO and found the full partner I had the first time. He blamed me for his still being there and sent some boy around to work me over - I guess his "worker" was not functioning too well. He got in one (1) sucker punch from behind and when I didn't go down, started backing off quickly.

still - you can't fight everyone all the time so I went to protective custody (PC) and requested a transfer.

The Counselor for PC offered me Washington one day and, having seen lots of people return from transfers to close states (ND, IOWA, NEB, WYO ETC...) I figured what the hell

APP 6

Maybe it's far enough away that no-one will know anyone else there and it will work out. I was right - but what helped was Washington assigning me my own WA. st. prison number (every state has their own # system and if it looks out of place it raises questions amongst the other inmates) That gave me anonymity and so things worked out.

So ~ I'm there - flew into Pasco, WA and drove to WSP (WA. st. Pen) at Walla Walla. Sat there for a week waiting for the "chain" to Monroe (WSE). I rode the "chain Bus" to North Bend where we (two of us) were met by two Highway Patrol cars/officers they subsequently finished our transportation.

I was quartered in the Receiving section (3-A) for approximately 1-1 1/2 months before requesting placement in a population unit. (I was in cell C4-37 for about 3 weeks and then was placed in TDU (Temp Detention unit) overnight because of an altercation that occurred on the RSF (Residents' service floor). A friend of mine - Steve -

had been in a disagreement with some Indians and there was a set-up - ONE-ON-ONE fight - the Indian brought a knife and nearly killed Steve.

After helping Steve up to the hospital I went back to the RSF and was very vocal about how the SKIN had dishonored the conditions of the fight - the "Whip Man" (SGT at Arms) of the SKIN caught wind (some-one ran and told him) - name of Lash Larue - came down to confront me with it - of course a fight ensued.

The long and short of it was that after going toe-to-toe for about 5 minutes and spending the night in TDW, Lash and I became friends.

### Mutual Respect.

I went on that way - day to day - going to school - taking catch up math and Algebra so I could enroll in electronics.

I enrolled in that course under Arthur Curnutt (lives in Monroe) and then a few weeks later went PC, for - just under a month.

PHS

and was partly the result of my altercation on the RSE. More so though was the fact I had opened up and told my cell-mate my back-ground - PCing in S.I. and that I was labeled a snitch there (SOSP).

He was somewhat of a "Gur" (Big fish-small pond) in Monroe and mostly out of fear of the SKINS I had moved in with him.

I guess he wanted to test me to see if I had changed - I spent the month in PC and did not say anything about anyone.

Feb 81 Don came down and asked if I wanted out of P.C. - that everything was cool.

I moved into C1-13 with Norman Barada - "Stormin' Norman" was gay also - though to strange even for me at the time (now he would be too much of a fluff). I lived with Norman through the March '81 Lock-down. The March 81 Lock-down lasted 10 days and was the result of Mike Duffy (another gay man and friend) getting beaten up and gang raped by 8 Bikers one Tuesday nite.

The whole institution was set to take out the whole Biker club because it was a

consensus that for the \$500 drug debt he owed them they could have beaten him up or killed him but gang raping was too much. (A good ass kicking or death was the general rule for unpaid drug debts) - So we have 1100 cons ready to "ride on" 30-40 Bikers - Bad odds in anybody's book.

The administration picked up the 8 that were involved and put them in protective custody and then waited till 4:30 Lock-up and didn't let the rest of us out again for 10 days.

Several important rules were changed during that time - we could no longer have curtains across the front of our cells was the main one that I recall.

It was mainly to get weapons out of the cell blocks - they gave a one hour amnesty period from 6PM - 7PM the first night - and it rained steel.

Norman and I got rid of ours that day =

After that things went along okay until a couple of months after I decided that constant indigestion / stress wasn't worth it to keep my sexuality secret. I come out.

The blacks didn't like the idea that a white homo thought he could live by himself and not have a "Daddy",

In Sept 81 I was set up for a rat-pack and took it - thoroughly beaten up - kicked in the face etc... - I spent three days in the hospital and 3 days in the hole.

EVERYONE expected me to PC after that - but f---k that, s---t - I wasn't going back there for anything - they'd have to kill me first.

Strangely enough I was never harrassed by anyone that way again. This was partly because about that time I revived the SMPC (Sexual Minority Prisoners Caucus) this was an organization not only recognized by the administration but also chartered and incorporated under the laws of Washington. (I became another Big fish - <sup>small</sup> pond, - very small pond. But the baiting and the attacks ceased.

During this time I was rather busy - sort of anyway. Taking electronics all day and studying late nights - Bill Spelt's was in my life then and that made for some interesting

APR 11

Weekends. Bill was really just exploring a new found facet of himself. A just happened to be his guide. He wasn't all that much fun the first year or so - too much guilt over sex. At first after sex he wouldn't talk to me for a week or two. He was too ashamed of his feelings of sexual attraction for other males. (we are all programmed to be straight) People don't realize that at least one in ten get thoroughly screwed up by that indoctrination because all the rules say hetero and bunches of negative shit about "Fags" or "Hemos". You remember your adolescent years. You wanted to fit in.

So it is about Christmas 82 and a year has gone by without problems, as I recall 1983 rolled around and somewhere in there I did a week in TDU FOR Blocking open my cell door. (I was late for a meeting and couldn't wait another hour.) IN Late 82 the college started a Video Tape Production Class (VTP) and I got the honor of setting up the camera system - soldering connectors and such - I was recruited to work in the Music Program from there - I'm a NASA certified solderer.

APP 12

At least I could fix their guitar cords  
But it was a chance to play with professional  
quality sound gear also - NO-ONE ELSE  
knew much about the gear so I got busy  
writing to Yamaha, Fender, Acoustic, Peavey etc..  
for manuals to all the equipment.  
Then I could REALLY DO THINGS.

82, 83 + most of 84 were relatively calm  
years - I was busy in the VTP Program, &  
electronics class and the band room - I also  
started working part-time as Lead projectionist.  
I WAS BUSY! The time went by quickly.  
IN "83" SOSP classification met and  
granted me full Trusty status to clear the  
way for me to gain minimum custody in WA.  
Not that it did me much good. I was also to  
clear the way for Parole - No go there also.  
TOWARDS the end of 84 I ended up in the  
TDU AGAIN - this time for allegedly having  
escape materials in my cell - . I was actually  
just the short rope braided together that  
Bill liked to be tied up with. During sex,  
We explored somethings together - Bondage  
was one of them.

After that 30 days I got back to population  
and went on with my life.



It was April 85 that I was first sent to the Honor Farm - but I wasn't ready to go there - they just called me one day and told me to drop everything.

I was in the middle of many projects and almost told the Admin to F---.

I had started drafting class and was working on a speech synthesis unit for a computer system - in the middle of that discovering a new process for printed circuit board masking, (etching resist application) I was still involved with VTP and working as hardroom tech. So I got Lay-Ju's from the farm - too many and they sent me back for some stupid shit in July 85 - was back to my old stuff and happy again (as I recall) I didn't like the farm other than let's better food - there was too much stress "we'll send you back". After awhile you get tired of being threatened. So do "it and quit talking about it - they did.

It was July 2 or 3 and beastly hot - the dorm was on over so a bunch of us were out in the yard sitting on and around a

picnic table in the little bit of shade we could find. Officer Swick (a well known man Hater -) made us move the table out of the shade. I opened my big mouth and asked to see the rule that said we couldn't sit in the shade.

No swearing, no yelling, nothing but "officer swick, I gotta see the rule that says we can't sit in the shade".

By the time I and the infraction got back to WSR, I had used every foul word in the English language and threatened her life.

It's easy for Correctional Officers to lie - and the Kangaroo Court backs them all the way because if the court rules against the report - they're saying the C/O LIED! And they would never do that as it would undermine the officer's Authority.

A full year back up in WSR - I go back to the farm and some other shit happens with a black out of another prison - a small fish in a very small pond thinking he can throw his weight around - Needless to say - I was back up on the hill at WSR.

I was back for another 2 months and then, since it was determined that I had not caused the problem, I was sent to Pre-release in Ft. Steilacoom, WA.

30 days there attending employment Seminars and getting resumes ready.

I spent 10 months at the Madison INN Work Release (102 21st Ave. E.)

Arrived July 1, 1986. Discharged May 15, 1987.

I moved out of the W/R and in with the Asst Mgr of the Winchell's I worked at - that lasted 2 months and then another Packer and I got our own place on Capitol Hill. (Capitol Hill or simply "The Hill" - is a Gay Ghetto - about one hundred thousand Gay men live there. That is where nearly all of the Gay bars are also. These are cruising places - "meat markets" if you will. (MEET))

Todd Hall and I shared a two bedroom basement apt for about a year and then I became manager and Todd couldn't handle living with his boss and moved out. We were still friends, however.

(

(



Handwritten notes on lined paper, including a circled 'C' on the right side.

APP16

Todd just had other problems going - he had tested positive for the AIDS Virus and when you turn 21 and are given a maximum of 7 years to live it hits you real hard.

Any way shortly after Todd moved out Curtis Taylor come into my life and life was good. I was working and making fair money - about \$25K/year take home - had a handsome young lover who loved me too, and some-one to enhance the living standard.

I couldn't tell you why we went on living in that basement except the rent was low and all I had for utilities were phone & gas - maybe 500/month living cost.

Life was good, life was sweet and I didn't think it could get much better - I was right.

In June of 89 I discovered that Curtis was a Manic-Depressive who didn't like to take his medication. He worked a Saturday for me and faked depositing the Thursday, Friday and Saturday cash - a total of about \$1900 - while I was

APP 17

at work Sunday morning he took a bus to Florida.

He came down off his manic high in Ocala FL, and called me.

I refused to go along with the company's desire to prosecute him - I told my District Manager that I would move to Florida before I'd cooperate with prosecuting Curtis.

That was the beginning of the end of my career with Winchell's - in retrospect it was misplaced loyalty - but you know about 20-20 hindsight. Curtis did not help me at all in that.

So in late 89 - December - I took a transfer to store #412 - a really lousy store that was really dirty. George (Dist. mgr) must have had wind of something because a month later the company closed my previous store.

In July of 90 I took over #354 because of a manager that had quit w/out notice.

On Sept 4, 90 store #412 - previous was closed, and a week after I quit the company (Sept 20), #354 was sold to Starbucks Coffee Co.



I worked at scrap metal reclamation and for Blue Heron setting up hydraulic lifts -  
In November I went back to work for Winchell's as a Baker \$6.00/HR - mostly because Curtis had done it again - to another business he started working for, so no income from Curtis and my part-time work wouldn't support two people by it-self.

I had discovered a small thing in the last few weeks as a manager though - I was playing around with a payroll check one day and rolled it into my typewriter - set it for "Printer off" and typed the amount line and digits in. Then I turned the printer back on and pushed "erase line".

The line of type lightened considerably. After the 4th or 5th Pass there was a signed, blank, computerized payroll check from a known corporation in front of me.

So I went back to work for Winchell's and in 6 weeks "made" a little over \$40,000.

They caught on when Curtis tried it - he, at 24, just didn't LOOK like he belonged to a check for \$4,800. Myself in a suit, driving a 4 wheel drive pick-up that looked now

did look like he belonged to a check that large. Actually I ran 6 checks total. Average came to about 6600 each.

I've learned several things about the banking industry - an instrument under \$5,000 is credited within 24 hours - over that it takes 5 working days. Computerized Payroll checks are accepted without question.

If you take a large company for a relative, small amount of money (or a bank) no-one, wants you - the bank I "took" was Morgan Bank of Delaware - they write off bigger loans each DAY than I got. Just written off as a loss - and not a very big one of that.

It was not the fault of Morgan Bank OR WINCHELL'S - ADP printed the checks with a Liquid Ink Jet that allowed this to happen (I would have to say that I probably had a small part in all this too though). The liquid INK-Jet stayed "damp" long enough to get to the stores and into my typewriter where, by virtue of still being "damp" it came off with ease. I won't go into details of what brand of typewriter or erase ribbon - Classified data.

I do know that an investigator came to our Apt. with a search warrant looking for a computer/modem and printer.

He did find a Commodore 64 - (we used it for games) but no modem or printer - by then the typewriter was not even in the place. That was December 14<sup>th</sup> 90.

I got out with the help of a friend and got the hell down the road.

I cashed my last altered check a week later - \$4,810 and spent one good Christmas with the Blood family. Then I met Curtis in Kansas City and we went on down the road.

We arrived in Biloxi Ms. and stayed for a week - my mail caught up with me and we continued to Florida.

I hadn't planned on taking Curtis along but it worked out that way. He gave GREAT blow Jobs and was a fairly intelligent guy so I kept him with me. He was kind of deponent on me - I guess he loved me in his own way - though some of the shit he did sure didn't show it.

1992

We spent the 4800 instead of getting jobs and a place to live - wasted it on hotels and restaurants and gas for that Ford 460 inch engine.

I sold the truck in California for an older cheaper car and some cash - not really a loss for me as I hadn't used any of my money to buy it, nothing I'd actually earned anyway.

So it's now Feb 91 and I've stopped in Rapid City - my actual target the whole time and I couldn't say why I didn't come here direct with \$4,500 - just is Post. Oh well.

Curtis got two jobs - Lewis Drug on 8<sup>th</sup> St. and TCBY on 8<sup>th</sup> also. I got hired on at Pig-Ern - on the 16<sup>th</sup> of Feb '91.

Curtis hung around until May of 91 and then did his little trick again and took my car - he left me here w/out transportation.

I turned the car ~~was~~ stolen and three months later I R.C. Police called and said it had been located in Anaheim CA (suburb of LA.)

With the help of my then current room-mate - Arnold Hernandez, I went out and retrieved the car.

That was August 24-27.

After we got back, Arnie just couldn't wait for me to try to re-license it and put the plates off his car onto mine - reported them smashed up in an accident and had new ones issued.

In November I moved out of Arnie's place - we had found ourselves at extreme odds - he is and was an extreme snoop and I found I could keep NOTHING private from him. (Everyone needs space).

I moved into a motel up on North St. where winter weekly rates were bearable - I even managed to set aside a couple of hundred dollars - money for traveling if I needed it.

That went on for 1 1/2 months - till Sam Harter decided he wanted out of home and in with me.

That was okay with me - I've always liked younger guys. I thought that he was 17 at the time and coming up on his 18th B.D. as I had seen his D.L. one time. - (Later discovered it was a misprint or outright falsified license. He was only 16).

Just after Sam and I got our own place  
 (Dec 21) Dennis Digges, the owner of Dig-Em-  
 offered me a dollar an hour raise and the  
 managers' job. I accepted it. <sup>Time sequence may not</sup> be right here.

I had been planning on going back to Seattle  
 but the guy I'd planned on staying with had  
 lost his job so I would have been a burden to  
 him - I stayed in R.C. - Bad idea.

But things were looking up to a certain  
 extent - more money and a brand new  
 lover to spend time with. Sam and I weren't  
 just lovers though - we were friends too and  
 that helps a lot in a relationship.

SAM was pretty special to me - another one  
 of those matching the obsessive description -  
 I know what it is and what they do to me  
 but I'm completely powerless to stop it -

I know it is an obsession and that can never  
 be good (obsessions) but what can I do?

January 1992:

Dam and I are busily setting up a household - some fairly firm rules are established - We've bought some furniture and kitchen stuff and do our shopping together.

Thriller's games are a high priority with Dam and I'm starting to enjoy the games as well.

Her is not a high priority with me and he is still unsure of himself in bed - the normal things for young men discovering that all the things they've been taught or acquired about homosexuals simply aren't true. He's realizing that all gay men are not "mincing faggots" - and that I don't generally associate with the "Queens". (I have as little to do with them as possible)

Slowly, over the past couple of months, he has been realizing that he harbors a submissive guy inside of himself.

(This is common amongst guys discovering that they are homosexual/bisexual. They tend to a large degree to be "bottoms" or submissive in their sexual roles. Mostly what it is is they don't know how to do anything sexually with another male and they have no idea of what

they like to do lack of sexual experience.

I'm trying to show him that it's okay to be affectionate OUT OF BED also and knowing what my own sex drive was like in my late teens, I'm also trying to let him know that it's okay to initiate sex ~ for him to start things!

Breaking through the heterosexual programming that has indoctrinated him since birth is no easy task. Allowing him to actually enjoy sex ~ without worrying about getting "caught" by Mom or Dad is a big help. That fear is very big in Sam.

Once, when his father and brother came over unexpectedly he about went into a panic -

I think he believed that Dad had the right to walk in and check things out any time he wished to. I tried to impress on him the knowledge that his Dad wasn't paying the rent and did not have a key to the door.

I once told him "if we're screwing and your Dad knocks on the door I'm not going to stop and answer it. He knows how to use a telephone and he has one at home. I live here too and will not allow him to invade my home without notice."



Parental authority was still a strong factor for Sam - I tried very hard not to be anything like a parent.

I had to remind him many times that I was not his Dad - I was his lover. That he was free to make his own decisions and do pretty much as he wished.

The only real restriction I ever had was that I would never bring alcohol into the house and that if he wanted to have sex outside the relationship it was okay but please insist that your partner use a condom.

(I've spent 5-6 years being very careful not to get an HIV infection and I didn't need him to bring one home - thank you.)

It wasn't so much for myself, though that did play a role, but for him. Dying of AIDS at 24 ain't great!

One can be Gay and be a "Bottom" (submissive role) without contracting AIDS. You just have to be careful in selecting your partners.

If you're in bed (or wherever) and your "top man" is about to fuck you, you didn't know him before this encounter and he refuses to use a condom - no, I don't like them - then you say no also and get the hell out of there.

If the guy you're with has so little regard for your health then he really doesn't care about anything except getting his nuts off and you'd better find someone else who does care.

January turned into February and things were going along okay until the 20<sup>th</sup> when Dennis decided to fire me so he could have Joe Belgarde back working for him.

Diggos will protest this of course but it's true - the truth came out before Joe started back on the 8<sup>th</sup> of March. Joe had come in and was talking with Sam one night and let it slip that Dennis Diggos had called him and asked him to come back to Rapid and work at Dig-Em. Joe knew that Dennis was looking for any little reason to fire me. Mercenary that he is, he (Joe) didn't let me know that.

From Feb 20<sup>th</sup> on it was a bit hectic and strange - I was out of work but still had some cash to work with. I was also ruled eligible for unemployment

compensation although it was obvious that Dennis had sat on his end of it for a couple of weeks just to delay processing of the claim. Typical of him.

(Dennis would make us wait until after 3pm on Paydays to get our checks - so he could get the benefit of another day in the bank)

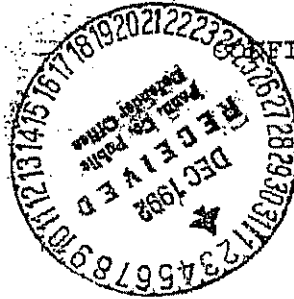
To be honest, I was a bit weary of Dennis and Dig-Em-Donuts by the time he fired me. The weariness came from having been a General Manager for Winchell's and seeing a great deal of waste and stupidity at Dig-Em. They threw away more product each day than I made or had made at Winchell's on a good day.

Dennis kept harping about how he wasn't making a profit. BULLSHIT!! That was his way of keeping his business partners in the dark about how much he Really was making

(All you have to do is count dozen boxes each day and multiply by \$3.80 - watch how many donut bags get used - figure out how many dozen come out of a 50lb bag. I have done inventories for a long time)

D. J. KENNELLY, M. D. / 517 West Twentieth / Sioux Falls, S. D. 57105 / Phone [605] 836-1928  
Diplomate, American Board of Psychiatry and Neurology / American Board of Forensic Psychiatry / Fellow, American Psychiatric Association

November 24, 1992  
Mr. Michael Stonefield  
Assistant Director  
Office of the Public Defender  
Pennington County Courthouse  
Rapid City, South Dakota 57701



Copy

Re: Rhines, Charles R.

Dear Mr. Stonefield:

Mr. Rhines was seen at the Minnehaha County Public Safety Building on November 13, 15, 17, 18, and 19, 1992 for a total of four and three-fourths hours. He understands the seriousness of his legal situation and that the death penalty is being pursued. The purpose of the examination and necessity of a report to his attorney was explained. He also understood that if my report is used that I have to answer questions about everything I know about him. He understood that it was his right to not tell me anything or to stop the interview in time and to consult with his attorney.

Screening for neurological evaluation is negative.

Prior to his final interview, he reported that he does not remember anything unusual. He reports that he does not remember anything unusual on the day of the alleged crime until about 2 am when he was called from the jail to bring some clothes for his roommate. He states it was a snowy day and he did little. He ate some pork chops and gravy, and nothing unusual happened. He denies intoxication or feeling ill.

Four days later he left for Seattle. He was unaware that he was about to be offered a job in Rapid City. He felt he could get a job in Seattle and his roommate's father asked him to return home. With the loss of the roommate he would not be able to afford his apartment. Later the roommate came to Seattle.

It is significant that he reports that his roommate was his homosexual lover and that the young man had earlier given evidence of adulthood but was really seventeen years old. The roommate was also involved with a female. However, Mr. Rhines did not realize that until later in Seattle. Mr. Rhines is convinced that a substantial reward is behind any information the former roommate has given.

While homosexuality is a major factor in Mr. Rhines' life, it had nothing to do with the alleged victim whom he had seen only a few times during his employment at the donut shop. He feels that he has had a sexual identity problem until some counseling in 1978 to get him "to come out of the closet." He denies promiscuity or

any forced sexual relationships. He reports that he dresses in leather and when doing that he is more assertive. This assertiveness is verbal such as ordering people to move out of his way. He states he is not looking for fights and has not been challenged to fight. He also reports that when sexuality is sadistic it is only with willing partners.

This aspect of his life is not involved with the alleged victim, but it is important to understanding the relationship with the roommate whom he states is interested in the reward.

He denies much misbehavior as a child. He served in the Army from 1974 to 1976 where he was using drugs and he did receive non-judicial punishment of reduction in rank, fine, restriction and a general discharge.

Upon return home to South Dakota he continued to use marijuana and speed which he relates as "the mid-seventies stuff." He feels this was to escape and to avoid interaction with other people. In 1977 he served seven months for third degree burglary. He did see a counselor at the penitentiary but did not follow-up with counseling until he was ordered to do so in 1978. At that time there was a parole violation due to a fight with his brother-in-law. During that time he was working as an engraver in a gold factory.

In February 1980 he was sentenced to ten years after pleading guilty to armed robbery. He states he was threatened in the penitentiary so he requested a transfer. He was sent to Washington state where there were some fights in the penitentiary. He was allowed work release and did well at this and continued to work as a baker after discharge. He was able to earn thirty thousand dollars and become an assistant manager.

He reports that he altered some checks. His lover attempted the same thing, but was arrested. At that time he left town and later sent for this man. He feels that the police were following his partner to try to arrest him.

He went to Rapid City where he was hired by a donut shop which is the same establishment where Mr. Schaeffer was killed.

After about a year he was fired. However, he states that didn't upset him much because he had been fired and rehired several times. He feels justified because he was allowed unemployment benefits. He was looking for work. As stated above he left about four days after the death. There he did obtain employment and a place to live. The young man and the young lady joined him in Seattle. He states that this made him depressed. — why? shared affection?

He was arrested on a burglary charge but states that that charge was dropped.

While in the King County Jail he was interviewed. He states he doesn't remember making much of this and when I show him some of

the quotations he is surprised.

He does remember going to the jail in Seattle and being in the holding area. He does remember talking to the police but this is vague. He states there was another policeman involved. He feels that he was in shock, upset and confused because he had been arrested. He states that before his roommate return he was bored and lonely. He relates he enjoys monogamous relationships.

In Seattle he lived with a friend who accepted that he was gay. He worked for the friend and also had a job in the salmon research.

At the King County Jail he was put on suicide watch because he had asked for a gun and a bullet. He states that if he had had that he would have shot himself. When asked why "I just spent five hours confessing, that ends your life." He denies suicide intent at the present time.

If he is not convicted he would like to return to Seattle, Oregon, or work on fish research in the Gulf of Mexico. He tells me at least twice that he can do electronic work.

He states that occasionally when alone he hears his name called. I do not get any history of any symptoms that lead to a psychotic diagnosis. The depression at the time of arrest in Seattle is situational. He does not show depressive symptoms at the present time.

Did not  
do any  
tests

His interactions with others are limited but he can interact. He does tend to alternate between passiveness and assertiveness, and there is some suspiciousness. Of course at this time guardedness would not be considered unreasonable.

He has had some experiences where he sees things as happening before they happen. He relates an incident when women came to the donut shop and he knew one of their names.

On mental status examination one finds that he is alert and oriented. His memory and intellectual functions are all good. He can recall seven digits forward and reverse. However, when given three words he could only recall two after eight minutes on two occasions. However, his general memory is good. There is no evidence of a thought disorder. He shows some humor and some interests.

There are some areas of incomplete information about the legal system. He clearly has the intelligence to learn if he is instructed. I would see him as having the ability to understand in both irrational and rational manner the charges, the proceedings, and the relationship with an attorney.

Since he is not distressed by his homosexuality it does not constitute a mental illness.

Until the final interview he insisted he was not there. Obviously, one can not make any comments about his mental status at the time. There is no evidence that he has experienced any major mental disorders that would significantly restrict his ability to use judgement or to comprehend his behavior. It is exceedingly unlikely that an illness would appear suddenly and then leave suddenly.

On the last interview he insisted on giving more detail. He questions why "a sane man would confess to murder." He states that he did this to keep his roommate out of it and at the time, no one made any statements about the death penalty.

He spontaneously reports that he and his roommate went to the donut shop to rob the place. "Things went sour."

*bring knife?*  
During his description there is one episode of usual word usage. This could also be a misunderstanding on my part. He states that "I stabbed Donovan twice to stop him from assault with a deadly weapon." When I asked him to explain he reports that he knew Donovan would recognize his roommate. "I stabbed him once in front of the office door. He was fighting and screaming. I stabbed him again. He quieted down. I got him up and walked him down to the store room and tied his hands." At that point the roommate came in and Donovan made a comment to him.

*with knife? some knife?*  
Mr. Rhines told his roommate that Donovan was not going to go anywhere because he was tied and stabbed; and he left to go get the money. He reports the roommate came in and told him that Donovan wasn't going to tell anybody and was not going to live. At that point, he thought he would have time to gather his belongings, clothing, car and leave town. He recognized that would look suspicious although it didn't prove anything. When they got home he reports that the roommate told him that he had stabbed Donovan again.

At that point he returned the roommate to work and went out to the country to dispose of clothing, weapon and some checks. He decided to take the blame himself because he sees no reason for a second person to go to jail as it would not bring Donovan back to life. "There is no point in ruining two lives."

He also reports that in Seattle he confessed because the police told him that they could find another friend of Mr. Rhines in violation of parole and the gentleman would lose visitation rights. He reports he would probably be beaten by the other man if that was to happen. His functioning and intelligence would indicate that he is capable of comprehending the consequences of revealing this information and he could understand advice from his attorney.

He tells me that he related this information after he had a telephone conversation with his attorney.

The conclusions of this evaluation would include that no major


mental illness can be diagnosed. There are a number of social interactions which could point to mixed personality traits. I have not yet seen the results of the psychological testing. Perhaps this can shed some light on that subject. Personality disorders or traits are patterns of interaction with others and influence behavior. However, psychiatrists believe that these individuals have final executive power over behavior.

One does not see his judgement to be an illness. Obviously he does not always use good judgement.

He has the ability to rationally and factually understand his legal situation and charges.

After I see a final report from Doctor Arbes I will review my information again. If any other information becomes available, I will be happy to review it or discuss it with you.

Sincerely,

  
D.J. Kennelly, M.D.

DJK/tk



## PSYCHOLOGICAL EVALUATION

RHINES, Charles

DOB: July 11, 1956

DATE OF EVALUATION: November 17 and 21, 1992

DATE OF REPORT: December 1, 1992

EVALUATOR: Bill H. Arbes, Ph.D.

### REFERRAL:

Mr. Rhines is being referred at this time by Daniel J. Kennelly, M.D., for psychological evaluation. Dr. Kennelly has evaluated Mr. Rhines at the request of Joseph Butler, attorney at law, for a legal charge pending in Pennington County, South Dakota.

To complete this evaluation, Mr. Rhines completed the Minnesota Multiphasic Personality Inventory (MMPI), the Millon Clinical Multiaxial Inventory (MCMI), the House, Tree, Person Test, the Rorschach Personality Diagnosis Method, and selected stimulus cards from the Thematic Apperception Test (TAT).

### MENTAL STATUS:

Mr. Rhines is a 36-year-old white male who appeared for the session dressed in an orange jumpsuit, the standard wear for inmates at the Minnehaha County Jail. He appeared neatly groomed, and seemed to be quite receptive and open to the evaluation. He exhibited minimal signs of anxiety, nor did he exhibit any signs of disorder of mood. His thought processes were coherent, although episodically throughout the evaluation would offer tangential side comments which although had the intent of being humorous, frequently appeared to be relevant to the task at hand. His thought content showed no signs of psychotic affiliation or thinking. He is clearly oriented, shows no aberrations of recent or remote memory, and appears to be of above average intellectual ability as manifested by his handling of abstract material in responses to proverb testing. He exhibits minimal insight into the nature of his current personal social situation as it is contributing to mental status, and his judgment is questionable.

### TEST RESULTS INTERPRETATION:

In his responses to the MMPI, he tended to respond in an extremely exaggerated manner, endorsing a wide variety of inconsistent symptoms and attitudes. Typically, this type of response is a result of a number of factors, including random responding, which this writer does not believe is the case here, falsely claiming psychological problems, low reading level, a "plea for help", or an acute disturbance that may dissipate over time or it may be indicative of a markedly confused psychotic state. Of the possible factors listed, it is this writer's opinion that this client is falsifying his responses to appear in a more negative light than in fact is the case. He certainly

PAGE 2  
RHINES, Charles

doesn't exhibit a low reading level, and he denied responding in a random manner, and he denies a seeking of help for his problems. Likewise, there are no signs of any confusion or psychotic leation in this writer's visits with this person, and therefore the assumption is made that he tended to falsify his responses to the test data. As a result, the MMPI is an invalid profile, based upon the responses that he adopted.

Likewise, his responses to the MCMI, he tended to respond in a manner in which he was overly self-critical and self-depreciating in terms of his responses. However, the following profile is probably valid although mostly likely exaggerated based upon his responses. The clinical scales suggest that there is a moderate level of pathology in the overall personality structure of this person. He is likely to have a checkered history of disappointments in his personal and family relationships, deficits in his social attainments are notable, as is a tendency in his part to precipitate self-defeating vicious circles. Earlier hopes for himself have met with frustrating setbacks and efforts to achieve a consistent niche in life have failed. Although he is able to frequently function on a satisfactory ambulatory basis he is likely to evidence a persistent emotional dyscontrol and periodic episodes of acting out behavior.

The behavior of this man is typified by his quiet, inexpressive yet dependent way of relating to others. A marked deficit in social interest is notable as are frequent eccentricities, ideas of reference, occasional magical thinking and depersonalization anxieties. His intensely introversive pattern coexists with a lack of energy, deficient social initiative, and stimulus-seeking behavior. Also notable is his impoverished affect and his confused thoughts about interpersonal matters. Although he prefers a peripheral role in social family relationships, there is also a strong, conflicting need for dependency. Both of these stem from his low self-esteem and his deficiencies in assuming autonomous behaviors.

For the most part, this patient is a detached observer of life. He is strongly self-belittling, possesses an image of himself as a weak and ineffectual person. Rather than face the world, he defensively retreats, thereby becoming even more remote from sources of potential gratification. Life is uneventful for him, with extended periods of solitude that are characterized by feelings of being empty and depersonalized. Displaying a pervasive inadequacy in most areas, he tends to follow a meaningless, ineffectual, and idle life pattern, generally remaining only on the periphery of social activities.

This man is beginning to exhibit some signs of cognitive disturbance, particularly with regard to emotional and interpersonal matters. His periodic estrangement from others may lead him to lose touch with reality on occasion. Social communications are often odd, strained, and self-conscious, thereby further alienating him from others. His hesitation to express affect may stem from an intrinsic inability to experience pleasure.

Frequently, this patient is depressed and morose. At other times, he may be erratically moody and complaining. Beneath his apathetic exterior are intense feelings of discontent and anger that may be displayed periodically in passive-aggressive, petulant, and fault-finding behavior. More often, however, he is self-deprecating and self-punitive and disposed to constant worrying.

The preference of this man is to follow a simple, repetitive and dependent life pattern in which he can avoid self-assertion and maintain his distance from normal social aspirations. Disengaged from and disinterested in most of the rewards of active human relationships, he often appears to others as an unobtrusively strange, disconnected, and lifeless person. Restricting his social and emotional involvements only perpetuates his life pattern of isolation and dependency with every increasing circles of anger.

Mr. Rhines' drawings on the House, Tree, Person Test suggest a number of concerns and issues related to his sexual identity. He is plagued by marked feelings of insecurity and does not experience himself as being connected or grounded in any aspects of his life. He tends to hold many struggles and problems within himself, and tends to disguise and hide his internal turmoil with a somewhat flippant and pseudo-arrogant demeanor. He does project a distinct dislike for women, and has minimal respect or regard for women. He makes many efforts to establish as much control in his life as he can, but frequently finds himself being unable to do this, which results in a high degree of anxiety and frustration, with episodic acting out behaviors. He tends to be a very rigid individual, and clearly is fearful of expressing his own thoughts and feelings, and attempts to maintain a mask of control and self-discipline. There are no signs of disturbance of thought process or thought content in his drawings, but there are clear signs of a marked underlying personality disorder, with passive-aggressive, avoidant and schizoid features being prominent. There are also signs of significant anxiety present.

Mr. Rhines' responses to the Thematic Apperception Test indicate a person who feels markedly apprehensive and restless at this time and struggles with a current indecisiveness over minor matters. He is also likely to struggle with some marked physical discomforts including gastrointestinal, sleep disturbance, headache, and muscular tightness. He is currently expressing a high level of dejection and discouragement about his current life situation and tends to maintain a pessimistic view of the future. There is a loss of efficiency and self-confidence, diminished pleasure in previously rewarding activities, preoccupation with matters of personal inadequacy, and feelings of worthlessness and guilt. Overall, he feels that he is struggling with oppressive social demands and responsibilities, and experiences a high degree of anger and resentment because of this. His sense of personal inadequacy underlies his fear that the expectation of others will overwhelm him and result in their disapproval and rejection. He tends to be markedly self-deprecating, but again continually tries to cover this with a demeanor of self-assurance.

PAGE 4  
RHINES, Charles

Mr. Rhines had a total of 27 responses to the 10 stimulus cards of the Rorschach suggesting an individual with perhaps average intelligence. There were no signs of any psychotic leation or significant pathology emerging on his responses to the Rorschach. Interestingly, this man appeared to be somewhat avoidant of responding to the stimulus cards, and many times had to be probed to look at the cards in different ways in order to see if he was perceiving some other items. His responses were quite common and standard, and in a number of his responses were related to geographical formations. This in itself has minimal significance, except to suggest that he is fearful of disclosing some of his inner thoughts and feelings. He does appear to be fairly knowledgeable about a number of different things, and describes himself as a "voracious reader". Although he attempts to give the impression of being bright and well-read, and knowledgeable in a variety of different areas, his response content clearly suggest a man of average intelligence.

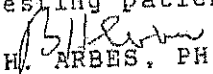
DIAGNOSTIC IMPRESSIONS:

As a result of this evaluation, the following diagnoses are suggested:

Axis I: 300.02, Generalized Anxiety Disorder.

Axis II: 301.22, Schizotypal Personality with prominent schizoid or avoidant traits.

My appreciation to Dr. Kennelly for the opportunity to evaluate this interesting patient.

  
BILL H. ARBES, PH.D./ajo  
Licensed Psychologist  
Associate Clinical Professor  
Department of Psychiatry  
USD School of Medicine

BRIEF PSYCHOSOCIAL HISTORY

Name: Rhines, Charles  
Date: November 17, 1992

CONFIDENTIAL!

Mr. Charles Rhines is seen on this occasion at the Minnehaha County Public Safety Building to develop a social history. I explained to Mr. Rhines that this information would be made available to Doctor Kennelly for his use in doing his psychiatric evaluation. Additionally, I advised that this information may also be shared along with Doctor Kennelly's report to whomever the court order requires a report be sent. He indicated an understanding of that and stated that he did not feel the need for further legal consultation prior to our visiting.

FAMILY HISTORY: Mr. Rhines was born on July 11, 1956 at McLaughlin, South Dakota. He was raised in that community where his father managed the local Farmer's Co-Op Elevator. Mother was occasionally employed as a bookkeeper. Charles is the youngest of four children, having a brother currently forty-four years of age and two sisters ages forty-one and thirty-nine. His brother left home to join the Marine Corps when Charles was eight years old so it feels as though they were raised completely separately. He characterizes his relationship with his sisters as one of fighting and having little in common. He tells me that after the age of twelve he was pretty much left to take care of himself. His mother was employed outside of the home and his next older sister was fifteen and not interested in his twelve year old activities. She was off with her friends doing social things and he spent most of his time watching TV and eating at home after school. He describes himself as being grossly over weight as a child and being quite non-athletic. He felt these factors contributed to his limited peer acceptance.

Mr. Rhines has never married and had no serious relationships with females. As an adult, he became aware of his homosexual orientation and has had a few extended relationships with gay partners. Mr. Rhines sees himself as openly practicing his gay life style and feels good about that choice.

EDUCATIONAL HISTORY: Mr. Rhines says he did poorly in school and was socially promoted between grades three and six. He believes that occurred because his mother was on the school board. In the seventh grade, he was failed. That was quite a shock to him. He generally disliked school because he was forced to learn at the rate of the slowest child in the class and found that slow pace rather boring. Therefore, he didn't apply himself and his academic grades reflected that fact. He dropped out of school in

YOUNG APPENDIX 000000  
EXHIBIT  
26

the tenth grade and went to work. <sup>where? who?</sup> At age seventeen he went to live with his brother-in-law and sister in Wood, South Dakota and began high school again in the ninth grade. <sup>name?</sup> His brother-in-law was a teacher in that system and he thought perhaps he would do better under his tutelage. This lasted four months before he dropped out. He talked of the frustration he had with socializing with teachers who were friends of his brother-in-law on the weekends and observing their social habits. Then, going back to school and having to fit into the role of student and being expected to view them in an idealistic way was not comfortable for him. However, he did eventually receive a high school diploma from St. Louis High School in Hawaii while serving with the second division in Korea.

**MILITARY EXPERIENCE:** Mr. Rhines service sixteen months at Ft. Carson, Colorado and nine months in South Korea. He was discharged a few months early for disciplinary reasons. His discharge was a general discharge under honorable circumstances.

**EMPLOYMENT HISTORY:** He has had brief periods of employment in construction industry and one time worked as a manager of a donut shop. While in prison in the state of Washington he worked at various electronci jobs.

**COLLEGE EXPERIENCE:** Mr. Rhines attended the University of South Dakota at Springfield for a few months following his military service. He studied electronics but had difficulty accomplishing in that field. He was somewhat older than the average college student and did not fit into the peer groups. On occasion he was the object of other people's teasing. They enjoyed calling him "zero." In retaliation for this type of treatment, Mr. Rhines burglarized a dorm room occupied by two of the people who most enjoyed teasing him. This ended in his expulsion from school and also his first incarceration for the burglary.

① **LEGAL HISTORY:** Mr. Rhines was convicted of third degree burglary in November 1977 and sentenced to three years in the state penitentiary. He served about one year or less of that time and ② in 1979 was convicted of first degree robbery and served seven and one-half years of a ten year sentence. This sentence was served primarily in the state of Washington per his request because there were people in the South Dakota State Penitentiary who had animosities towards him and he needed distance from that threat. He presently is charged with first degree murder, and third degree burglary. The incident reportedly occurred on March 8, 1992 in Rapid City, South Dakota. He is pending trial on that charge.

? → **PSYCHIATRIC HISTORY:** He had one brief period of counseling in 1979. This occurred at the West River Mental Health Center in Rapid City. The focus of therapy was to facilitate his working through sexual identity problems. He feels that was very helpful and enabled him to "come out of the closet" with his homosexuality. When I asked about any feeling of needing psychiatric care at other times, he said "ya I suppose so" over

situational depression but he did not present a psychotic diagnosis or a thought disorder. He also gave an opinion that Charles was not mentally ill at the time of the crime. Dr. Arbes saw Charles on 11/17 and 21/1992. He administered several personality measures to Charles but he did not complete cognitive testing. Dr. Arbes identified several findings from his assessment that included Charles making tangential comments, above average cognitive skills based on his response to proverbs, minimal insight, and questionable judgment. The results from the Minnesota Multiphasic Personality Inventory were read as invalid. Charles was felt to display moderate psychopathology on the Millon Clinical Multiaxial Inventory with dependent personality traits, frequent worry, and other mood symptoms. Projective testing indicated that he was insecure, disliked females; and that he was likely to present somatic issues, feel inadequate, and display self-blame. He was avoidant of the cards from Rorschach's test. Dr. Arbes concluded that Charles was displaying a Generalized Anxiety Disorder, Schizotypal Personality Disorder with prominent schizoid or avoidant traits. A letter was written to Dr. Kennelly dated 2/02/1993 by Michael Stonefield stating that his testimony at trial was not determined necessary because Charles' mental condition or history did not reach the degree where his testimony was needed. This letter and the comments indicate that a legal decision was made not to present psychiatric or psychological testimony in the litigation phase of Charles' trial and that there was no consideration of using this type of information to identify mitigation factors. Further, the purpose of the psychiatric and psychological evaluations was for the purpose of determining insanity and competency and not for the purpose of mitigation. In fact, no consideration of utilizing psychiatric or psychological data for mitigation was given even after these initial findings were available based on the information reviewed.

6. Charles' social and educational histories evidence significant attention-deficit and learning disabled symptoms. The information available to me indicates that he coped with these symptom patterns and related impairments by overeating and gaining weight, substance use and acting out. He had difficulties integrating socially with others because of his sexual orientation. The social difficulties included poor judgment and reasoning, impulsivity, and personality dysfunction as an adult. Several examples of these patterns are included in his school records, information regarding his military service, and by the testimony of his sister, Elizabeth Young, during his sentencing.

7. An updated intelligence test was completed with Charles when he was seen by me at the South Dakota State Penitentiary in Sioux Falls, South Dakota, on 5/26/2012. He was individually administered the Wechsler Adult Intelligence Scale-Fourth Edition. Charles' results are felt to be a valid estimate of his current cognitive functioning.

Charles obtained a Full Scale IQ of 105 which is at an average level falling at the 63<sup>rd</sup> percentile. Four composite scores were gained by administering several different subtests. These composite scores have an average range from 85 to 115 with a mean at 100, and the subtests have an average range from 7 and 13 with a mean at 10. Charles' composite and subtest scores were as follows.

<u>Composite/Subtests</u>	<u>Scores</u>	<u>%ile</u>
Verbal Comprehension	132	98 <sup>th</sup>
Similarities	10	
Vocabulary	19	
Information	17	

Perceptual Reasoning	100	50 <sup>th</sup>
Block Design	11	
Matrix Reasoning	07	
Visual Puzzles	12	
Working Memory	100	50 <sup>th</sup>
Digit Span	07	
Arithmetic	13	
Processing Speed	79	08 <sup>th</sup>
Symbol Search	04	
Coding	08	

The Verbal Comprehension composite is a measure of verbal concept formation, verbal reasoning, and knowledge acquired from the person's environment. Charles' results indicate superior skills in these areas. Subtest results indicated that Charles has strengths in his general word knowledge and fund of general verbal knowledge. Weaknesses were displayed in his verbal reasoning skills but this weakness is only in regard to his superior skills on the other two subtest areas and his scaled score and verbal reasoning was at an average level.

Perceptual Reasoning is a measure of perceptual and fluid reasoning, spatial processing, and visual-motor integration. His score in this area indicates average functioning. Subtest results indicated that Charles has average skills in the ability to construct abstract wholes from parts and in non-verbal reasoning and visual perception. He displayed weaknesses in his visual information processing and abstract reasoning skills.

The Working Memory composite provides a measure of the individual's ability to temporarily retain information in memory, perform some operation or manipulation with it, and produce a result. Additional skills involve attention, concentration, mental control, and reasoning. Charles obtained a score at an average level. Subtest results indicated strengths in the ability to focus attention and concentration while solving verbally presented math problems and weaknesses in his immediate verbal memory.

Processing Speed provides a measure of the ability to quickly and correctly scan, sequence, or discriminate simple visual information. This composite also measures short-term visual memory, attention, and visual-motor coordination. Charles' score indicates high borderline skills in this area. Both of his scaled scores were lower. He scored at a below average range on a task measuring visual recognition and processing speed and in the low average range on a subtest that reflects psycho-motor speed on a task requiring new learning.

Additional strengths and weaknesses can be identified by comparing each composite score with the other composite results. Charles appears to have strengths in his Verbal Comprehension, and weaknesses in Processing Speed using this method. He also presented a highly significant 15 point difference between his highest and lowest scaled score results. These test results are consistent with individuals who have Attention-Deficit/Hyperactivity Disorder and a history of academic learning impairments.



8. Charles' demeanor on tape interviews reviewed and in various references to the statement indicated a pattern of social interaction impairments frequently identified among individuals with attention deficit and learning impairments. Both Attention-Deficit Disorder and learning impairments often reflect neurobehavioral problems. Individuals with attention-deficit problems do not display abnormal behavior. Rather they display a significantly elevated frequency of normal behavior. They have difficulty in various areas including sustaining their attention to tasks, are unable to attend to significant stimuli in their environment and ignore non-significant stimuli, present impulsivity, low frustration tolerance, have difficulties with feeling bored, and they display paradoxical responses to stimulant medication as such medication allows them to remain calm and focus while individuals taking stimulants without these impairments become hyperactive and off-task. These patterns are also highly problematic in the school environment as children and adolescents with these problems present fluctuations in their learning between classes and are susceptible to school failure. Another concern is that they frequently have difficulties understanding social cues and they feel different from their peers resulting in withdrawal and isolation.

9. Charles was described as "callous" during these interviews in the records reviewed. His behavior and verbal responses during these interviews need to be understood in the context of how Charles processes information and in the time frame when these interviews took place. My assessment of Charles indicates that he generally processes information orally by listening to his own voice. This is a common characteristic of individuals who have learning disorders and difficulties focusing and concentrating. Records reviewed indicated that Charles processed the murder to a limited extent by talking to others during the time between when the murder was committed and when the interviews were conducted. He was reprocessing these events orally to help him understand what happened during the interviews in my opinion. This also accounts for his desires to take breaks and have the tape recorder shut off so he could process without having the information taped. Specific examples of his reprocessing is included on pages 16 and 17 stating if he had money for the right attorney he would be acquitted, laughter at various points in the interviews, and a cynical attitude that reflects his intelligence and ability to reason effectively but also within the context of poor social skills. These interviews triggered memories of the events that took place when Charles killed Donnivan Schaeffer producing an additional unusual demeanor during the interviews. Charles also responded defensively as he did during his life when feeling pressured because he was being questioned about outcomes resulting from his poor judgment or impairments in reasoning. This includes the reference to butchering chickens on page 8. Defensiveness was displayed and this defensiveness is reflected in request to avoid certain topics and to terminate the second interview.

10. The jury in the murder trial deliberated for 24 hours before reaching a verdict. They also requested feedback from the judge regarding various sentences they could impose. This indicates that the jury was struggling with understanding the events that had taken place resulting in the death of Donnivan Schaeffer. Unfortunately, they did not have adequate mitigation information to understand Charles' mental state and motivation to burglarize the establishment where the murder took place nor was information presented about antecedents to these events.

11. My opinions from reviewing the records and other information available, interviewing Charles, and the psychological testing completed, are reported below. These opinions are stated within a reasonable degree of psychological certainty. The right is reserved to change these opinions should significant additional information become available. My specific opinions are as follows:

- The jury in the murder trial was not presented sufficient mitigation evidence to assist them in understanding Charles' psychological impairments.
- Limited comments were provided regarding Charles' mental state during the sentencing phase of his trial but no expert opinions were offered to explain to the jury the extent and the impact of his mental state and functioning on his crimes. No expert witnesses were presented during the guilt phase of his trial to address these issues. Charles' attorneys only explored insanity and competency issues through completion of psychiatric and psychological assessments. They did not consider the option of utilizing the information they gain from these assessments for mitigation purposes, or the option of gaining additional psychiatric and psychological data for mitigation.
- A complete psychological picture of Charles was not presented to the jury at his trial as sufficient assessment information was not completed to document his attention-deficit and learning impairments. This information would have allowed the jury to have a better understanding of Charles as a person and given them an explanation regarding his impulsivity and other characteristics which were factors in the death of Donnivan Schaeffer.
- Significant collateral information was available to address these areas and some of this information was presented to the jury. However, the jury was not provided sufficient professional information to assist them in understanding the antecedents of Charles' life and how this information impacted his commission of his crimes.
- The characterization of Charles as being "callous" due to the content and his demeanor when interviewed by law enforcement personnel is inaccurate in my opinion. The jury in his trial needed to understand how his pattern of orally reprocessing, laughter during this process, poor social skills, defensiveness, and other response patterns reflected the history of impairments Charles had suffered throughout his life.

Dated this 11<sup>th</sup> day of June, 2012.

  
Dewey J. Ertz, Ed.D.





information that I recognized as suggesting a viable mental illness defense.

I also spoke several times by telephone, and in person when they traveled to Rapid City for the mitigation trial, with Charles' sisters, one of whom, Elizabeth, described his poor performance in school.

Charles' sisters were emphatic that their elderly mother could not take the stand or assist in the defense. I also tried, unsuccessfully, to persuade Charles' brother to testify. I worked hard to persuade his sister Jennifer, who lived in Australia, to provide live testimony. The defense team hoped the jury would spare Charles from execution out of sympathy for his sisters and elderly mother.

4. The defense team also had Charles examined by Dr. D.J. Kennelly, a psychiatrist. I did not recognize anything in Dr. Kennelly's report or findings as being useful in a mitigation effort. Dr. Kennelly consulted with Dr. Bill H. Arbes, a psychologist. Dr. Arbes' examination also did not produce evidence that I recognized as being useable mitigating evidence. The defense team concluded that Dr. Kennelly would not provide helpful testimony.
5. I discussed with Charles the possibility of him giving his own allocution at sentencing. As we talked, I felt that Charles' allocution would not be convincing, and advised Charles of my opinion. It is my recollection that the defense team discussed an unsworn allocution, and that Charles agreed that having him allocute was not going to work.
6. The defense team reviewed Charles' military service records, prosecution discovery materials, and his employment, family and social history from his autobiographical narrative in an effort to identify mitigation evidence. I did not recognize factors that would be helpful in mitigation other than to show the jury that Charles had family members who loved him. I also reviewed prosecution discovery materials and interviewed Sam Harter, Heather Shepard, and Arnold Hernandez. The defense team was very concerned about the risk of opening the door to the possible admission of Charles' criminal

record, especially the fact that a good portion of his adult life had been spent in prison, and other aspects of Charles' background such as his military service that I felt would place him in a very unfavorable light.

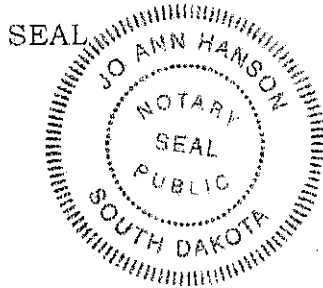
Dated this 15<sup>th</sup> day of July 2012.

Wayne Gilbert  
Wayne Gilbert

Subscribed to and sworn before me this 20<sup>th</sup> day of July 2012.

Jo Ann Hanson  
Notary Public

My Commission Expires: 5-20-2013





STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF PENNINGTON )

IN CIRCUIT COURT  
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CHARLES RHINES, )  
 )  
Defendant. )

APPOINTMENT ORDER


CRI 93-81

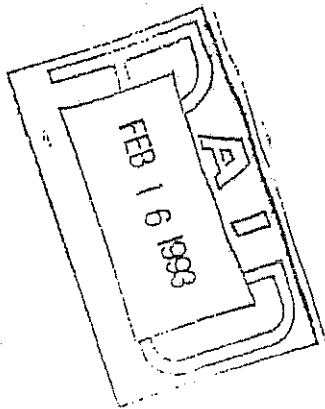
The Court having reviewed the Defendant's application for court-appointed counsel and Defendant being indigent, now therefore, it is hereby

ORDERED, that Joseph M. Butler and Wayne F. Gilbert are appointed to represent Defendant. Attorney Jeff Hurd is authorized to appear for Joseph M. Butler and to contact Defendant at jail in Mr. Butler's absence. Attorney Michael Stonefield is appointed to act as the Investigator/Attorney.

Dated this 15th day of September, 1992 nunc pro tunc August 15, 1992.

BY THE COURT:

  
JOHN K. KONENKAMP  
Presiding Circuit Court Judge



Glen H. Johnson  
Richard E. Huffman  
Scott Sumner  
Wayne F. Gilbert  
Timothy J. Becker  
Jack Delaney  
Robert J. Griggs  
C. Randall Clayborne

**JOHNSON HUFFMAN**  
A Professional Corporation of Lawyers

3202 West Main Street  
P.O. Box 6100  
Rapid City, SD 57709-6100  
Telephone: 605-348-7300  
FAX 605-348-4757

September 17, 1992

✓ Joseph M. Butler  
Bangs, McCullen, Butler  
Foye & Simmons  
P.O. Box 2670  
Rapid City, SD 57709-2670

Michael Stonefield  
Attorney at Law  
315 St. Joseph, #44  
Rapid City, SD 57701

Re: State of South Dakota v. Rhines

Gentlemen:

Enclosed please find another installment in Charles Rhines' memoirs. I intended this to be sent with my letter of September 15, 1992. As I stated in that letter, I told him that we are very interested in learning some positive attributes in his background which could help us at a penalty phase of the trial if necessary. I hope that the next installment will include matters of this nature.

Sincerely yours,

  
Wayne F. Gilbert

WFG:cjj  
Enclosures



YOUNG APPENDIX 000103



OFFICE OF THE PUBLIC DEFENDER

Pennington County Courthouse  
Rapid City, South Dakota 57701

(605) 394-2181

November 4, 1992

Dr. Daniel Kennelly  
517 W. 20th St.  
Sioux Falls, SD 57105

RE: Evaluation of Charles R. Rhines

Dear Dr. Kennelly:

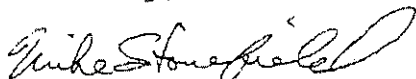
Enclosed are copies of a report of a police officer at the scene of the killing in this case, the autopsy report, and a statement made by Mr. Rhines to police in June of this year. Hopefully this will provide some basic information on the facts of this case; if you need additional materials, let me know.

Also enclosed is a certified copy of the Order for Psychiatric Examination. The Judge has informed defense counsel that we will be given the money needed for your examination; however, he would like a preliminary estimate as to your anticipated bill. If you could provide this to me, I would appreciate it. As we discussed earlier, because the death penalty is involved in this case, please do whatever testing or evaluations you feel are appropriate for your determinations in the areas of competency for trial, mental illness and sanity.

Mr. Rhines will be transported to the Minnehaha County Jail on November 12, 1992, and will be there until your examination is completed.

If you need additional information, let me know.

Sincerely,



Michael Stonefield  
Assistant Director

MS\lmb  
Enclosures

CC CC  
OFFICE OF THE PUBLIC DEFENDER



Pennington County Courthouse  
Rapid City, South Dakota 57701

(605) 394-2181

February 2, 1993

Dr. Daniel Kennelly  
517 West 20th Street  
Sioux Falls, SD 57105

RE: Charles R. Rhines

Dear Dr. Kennelly:

I appreciate the time and work you put into the evaluation of Mr. Rhines, and your continued interest in the case. Once we received your report, it did not appear that his mental condition or history figured into the case to a degree where we needed your testimony.

Unfortunately, the result we most feared was what occurred, a sentence of death. Again, however, the attorneys who worked with Mr. Rhines very much appreciate your work on the case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Stonefield".

Michael Stonefield

MS/co

Glen H. Johnson  
Richard E. Huffman  
Scott Sumner  
Wayne F. Gilbert  
Timothy J. Becker  
Jack Delaney  
C. Randall Clayborne

# JOHNSON HUFFMAN

A Professional Corporation of Lawyers

3202 West Main Street  
P.O. Box 6100  
Rapid City, SD 57709-6100  
Telephone: 605-348-7300  
FAX 605-348-4757

EIN #46-0354656

## Statement

Page: 1

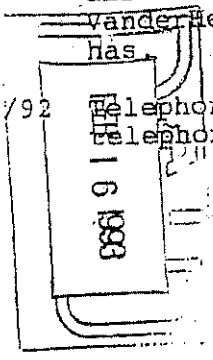
01/31/93

ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

Charles Russell Rhines  
Court Administrator-Corrine Ausmann  
Pennington County Circuit Court  
P.O. Box 230  
Rapid City SD 57709

State of SD vs Rhines

	HOURS	
08/18/92 Telephone conference with Judge Konenkamp; review homicide statutes; obtain and review copy of indictment.	1.40	77.00
08/19/92 Telephone conference with Dennis Groff; Telephone conference with Joe Butler.	.40	22.00
08/20/92 Conference with Mr. Butler and Mr. Hurd; visit client at jail.	1.70	93.50
08/21/92 Arraignment; conference with Joe Butler and Mike Stonefield.	1.40	77.00
08/24/92 Conference with client; telephone conference with Court regarding scheduling; telephone conference with and conference with Mike Stonefield; review portion of client's biography.	2.20	121.00
08/26/92 Conference with Dennis Groff; receive and begin review of discovery materials; review criminal discovery statutes; telephone conference with Tim vander Heide regarding death penalty materials he has.	2.80	154.00
08/27/92 Telephone conference with Charles Mickel; Telephone conference with Leah Fjerstad;		



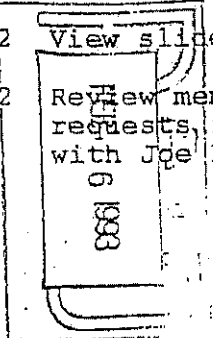
Please indicate account number on your payment. YOUNG APPENDIX 000106

Charles Russell Rhines

Page: 2  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

State of SD vs Rhines

		HOURS	
	telephone conference with Mike Stonefield; telephone conference with Jeff Hurd; conference with client; telephone conference with Robert VanNorman; review of portion of grand jury testimony; review biographical data written by client.	3.80	209.00
08/28/92	Review of remainder of grand jury testimony; begin review of police reports.	2.40	132.00
09/01/92	Review of police reports (complete volume two of discovery); conference with client. Meet with co-counsel.	2.80 1.40	154.00 77.00
09/03/92	Telephone conferences with area criminal defense attorneys regarding death penalty.	.60	33.00
09/09/92	Conference with client; review volume three of discovery (police reports).	2.70	148.50
09/10/92	Review police reports; conference with client; review evidence lists.	4.30	236.50
09/11/92	Review of police reports from Seattle, Washington.	1.10	60.50
09/15/92	View slides and video; review physical evidence.	4.10	225.50
09/18/92	Review memorandum on discriminatory or selective requests for death penalty; telephone conference with Joe Butler.	1.40	77.00

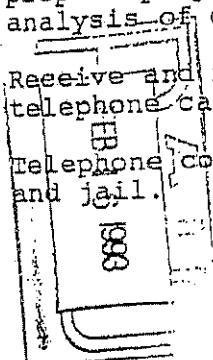


Charles Russell Rhines

State of SD vs Rhines

Page: 3  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

	HOURS	
09/21/92	1.60	88.00
09/25/92	1.20	66.00
09/29/92	2.10	115.50
09/30/92	1.90	104.50
10/06/92	4.60	253.00
10/07/92	2.90	159.50
10/08/92	2.20	121.00
10/15/92	.40	22.00
10/19/92	.30	16.50

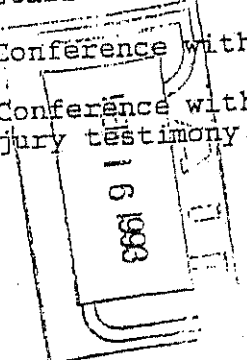


Charles Russell Rhines

Page: 4  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

State of SD vs Rhines

	HOURS	
10/22/92 Monitor tape recordings of statements.	2.30	126.50
10/27/92 Review materials from Hale Starr; prepare motion for forensic communications expert.	2.20	121.00
10/28/92 Conference with Charles; work on statement reconciliation and statement review.	4.20	231.00
10/30/92 Prepare for and attend hearing; conference with co-counsel; conference with Charles; telephone conference with Hale, Starr and Associates; telephone conference with Bev Pecham regarding Boegele matter.	5.30	291.50
11/02/92 Research on question of forensics communication expert.	2.80	154.00
11/03/92 Telephone conference with Charles; prepare letter; brief on issue of forensics communications expert; meet with Joe Butler and Mike Stonefield.	2.60	143.00
11/04/92 Telephone conference with Pat McEnvoy of Hale Starr and Associates.	.40	22.00
11/05/92 Conference with Charles regarding discovery.	1.70	93.50
11/06/92 Conference with Charles, re: review of grand jury testimony.	2.60	143.00



Charles Russell Rhines

Page: 5  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

State of SD vs Rhines

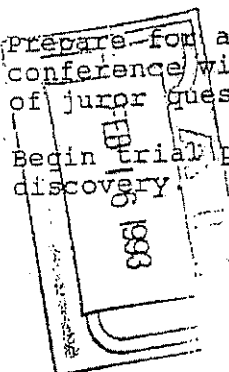
	HOURS	
11/08/92 Research death penalty issues.	4.20	231.00
11/10/92 Telephone conference with Dennis Groff; telephone conference with George Rice.	.30	16.50
11/11/92 Monitor taped statements.	1.90	104.50
11/18/92 Conference with Mike Stonefield; work on juror questionnaire.	2.10	115.50
11/25/92 Telephone jail; conference with Mike Stonefield; conference with client.	2.10	115.50
11/27/92 Research on suppression issues and review new discovery materials.	2.60	143.00
11/28/92 Monitor tapes of witness.	2.60	143.00
11/30/92 Receive and review Dr. Kenneally's report; conference with Mike Stonefield regarding suppression issues.	2.40	132.00
12/01/92 Conference with Charles; prepare for and attend suppression hearing; conference with co-counsel.	6.20	341.00
12/02/92 Work on death penalty motions; research; constitutionality of history of assaultive convictions.	3.30	181.50
12/03/92 Research on death penalty issues: "depraved mind" question.	2.10	115.50

Charles Russell Rhines

Page: 6  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

State of SD vs Rhines

		HOURS	
12/04/92	Review new discovery materials regarding Minnehaha County Jail; listen to tapes.	2.60	143.00
12/08/92	Conference with Mike Stonefield; work on motions regarding capital punishment.	3.40	187.00
12/10/92	Conference with Mike Stonefield and work on equal protection argument; conference with client.	4.80	264.00
12/11/92	Conference with Mike Stonefield; telephone conference with Joe Butler; telephone conference with Sharon Kallemeyn; telephone conference with Karl Rhines; work on brief in support of equal protection argument.	6.90	379.50
12/16/92	Conference with Mike Stonefield; begin review of juror questionnaires; prepare for and attend hearing; telephone conference with Dennis Groff; conference with client.	4.10	225.50
12/21/92	Telephone conference with Karl Rhines; review juror questionnaires.	1.20	66.00
12/22/92	Review juror questionnaires.	2.60	143.00
12/23/92	Prepare for and attend Motion Hearing; conference with co-counsel and complete; review of juror questionnaires.	3.60	198.00
12/24/92	Begin trial preparation; begin re-review of discovery.	3.90	214.50





Charles Russell Rhines

Page: 7  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

State of SD vs Rhines

	HOURS	
12/28/92 Telephone conference with Joe Butler; trial preparation.	2.10	115.50
12/29/92 Conference with Joe Butler; conference with Mike Stonefield; conference with client.	1.60	88.00
12/30/92 Review court's decision on Motion to Suppress; conference with client re: Pre-Trial Conference and remaining issues; preparation for Pre-Trial Conference.	3.10	170.50
12/31/92 Attendance at Pre-Trial Conference; conference with client.	3.20	176.00
01/02/93 Conference with co-counsel and work on voir dire; work on court's proposed preliminary instruction.	3.30	181.50
01/03/93 Review client's "biography" and re-review psychological reports.	1.30	71.50
01/04/93 In court for initial jury selection. Prepare for next day's voir dire.	6.20 1.30	341.00 71.50
01/05/93 Jury selection. (In Court) Preparation for next day.	7.00 .60	385.00 33.00
01/06/93 <del>IN COURT</del> - Jury Selection <del>OUT OF COURT</del> - Review of prospective jurors seated and Litigation article on Batson.	8.50 .80	467.50 44.00

IN COURT  
OUT OF COURT  
FEB 16 1993

Charles Russell Rhines

Page: 8

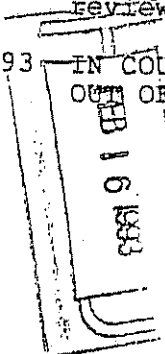
01/31/93

ACCOUNT NO: 45313-001A

STATEMENT NO: 1

State of SD vs Rhines

		HOURS	
01/07/93	IN COURT - Jury Selection.	7.30	401.50
	OUT OF COURT - Telephone conference with Lila Harrington.	.20	11.00
	IN COURT - Jury Selection.	9.70	533.50
01/09/93	Telephone conference with Lila Harrington; telephone conference with Heather Harter.	.20	11.00
01/11/93	IN COURT - Jury Selection.	7.60	418.00
	OUT OF COURT - Work on Heather Harter statements and Sam Harter statements.	.90	49.50
01/12/93	IN COURT - Jury Selection.	6.80	374.00
	OUT OF COURT - Conference with Heather and prepare for Motion Hearing.	1.20	66.00
01/13/93	IN COURT - Jury Selection.	8.60	473.00
01/14/93	IN COURT - Jury Selection.	2.40	132.00
	OUT OF COURT - Telephone conference with Don Bahr; telephone conference with Dr. Habbe; conference with Charles; review State vs Black(recent decision on lesser included offenses); review Hernandez statements; telephone conference with Arnold Hernandez; review Belgarde statements.	6.30	346.50
01/15/93	IN COURT - Trial.	4.40	242.00
	OUT OF COURT - Conference with co-counsel.	.80	44.00



Charles Russell Rhines

State of SD vs Rhines

Page: 9  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

	HOURS	
01/16/93		OUT OF COURT - Telephone conference's with Arnold Hernandez, Heather Harter, Sam Harter; conference with co-counsel; interview Arnold Hernandez; telephone conference with Jennifer Rhines Abney.
	4.90	269.50
01/17/93		Research admissibility of escape and flight evidence (John Bjerke testimony); revision work on equal protection challenge to death penalty; review of statements and reports of listed witnesses; review of grand jury testimony; review of Allender's notes; reports and testimony at Suppression Hearing; telephone conference with Jennifer Rhines Abney.
	6.90	379.50
01/18/93		Interview Detective Allender and Sgt. Bahr; conference with Charles Rhines; conference with co-counsel; telephone conference with Graig Caillier; correspondence to Jennifer Rhines Abney; interview Sam Harter and Heather Shepard-Harter; confer co-counsel; telephone conference with Jennifer Abney.
	8.90	489.50
01/19/93		In court for trial and session with court re: editing of statement.
	8.00	440.00
01/20/93		In court.
	4.20	231.00
		Out of court - review court's draft jury instruction and proposals; interview witness John Bjerke; prepare oral Motion re: Bjerke testimony.
	3.30	181.50

Charles Russell Rhines

State of SD vs Rhines

Page: 10

01/31/93

ACCOUNT NO: 45313-001A

STATEMENT NO: 1

		HOURS	
01/21/93	IN COURT: to settle instructions. OUT OF COURT: work on instructions.	4.20	231.00
	Conference with Jennifer Rhines Abney; work on closing statement.	5.10	280.50
01/22/93	OUT OF COURT: work on Final Argument; conference with Jennifer Rhines Abney; telephone conference with Sam Harter; conference with client; conference with co-counsel.	4.60	253.00
	IN COURT: including Final Argument and Motion Hearing.	2.00	110.00
01/23/93	Conference with Jennifer Rhines Abney and review Swallow penalty trial transcript.	4.20	231.00
01/24/93	Conference with Jennifer Rhines Abney and Elizabeth Young; prepare Opening and Closing; telephone conference with Judge Konenkamp; telephone conference with Mike Stonefield.	5.80	319.00
01/25/93	In court.	7.80	429.00
01/26/93	IN COURT: regarding questions from jury; verdict.	1.30	71.50
	OUT OF COURT: Telephone conference with Charles Rhines; conference with Charles Rhines.	.40	22.00
01/27/93	Review applicable Appeal procedures; telephone conference with Dennis Groff; news interviews; telephone conference with Charles Rhines; telephone conference with Jail Administrator Scott Schuft.	2.80	154.00

Charles Russell Rhines

State of SD vs Rhines

Page: 11  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

	HOURS	
01/28/93 Conference with Charles Rhines.	1.10	60.50
01/29/93 OUT OF COURT: conference with Judge Konenkamp; telephone conference with Attorney Joe Butler; conference with Chief Deputy De Glassgow; conference with client.	.40	22.00
IN COURT: Attend Hearing for Judgment; sentence on Burglary.	.30	16.50
	-----	-----
Wayne F. Gilbert	310.30	17066.50
	-----	-----
FOR CURRENT SERVICES RENDERED	310.30	17066.50
08/25/92 Postage Expense		3.34
08/25/92 Copying Costs		27.75
09/11/92 Long-Distance Telephone Expense		3.25
09/14/92 Long-Distance Telephone Expense		3.25
10/03/92 Long-Distance Telephone Expense		3.25
10/05/92 Long-Distance Telephone Expense		3.25
11/04/92 Long-Distance Telephone Expense		3.25
11/10/92 Long-Distance Telephone Expense		3.25
11/16/92 Copying Costs		6.25
11/18/92 Telefax Transmittal		5.00
12/10/92 Computer Research - Lexis 11-30-92 stmt		187.01
12/10/92 Computer Research - Lexis 11-30-92 stmt		57.28
12/11/92 Copying Costs		1.00
12/12/92 Long-Distance Telephone Expense		3.25
12/21/92 Long-Distance Telephone Expense		3.25
01/18/93 Telefax Transmittal		3.00

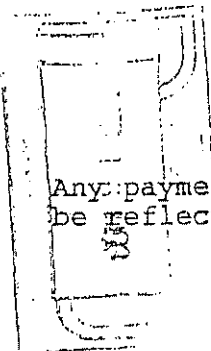
16 MAR 1993

Charles Russell Rhines

State of SD vs Rhines

Page: 12  
01/31/93  
ACCOUNT NO: 45313-001A  
STATEMENT NO: 1

01/19/93	Telefax Transmittal	5.00
	TOTAL EXPENSES	----- 321.63
10/14/92	Miscellaneous Client Advance - Dakota Typewriter 53 Lanier Cassettes 10-09-92, for duplication of recorded statements.	280.90
01/31/93	Lodging/Meals Rapid City Hilton Inn for Jennifer Abney	528.96
01/31/93	Travel Expenses/Airfare and meals for Liz Young.	538.00
	TOTAL ADVANCES	----- 1347.86
	TOTAL CURRENT WORK	18735.99
	BALANCE DUE	\$18,735.99 =====



Any payment received after the date of this statement will  
be reflected on next month's statement.



3. Rhines' claim that affiant improperly described the stab wound to Schaeffer's stomach as one meant to "gut" him is also unfounded. First, Dr. Habbe found evidence of upward slicing after the puncture wound to Schaeffer's stomach. TRIAL XI at 2223/13, 24, 2224/2, 2227/1. Affiant, and the English speaking world at large, understand a puncture wound to the gut accompanied by an effort to slice the abdomen open as "gutting." Thus the evidence supported affiant's description of Schaeffer's abdominal wound as a "gutting" type of knife wound. Second, objection from Rhines' counsel contesting affiant's description of the abdominal wound as a "gutting" would have prompted affiant to offer further evidence supportive of affiant's chosen descriptor. Arnold Hernandez could have testified that Rhines often spoke in a "very descriptive" manner about how, if he had to kill someone, he "would just degut them." Rhines told Hernandez that he "learned [degutting] from the army." So, when he talked of killing people, Rhines "basically mentioned degutting, like an antelope or deer," as his preferred method. EXHIBIT 17 EXCERPT, copy attached. Affiant was prepared to meet any objection to describing Schaeffer's abdominal wound as a "gutting" with this additional evidence.
  
4. Rhines' claim that affiant elicited and argued false testimony from Glen Wishard is without any evidentiary basis. Rhines suggests that Wishard is either mistaken or lying about Rhines' "cheerful" demeanor just a few hours after murdering Schaeffer, or is confusing a "cheerful" encounter with Rhines earlier that week for the night of the murder. HABEAS TRANSCRIPT at 52-54, 134. All evidence known to and available to affiant prior to trial reported that Wishard's encounter with the "cheerful" Rhines occurred on the night of the murder. The police report and transcription of Wishard's interview both clearly reflect that Wishard recalled Rhines' "cheerful," "animated," and "grinning" disposition only one hour after Dig'Em Donuts' management came to Wishard's store to tell him Schaeffer had been killed. Wishard's recollection that the encounter occurred on the night of the murder is corroborated by the fact that Wishard remembers Rhines being "cheerful" in connection with having just been interviewed by the police as a former employee. EXHIBIT 35, copy attached.

Furthermore, any effort by Rhines' counsel to challenge evidence of Rhines' "cheerful" mood that night, or to portray Rhines as distressed over Schaeffer's death, would have invited introduction of damaging contrary evidence. For example, affiant could have called John Bjerke, who could have testified that within 10 minutes of Rhines showing up in jail he was passing around newspaper clippings about the murder to fellow inmates and "bragging" about it. Bjerke would



have testified that Rhines acted like the murder was "a fucking big joke." EXHIBIT 23, copy attached. Affiant could have called Sam Harter to recount how Rhines danced a jig during Schaeffer's funeral service as the mourning family played Schaeffer's favorite song on the sound system. Then Rhines turned to affiant and mockingly asked "I wonder if the killer's here?" EXHIBIT 9 EXCERPT, copy attached. Rhines' well-documented jocular attitude toward killing Donnivan Schaeffer lends veracity to Wishard's testimony that Rhines acted "cheerful" after having just murdered a young man.

5. Rhines' claim that affiant improperly moved to strike potential juror Jack Meyer, or improperly "death qualified" the jury, is unfounded. Affiant exercised peremptory strikes or moved to strike only those jurors who could not set their personal beliefs aside and follow the court's instructions. The transcript of Meyer's voir dire reveals that his views on capital punishment would have prevented or substantially impaired his ability to perform his jury duty. Rhines' claim that affiant improperly targeted jurors because of their philosophical position on the death penalty is untrue and disproven by the transcripts of the voir dire. During voir dire, affiant focused on each juror's ability to faithfully follow the court's instructions regardless of their personal beliefs.
6. Rhines also argues that his trial counsel was negligent for failing to object to testimony by Rhonda Graff that Rhines was seen in possession of a handgun shortly after Schaeffer's murder. Rhines' possession of the handgun at the time in question demonstrated furtiveness and guilt. It also fit with the prosecution's portrayal of Rhines as a violent individual.

Had Rhines' counsel objected to the relevance of Rhines' possession of a gun, the affiant was prepared to offer evidence tying Rhines' possession of a gun more concretely to his guilt. Objection to the evidence could have opened the door to Rhines' prior felony convictions, including one for armed robbery with a sawed-off shotgun. The jury could infer that a convicted felon like Rhines, whose possession of a handgun was illegal, had a compelling reason for doing so. The jury could further infer that Rhines' reason was to elude capture for an offense that would send him to prison for life or to the execution chamber.

Such an inference would have been entirely sound, as shown by other available corroborating evidence. First, Rhines told Arnold Hernandez that he would shoot it out with police rather than be taken alive. EXHIBITS 18, 39, excerpts attached. Rhines also told Sam Harter that he was prepared to "die by cop." EXHIBIT 10, excerpt attached.

Steve Allender could testify that Rhines tried to wrest a loaded .30-06 rifle out of his hands during his arrest in Seattle for Schaeffer's murder, either to blast his way free or die trying. EXHIBIT 2, excerpt attached. Second, Rhines was once armed with a handgun and ready to kill Heather Shepard until Sam Harter intervened and stopped him. EXHIBITS 31, 38, excerpts attached. Had Rhines' counsel taken issue with Graff's testimony, and the inferences it carried, affiant was prepared to corroborate those inferences with further damaging testimony.

7. Rhines also argues that his trial counsel was negligent for failing to object to testimony that Rhines made inappropriate statements at Schaeffer's funeral. First, Connie Royer's testimony was relevant to show Rhines' lack of acceptance of responsibility and his psychopathic nature. Second, if Rhines had taken issue with the statement he made to Royer, affiant was prepared to offer further evidence of his remorseless conduct at Schaeffer's funeral. Rhines told John Bjerke that Royer and the owners of Dig'Em Donuts were angry that he had been "talking shit" at Schaeffer's funeral. EXHIBIT 23, excerpt attached. And, as noted above, Sam Harter could have testified to Rhines' dancing and joking at Schaeffer's funeral. EXHIBIT 9, excerpt attached. Any objection by Rhines' trial counsel to the comparatively mild statement Rhines made to Royer would have prompted affiant to offer further proof on the subject of Rhines' inappropriate conduct at his victim's funeral.
8. Rhines treads into treacherous waters when he argues that his trial counsel were negligent for failing to present a more vigorous mitigation case, or to present mitigation "experts" like Dr. Dewey Ertz.

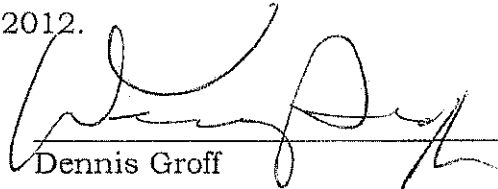
First, Rhines' counsel did a heroic job of tying the prosecution's hands on sentencing evidence. For one thing, Rhines' counsel secured an order excluding Rhines' two felony convictions. For another, Rhines' counsel secured an order *in limine* restricting the prosecution's aggravating evidence to only statutory factors. These were monumental victories for the defense. These rulings allowed Rhines' sisters to paint a sympathetic, and largely-unchallenged, portrait of Rhines for the jury. Rhines' sisters' pleas for sympathy carried far greater weight than they deserved given the hidden reality of Rhines' sordid life.

Second, given how affiant's hands were tied on sentencing evidence, affiant would have welcomed the supreme *faux pas* of putting Rhines' mental state in issue in mitigation of a death sentence. Had Rhines done so, he would have instantly opened the door to proof of a differential diagnosis of antisocial personality disorder by the state.

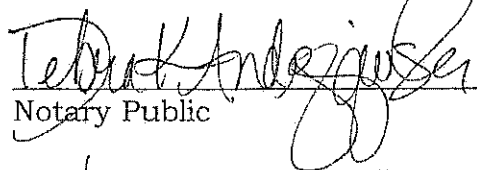
Rhines' entire life history – his fixation with explosives, his firestarting, his cruelty to animals, his sexual predation, his drug use, his military insubordination, his felonies, his incarcerations, his threats to kill people, his objectification of people, his assaults, his thievery – would have been relevant to the differential diagnosis. The diagnosis of antisocial personality disorder on IME was virtually assured given the evidence known to the state and as corroborated by penitentiary intake evaluations that were performed immediately after Rhines' conviction. Those evaluations diagnosed Rhines with "antisocial pers. dis." and described Rhines as "very psychopathic." EXHIBIT 54, excerpt attached. When the good or marginally mitigating aspects of Rhines' personality were so heavily outweighed by the bad and aggravating, no defense attorney in his right mind would have opened the door to the mountain of evidence of Rhines' psychopathy that the state could have introduced had Rhines placed his mental status in issue.

9. Rhines is not the victim in this case. No personal misfortune, no prosecutorial misconduct, no ineffectiveness of defense counsel, no judicial error landed Charles Russell Rhines on death row. Rhines is on death row because he put himself there by murdering young Donnivan Schaeffer in cold blood.

Dated this 12<sup>th</sup> day of July 2012.

  
Dennis Groff

Subscribed to and sworn before me this 12<sup>th</sup> day of July 2012.

  
Notary Public

My Commission Expires: 4-10-2014

SEAL





# ADDENDUM

(1) CR#	92-16628			
(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred

RAPID CITY POLICE DEPARTMENT  
 RAPID CITY, SD  
 (12) PAGE 4 OF 4  
 (13) CR# 92-16628

No. (8) the traffic stop by Patrol Sergeant Linda Eschenfelder. My initial observations of Rhines was that he was very pale and trembling. He was wearing black boots, black leather pants, a dark pull-over shirt, and a black leather cap. He was with a man identified as Matthew J. Mighell, AKA Matthew J. Mile, DOB 01/01/63, FBI #389308DA2, white male, adult, 6'5", and 200 pounds. As I spoke with Rhines, I observed a rifle barrel and the butt stock of a rifle on the back floor board of his white Oldsmobile Firenza. When asked, Charles told me that these were the two rifles which belonged to Sam Harter. He also advised me at this time that the 30 - 06 was loaded at this time. I informed Charles that I would be removing the rifles from his car so that they could be given back to Sam Harter. Rhines offered "let me unload it for you" and began to reach for the rifle. Rhines would not remove his hands from the 30 - 06 until he was ordered to do so by myself, Sergeant Bahr, and a uniformed Seattle police officer. This was somewhat of a tense moment and Rhines appeared to be visibly shaken from this. He stated something similar to "What's the big deal. There are only 5 rounds in it, and there are 6 of you." While attempting to make an interview appointment with Rhines, he became frustrated and began to walk away. He quickly returned when I shouted his name. We agreed to go to Denny's Restaurant at Mercer and Terry Street for lunch and then go somewhere private for an interview. At 1400 hours, Sergeant Bahr and I drove Charles Rhines to Denny's. Rhines vehicle was left in a paid parking lot. At 1500 hours, we left Denny's Restaurant in route to the Crown Plaza Holiday Inn in downtown Seattle. At this time, Rhines appeared to be very comfortable talking with us and now had color back in his face. While leaving the restaurant, Rhines was allowed to leave first by

(9) Officer(s) Reporting * ALLENDER 229	ID#	(10) Supervisor Approving <i>che</i>	ID#	(11) Date & Time Approved 4/24/92
--	-----	---	-----	--------------------------------------

STATEMENT OF SAM HARTER  
Interviewed by Sgt. D. Bahr & Det. S. Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
July 24, 1992

SA: K. This will be a taped statement ah, regarding case number 92-16628. The taped statement will be of Sam Harter. The date is 7/15/92, 1510 hours. Present at this time is ah, Sam Harter, myself Detective Steve Allender, and Sergeant Don Bahr. Alright. Sam you probably got it figured by now, you talked to us a bunch, haven't you.

A: Right.

SA: You probably got it figured by now that when we turn the tape recorder on and tape a conversation for something new.

A: Right.

SA: Right. Sometimes it's been kind of ugly.

A: Mhuhmm (positive)

SA: We haven't, we haven't had just only friendly conversations, right?

A: No.

SA: Well, we're up to something new again and ah, it might be something that you really don't want us to ask you. But I can't tell you how,

A: Mhuhmm (positive)

SA: How important it is to us, to know the truth, and whether or not the truth hurts a little bit, that's something that's gonna come out anyway.

A: Alright.

SA: Alrightee. You got an idea of what I'm talking about?

A: No I don't.

DB: Just one other thing. Ah, we want you to know that uhm, we talked to your dad

A: Mhuhmm (positive)

DB: And did he tell you that, that we had talked to him today or yesterday?

A: He told me that you guys called and wanted to know if he had seen us.

DB: K. We told him what we wanted to talk to you about, and he told us it was ok. Do you understand that?

A: No, no I don't. (inaudible)

DB: Did he say to go talk to them?

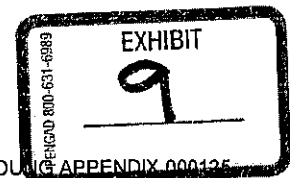
A: Yeah, he told me to come down and talk, that you guys want to talk to me.

DB: Well, we want you to understand that. If, If he's given us the ok to talk to you about what we want to talk to you about.

SA: On the other hand, you're married now.

A: Right.

SA: So you gotta make up your own mind anyway.



YOU G APPENDIX 000125

SA: Did you know he was leaving on that day?  
A: No, I didn't. He called me up and just said he was 3000 miles away.

SA: Now, when uh, when you two went to the funeral together  
A: Right

SA: How did he act?  
A: He, he didn't act sorrowful at all. In fact, when that one song Spirit in the Sky came on he started kind of dancing to that. He likes that song.

SA: Did he make a statement to you?  
A: He made a statement, he goes I wonder if the killer's here.

SA: I wonder if the killer's here?  
A: Yes

SA: What'd you think about that?  
A: I thought, well, in my mind I was thinking no shit you know he's here. I wasn't gonna make a statement like that.

SA: Is there something else that we didn't ask you that you need to tell us?  
A: I don't think so.

SA: Do you see the importance of telling us?  
A: Uh huh

SA: So, if you leave here, today, and remember some statement, or somethin Charles told you, it can be important for you to get a hold of us again.  
A: Yeah, but, the part about me telling people, I haven't told anybody that. I told Bill Dohr at the most.

SA: Ok  
A: But, I never told anybody about this. Bill Dohr, I don't know where he came up counting the money cause I never told that.

SA: Ok.  
A: But, Bill Dohr is the type, he likes to be more important than he is. He, tells everybody, (inaudible) carries a gun around.

SA: Yeah  
A: And he does everything, he's a security guard. He's scared right now. He's scared shitless. If you go up and knock on the door he'll pull a gun on you.

SA: Why is that?  
A: Because, I guess he got a threat out from his wife, and he's gonna get killed and he don't want to \_\_\_\_\_.

STATEMENT OF SAM HARTER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
June 9, 1992

SA: This is a taped statement concerning CR 92-16628. It is 06/06/92, at 1040 hours. Present is myself Detective Steve Allender, Officer Sergeant Don Bahr, and ah, person being interviewed today is Sam Harter. K. Sam, you're living back with folks then right?

A: Yes.

SA: Ok. Uhm, well let's talk about your trip to Seattle. You know, we didn't uhm, we didn't know you were going there and, and ah, so we want to find out every detail we can about it.

A: Mhmm (positive).

SA: Uhm, the whole time when you and ah, Heather were planning on going on vacation, you were kind of planning on heading up there?

A: Yeah, we were planning on heading to Seattle and then down to Texas.

SA: Ok. Could, would you scoot up a little bit? Uhm, have you called Charles?

A: I called him and told him that we would stop out there for a couple days.

SA: Did ya tell him when and stuff like that?

A: Yeah, I told him when so he could pick me up from the bus.

SA: K. How did he, was he excited about that?

A: Yeah, he was very excited. He was surprised I was coming up.

SA: He still ah, living in the same place there?

A: That, the one he stopped on, on, yes, off 52nd Street.

SA: K. Ah, but then you made it to Seattle. What day was that, do you remember?

A: Uhm, we got there Memorial Day.

SA: What day is that \_\_\_\_\_?

DB: On a weekend?

A: Yeah. Monday morning.

DB: On a Monday.

A: Yeah.

SA: Oh, Monday.

A: Memorial Day.

SA: Ok. What time of day?

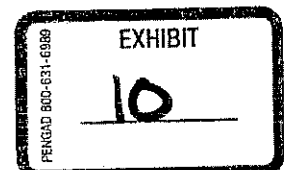
A: I think we pulled in at 1:20 in the morning. Something like that. I (inaudible)

DB: June 1st?

SA: Memorial Day, ah, no, the 25th.

A: May 25th.

DB: On the 25th of May?





STATEMENT OF SAM HARTER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 7  
June 9, 1992

mom, and asked her mom, to sno, send up her social security card and her birth certificate, so she could look for a job up there. Cause Charles was wanting us to get a job and live up there.

- SA: So she called her mother and not her grandmother?  
A: No. Her grandmother, she calls her grandmother mom. You know.
- SA: K. So uhm, did ya, how many nights did you talk about the murder then?  
A: We basically only talked about it one night, and then we talked about it right before the cops were getting there. And when the cops pulled up he had a slip of paper he was showing me about the, this thing he wrote about his confession about the murder.
- SA: Yeah.  
A: He had a slip of paper about the confession about the murder and he was going to leave it on his body after he killed himself out in the red wood.
- SA: And when was he planning on killing himself?  
A: Ah, he was planning on, before he even got to Seattle. Right after he killed Donnivan that he left that day, the knife, the knife was found by (inaudible)
- SA: Ok.  
A: He left that night. Then he went out, and he headed to Nevada and he then ~~out to California~~.
- SA: What did that note say?  
A: It told about the, well he and, killing Donnivan and, that there's no use in living life, he can't put up with the guilt. And so, he told me that reason why he didn't kill, the reason why he didn't go through killing himself is because he said well, they, they can't prove anything, he won't be going down.
- SA: Yeah.  
A: And he said well, he thought he'd cover up, if not, he's going to kill himself when the cops come.
- SA: Oh, ok.  
A: So,
- SA: Now  
A: He said, he said he's, there's been, lied to, (inaudible) he said want to take a chance on, you know, he said he was going to go ahead and take a chance at living. Cause he goes, or anything else, he goes if I kill myself now I have no purpose in life. But the cops will kill me sooner or later.
- SA: Ok. Tell me this. Remember back Sam, every detail tha, that Charles told you about the murder.  
A: Mhmm.

walked in the apartment and told Heather to hop in the shower, and threw away the piece of paper I guess, I don't know what he did with the piece of paper. And come out with another piece of paper. He must have got rid of \_\_\_\_\_ too.

DB: Did Heather see the note?

A: Uhm, I, I couldn't say. You can ask her. I don't know if she seen the note or not. But ah, he, she, she knows that Charles was on acid and all that. She uhm, th, she, we, they, they told her to hide in the shower. He comes out, he goes well see here, he goes, here's what was in my pocket. And so, cop (inaudible) piece of paper, a blank piece of paper.

DB: Do you believe he wrote that note then, ah, and he's been carrying it around?

A: Yeah, I believe he wrote that note, cause I (inaudible) think he's going to kill \_\_\_\_\_, but

DB: Do you think he, (inaudible) right now, if ah, comes a time that he's going to be arrested that he might kill himself?

A: He, he made a statement. He goes, he says, if I'm ready to die, (inaudible) die from a cop. (inaudible)

DB: Have you ever heard of him ahm, tell about that he would ah, not go back to jail, that he'd kill somebody.

A: Yeah, he, he told me and Arnie both (end of side 1)

TAPE 1, SIDE B

DB: K. We're back on the other side. As far as the, what was said in Seattle and what wasn't. The things that you've told us this morning basically ah, that were said inside Seattle was the fact that, you just mentioned about the Arnie and you?

A: ~~Mhmm (positive)~~

DB: And ah, there was another comment about the knife?

A: Mhmm (positive)

DB: Did he ever mention the knife in Seattle?

A: He mentioned that you guys came and asked him about a knife, and he said

DB: What'd he say?

A: He says that uhm, he's got something on him, I don't know what he called it. He says yeah, sure I had a knife. I have a lot of knives. But he said he was carrying something else, (inaudible) what it was called.

DB: What did he say he did to that knife? Ok when, he threw it out. You said that before, but, did he say it was, that was the knife?

A: Yeah.

DB: Did he clarify that again in Seattle?

A: He, he goes, he asked, he goes well, he asked me in Seattle,

STATEMENT OF ARNOLD HERNANDEZ  
Interviewed by Detective Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
March 18, 1992

SA: K. This will be a taped statement of Arnold Fredrick Hernandez, DOB 04/03/55, 230 North Street, 343-5249. Arnold works at SCI on 3:30 to midnight shift. That work number is 394-6223. It's 3/16/92 at 1620 hours. Ah, this interview is being conducted in an office at SCI. Present is myself Detective Steve Allender, also Sergeant Don Barr. Ok.  
A: Alright, Arnold, now, what do you go by Arnold?  
A: Yes. or Arnie, huh.

SA: Ok. Uhm, we know a couple things about ya, and, and uhm, about Charles, and I guess to get the cat right out of the bag, we're here to talk to you about Charles a little bit.  
A: Ok.

SA: We understand there are some things that are concerning you about him. We got a anonymous from some, from someone who said that there was some tension here.  
A: Ok.

SA: And I want, find out what the, what's going on with ya.  
A: Haa, haa. You ask me and then I'll tell you what I know.

SA: Ok. Uhm, first of all I hope you don't feel funny about this or anything  
A: No.

SA: But, we ah, understand that at one point there was some sort of relationship between you and Charles?  
A: That is correct.

SA: And when did that end?  
A: November 6, 1991.

SA: November 6th?  
A: Yes.

SA: Were you guys living together?  
A: Yes we were.

SA: Where at?  
A: He was living with me at my home address of 230 North

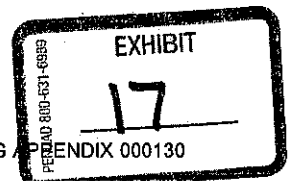
SA: Oh, ok.  
A: Squeeze me, I have a frog in my throat.

SA: You know, if you say 230 East North, that's Conomart.  
A: Right. A lot of my own mail used to go there.

SA: Ok. When's the last time you saw Charles?  
A: Ah, the day of ah, Donnivan's funeral.

SA: That was on Wednesday, wasn't it.  
A: Ah, yes. Cause I'm \_\_\_\_\_.

SA: Yeah.



YOUNG / PENDIX 000130

live than die. That's basically how he put it. Very descriptive, and I'd rather not get into that unless something more comes out of this.

SA: How he would, you mean, how he would kill somebody?  
A: Well, oh God.

SA: Like I said Arnie, we're not going to go out there  
A: I know.

SA: And haul him in and tell him you told us all this stuff.  
A: Charles has a very ah, how would you say, if you want to say an adjective figure of speech, very descriptive and all, ya beat him up, shoot 'em to death, club 'em to death, stab them to death. I'm not going to lie, that's

SA: Ahuh. How would he say he would stab someone. Any details?  
A: Uhm, I'm trying to go back through this cause I've been, this has been going through my mind for 5 days now, I'm like

SA: Yeah.  
A: Uhm, he has said so much to me it's, I don't know what really he meant by some of it and what he didn't. So it would be like, ah, he would just degut them basically.

SA: Ok.  
A: Be just like ah, when you're hunting. Just going and degut 'em.

SA: Anything about  
A: (inaudible) learned that from the Army. That's warfare fight or whatever.

SA: Ok. Yeah, how 'bout uhm, I guess, what are we getting at without trying to put words in your mouth or something like that is wha, uhm, is that how he would describe killing somebody? Going for the guts, or would he put the knife somewhere else in particular to cause them to die. You know?  
A: No. I think he's basically mentioned degutting, like an antelope or a deer.

SA: Ok. What do you know for sure about his and Sam's relationship?  
A: More than I really want to know I think. I have to put I think.

SA: Ha, ok, have you seen them together?  
A: Oh yes.

SA: Have you seen them together in a affectionate way?  
A: Yeah, I've seen him with his arm around him. That was at my house.

SA: How long ago was that?  
A: That was in December.





50

SA: This is an interview concerning case number 92-16628. This is being conducted in the interview room at the Minnehaha County Sheriff's Office. It's 11/24/92 at 1618 hours. Present is myself, Detective Steve Allender, and also John A. Bjerke, B-J-E-R-K-E. John what's your birthday?

A: 12/31/59.

SA: Ok. Ok, John, you met a guy named Charles Rhines?

A: Yeah

SA: Where was that at?

A: In jail here.

SA: Minnehaha County Jail?

A: Yeah

SA: And uh, how long were you in the same block with him?

A: Um, a week.

SA: Ok

A: I'd say about a week.

SA: Uh, how often did you talk to the guy?

A: Everyday.

SA: Did, when did he start bringing up his case?

A: About 10 minutes after he was in there.

SA: On the first day?

A: Yeah

SA: Did he talk about it everyday?

A: Yeah

SA: Was he talking to more people about it than just you?

A: Yeah

SA: Who else?

A: Uh, Chris Huber

SA: Anyone else?

A: And just people that was listening.

SA: Ok. And um, what was the first thing he told you about it? Or how'd that go?

A: He just more or less was saying what was going on you know. What he was down here for and he was kind of making a joke out of it.

SA: Was he talking about his murder case?

A: Yeah

SA: What uh, tell me some things he told you about the murder case.

A: He told me he got a key from Sam Harter, whatever his name



is, and he went into the donut place and took out his knife and pried open the office door. He was looking for \$10,000 that was suppose to be there. He said he wasn't even in the office 30 seconds or a minute and this dude showed up and asked him what he was doin there. And he says um. I asked him I says well what'd you say. He said what, was I suppose to say I'm here robbin the place? And he just made the motion, he said I just went, stab, stab.

SA: He motioned stabbing him with his arm or something?  
A: With his knife. Cause he said he still had his knife in his hand and then he said he tied him up and something about a door hatch or something where he put a ladder to make it look like a break in.

SA: Ok.  
A: And he said, I asked him about the knife deal. He said he was getting set up on uh, the knife deal because he'd never owned a 110 I believe he said and two, two old ladies found it on Stevens Avenue or something when they was picking cans up.

SA: Can, uh, now you're talking about the knife that we found?  
A: Yeah

SA: He said that wasn't the right knife?  
A: Right.

SA: And he said that the DCI set him up by puttin it there?  
A: Yeah

SA: So that, according to him the knife we have is the wrong knife?  
A: Right

SA: What, where's the right knife?  
A: Some road.

SA: Ok. Did he mention the guy's name that got stabbed?  
A: Yeah. I don't remember his name?

SA: Was it Donnivan?  
A: I believe so.

SA: And uh, did he tell you where, where it happened?  
A: Some donut shop.

SA: Did he say if he worked there before?  
A: Yup. He said he was just fired like three weeks before that. He said something about they were pissed off because he went to the funeral and was talking some shit or something.

SA: Did he tell you what he was talking about at the funeral?  
A: Uh, not really. You know, he just said he was talking some shit and they were pissed off about that.



SA: Ok

A: It's gonna cost him \$300,000 for the trial and shit.

SA: Did he say anything about him being convicted or uh, was he gonna get off on the murder charge?

A: Well, he said that while they was up here doing evaluations on him and uh, he uh, said that they was thinkin he was crazy but he ain't and.

SA: He said that we thought they were crazy or the doctor did?

A: That you guys did, that's why he was going through evaluation, whatever.

SA: Ok. But he told you he wasn't crazy?

A: Yeah.

SA: He tell you anything about himself personally? Where he comes from or what his lifestyle is or anything like that?

A: Uh, he said he was out in Washington and said he was in the joint here. I can't remember if he said twice and I think he said he was in the joint in Washington.

SA: Did he say anything about uh what might happen to him at the trial? Or what might happen as far as his punishment?

A: Yeah

SA: What was that?

A: He said that you guys got the death sentence put on him and if he don't get found guilty of that he'll get found guilty of the burglary and habitual criminal and still be doing life and just shit like that. He said that but I'll probably get found guilty anyways, so I'm just gonna let em waste their money.

SA: Now, John, you saw Rhines making a weapon?

A: I seen him braiding some dental floss.

SA: What was he saying about it?

A: He said that um, this here takes the place of an E string.

SA: An E string like on a guitar?

A: Right

SA: And that's a term. What's that term mean to you?

A: Well he put a pen, he's had pencils and the ends are bent in, it was for chokin. He said if the opportunity come that's what he'd do.

SA: Did he mention who he might choke with it?

A: Uh, the people that's takin him back.

SA: Back to Rapid City?

A: Yeah. He didn't say no names or anything.

SA: Why would he choke somebody?  
A: So he could get away.

SA: Did he tell you, did he tell you why he might as well choke somebody?

A: Uh, he didn't have nothin to lose.

SA: Did he, did he tell you that he was guilty of this?

A: Yeah

SA: How did he say that?

A: He just said that um, I'm gonna make them spend their money because you know, they know I'm guilty and, they know I did it. And it was something to do with his job too. That uh, when he worked at that donut place. He said if the opportunity come he'd just, you know, take out the guards or whatever.

SA: So he could escape?

A: Uh huh

SA: Did he say anything about where he might go after he escaped?  
A: I believe Washington.. He said something about a handcuff key he was making or something.

SA: Ok. Did he mention anything about how he got to the donut shop that night?

A: He said something about a Buick, 81 Buick I believe white car, or something.

SA: It was his car?

A: Yeah

SA: Did he say that somebody drove him or somebody went with him?  
A: No, he said, then he come up with the deal that uh, that he lived like four miles away or something and his car was seen there. Or that he walked from, you know, he'd, I really wasn't catching all he was saying that he was suppose to have walked this four miles or something in a half hour or some damn thing. Then he said something about a white Buick settin out there at the time I believe.

SA: Did he say anything else about the guy that he killed?

A: Uh, no, I don't believe so.

SA: But he said \$10,000 was suppose to be in the office that night, huh?

A: Right.

SA: Did he say how he knew that?

A: No

SA: Um, did you write this statement that I'm looking at?

A: Yeah

SA: When, what date did you write that?  
A: Yesterday.

SA: Ok. Um, it said in here something about the doctor told him that, or the doctor said that the places that the guy was stabbed weren't fatal.  
A: Oh yeah, yeah.

SA: What's that all about?  
A: I don't know, he just said that on a discovery motion the coroner, or the doctor, said that the places where he stabbed him wasn't fatal. Couldn't a killed him is what he said.

SA: OK  
A: That's why he tied him up.

SA: Did he tell you where he stabbed him?  
A: No. I didn't ask either.

SA: Why uh, why did you come forward with this?  
A: I don't know.

SA: Have I pro, have we made any promises to you?  
A: No

SA: As far as a deal, or lighter sentence or anything?  
A: Nothing

SA: Has anybody?  
A: No

SA: John, before you heard all this, did anybody tell you to go in and bring up a conversation with Rhines about this?  
A: Nope. Nope.

SA: Did he initiate the conversation with you?  
A: Yeah. He just come. He wasn't more than in the place ten minutes and he was bringing out pieces of paper and talking shit. You know.

SA: What was he doing with the paper?  
A: It was some clipping in the paper.

SA: Oh, he's got a newspaper clipping?  
A: Yeah

SA: Was he bragging?  
A: Yeah, more or less you could say that.

SA: Well, you were there and saw him talking about it. Was he, oh, was he saying anything about being sorry or was he saying, yeah, this is the guy I killed, or you know. Was he proud of it?  
A: More or less, yeah. He didn't show no remorse or anything you know. The way I took it like from what he was saying and

shit he just thinks it's a fucking big joke.

SA: Really?

A: You know, that's what I got out of it.

SA: What else can you tell me. Something that we didn't talk about? Anything?

A: I don't believe so.

SA: Um, did he say anything about the state's attorney?

A: Yeah, he said the state's attorney just got re-elected and is going for the death sentence. You know, and he even kind of made a joke about that.

SA: About the death sentence?

A: Yeah. He, the way I took it, he just thinks it's a big game. You know, either that or, he knows he's guilty and there ain't nothin he can do about it so he's just talkin shit, you know. Knowin he screwed up and he got caught.

SA: Now it says in your statement that you wrote he said he was guilty and if the chance came up he would take em out to get away.

A: Right

SA: Now, did he say those words, he said I'm guilty.

A: He said I, I, I know I'm guilty of it and if the chance come he said I'd just you know, put that, shit around so he could get away if opportunity knocked.

SA: Where did he say he was making this cuff key at?

A: In his house.

SA: Oh, in the cell block up here.

A: Yeah

SA: Ok. I suppose they would have found that, huh?

A: Either that, or he didn't make, didn't get one made or whatever.

SA: Ok

A: Otherwise I'm sure they found, they'da found it.

SA: So, how many days did you talk to Rhines about this case?

A: Everyday he was in there with us he'd talk about it.

SA: And you've been in this jail for six months?

A: Yeah

SA: Same cell block?

A: No, different cell block.

SA: But were you in that cell block from the time Rhines got in there until the time he got put in isolation?

A: Yeah

SA: Did you hear him talking to other inmates about it?  
A: Yeah, somewhat.

SA: Ok. What's that mean?  
A: I've really never listened to what was being said and that because you know. You understand what I'm saying.

SA: Uh huh  
A: I didn't want to go in there and jump in with both feet all the time everytime that something was brought up you know. You understand that?

SA: Yeah, you bet. Ok. Did I miss anything, John?  
A: No, I don't believe so.

SA: Ok. This will be the end of this interview at 1635.

# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

No. (8) VICTIM: Donnivan Schaeffer

CLASSIFICATION: Murder

The attached 15 pages were generated by the King County Police Department and pertain specifically to the arrest of Charles Rhines and Matt Mighell.



(9) Officer(s) Reporting \* ALLENDER ID# 229

(10) Supervisor Approving ID#

(11) Date & Time Approved

RAPID CITY POLICE DEPARTMENT  
RAPID CITY, SD  
(12) PAGE 1 OF 1  
(13) CR# 92-16628

- Statement
- Officers Witness Statement
- Officers Report



King County Police  
Continuation/Statement/O.R.

Date \_\_\_\_\_ Time \_\_\_\_\_

Name (Last, First, Middle)

Residence Phone \_\_\_\_\_ Business Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Occupation \_\_\_\_\_ Race \_\_\_\_\_ Sex \_\_\_\_\_ DOB \_\_\_\_\_

To \_\_\_\_\_ Via \_\_\_\_\_ Subject \_\_\_\_\_

told he was. He was asked if he planned to kill DONNIVAN or if it just happened. He replied, "What would you do? You're in a room about this size. (He then indicated the size of the interview room) He stated, "You're standing at a file cabinet with \$2000 in your hand and you hear a key in the door." He further stated "Who would have the key?" He again asked what I would do. I stated I would run. RHINES replied, "There was no place to run. There is only one way out." I asked, "Did you stab him before or after he was tied up?" RHINES replied, "Before". I asked why, considering the type of stab wounds and RHINES reply, "He was still thrashing about". I asked, "How many times did you stab him?" And he replied, "Three times." He then stated, "Anyone but DONNIVAN". RHINES said, "I guess I just confessed to a homicide". I then left the interview room, leaving RHINES with DETECTIVE ALLENDER and SGT. BAHR.

On 06-20-92 at 1057 hrs, I, along with OFFICER J.R. HALL, OFCR. M. CALDWELL, DET. ALLENDER and DET. SGT. BAHR, executed a search warrant and a signed consent to search at 18105 54th Place W. #5, Lynnwood. He contacted KAY PONDER, the complex manager. She advised MATT MIGHELL signed the rental agreement and paid all of the rent. She supplied us with a key. I knocked three times and announced, "King County Police with a search warrant" prior to entry and again upon entry. I then assisted carrying items out to my vehicle which I then transported to Precinct #2 and placed into a secured storage area which was then sealed by OFFICER HALL.

*[Handwritten Signature]*

Officer(s) reporting \_\_\_\_\_ Serial No. \_\_\_\_\_ Unit No. \_\_\_\_\_ Supervisor reviewing \_\_\_\_\_ Date \_\_\_\_\_ Copies to \_\_\_\_\_

# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred				(5) Time Occurred			(6) RD Occurred
---	----------------------------	-------------------	--	--	--	-------------------	--	--	-----------------

(7) Block No. (8) VICTIM: Donnivan Schaeffer

CLASSIFICATION: Murder

On 06/03/92, at approximately 2330 hours, I was notified at home by Officer Speer that Sam Harter and his girlfriend, Heather Shepherd were picked up in Seattle, Washington, by Seattle police. Officer Speer advised me that after contacting parents, runaway reports would be made and the two juveniles would be put on a bus for Rapid City at approximately 0130 hours, on 06/04/92.

On 06/04/92, at 0940 hours, I called William Harter at home. We made an appointment to meet at the police department at 10:30 this same morning.

On 06/04/92, at 1030 hours, I met with William Harter at the police department. He told me that he had spoken with Sam briefly over the telephone while they were at the Seattle Police Department. He also informed me that Matt Mighell had called Heather's grandmother, Lillian Harrington, and had told her that Sam and Heather were staying with him, and that he did not want her to think he was taking in runaways. He left a phone number of (206)363-0242.

On 06/04/92, at 1430 hours, I called U. S. West Security Division and learned that telephone number (206)363-0242 is listed to James L. Mighell, 18736 50th Avenue North East, Seattle, Washington.

I called the last known phone number for Charles Rhines in

(9) Officer(s) Reporting  
\* ALLENDER ID# 229

(10) Supervisor Approving ID#

(11) Date & Time

7/8/92  
YOUNG APPE

EXHIBIT

31

FILED 800-831-5089

FX 000143



# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

No. (8) That during the initial part of her stay with Charles Rhines and Matt Mighell, Charles asked her "Do you know about Donnivan?" then went on to tell her details of how he had committed this murder. He told her that he had only planned to rob Dig 'Em Donuts and was either in the till or the safe when Donnivan walked in. Charles was then very scared and stabbed Donnivan. Charles stated he was so scared he did not remember tying Donnivan up. He also told her that he threw the knife away, but she could not remember where he said. Also during their stay, Sam had told Heather that Charles had just confessed to him to killing someone. Heather believed that one of the names of the motels they stayed in was similar to the Georgianna Hotel. On one occasion, Heather went with Charles, Matt, and Sam to a location somewhere in the forest to burn the insulation off of copper wire which had been stolen. She felt from the way Charles and Matt were acting, and from the fact that they had brought a firearm with them, that she would be killed and that possibly Sam would be killed also. She believed this was going to happen due to the statements that Charles had made about the murder. She said that Charles later said to her that he may have killed one person but he would not kill her, due to the fact that Sam cared about her and he cared about Sam. (See taped statement for further details.)

On 06/08/92, Detective Bruce Evans and myself used four-wheel all-terrain vehicles to search the road ditches on Highway 44 between Rapid City and Rapid City Regional Airport. At approximately 1120 hours, I located a "Botany 500" button-down shirt. This shirt had obviously been there for quite some time. This shirt was taken into Evidence. (See Officer Larry Rose's

(9) Officer(s) Reporting * ALLENDER 229	(10) Supervisor Approving <i>[Signature]</i>	(11) Date & Time Approved 7/1/92
--	---	-------------------------------------

RAPID CITY POLICE DEPARTMENT  
 RAPID CITY, SD  
 (12) PAGE 4 OF 1  
 (13) CR# 92-16628

# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

Block No.

(8) VICTIM: Donnivan Schaeffer

CLASSIFICATION: Murder

On 09/08/92, at 1104 hours, I was contacted at the police department by Glen E. Wishard, DOB 11/23/62, 82 Hillcrest Drive, 342-9216. Glen is an employee of Dig 'Em Donuts East North Store. He told me that he had information about Charles Rhines that may possibly be helpful to our case. During this taped statement, he told me the following information.

Glen has been employed with Dig 'Em Donuts since the first week in February 1992. Generally he works the 10:00 p.m. to 6:00 a.m. shift. He reported that on the Sunday before the Donnivan Schaeffer murder (March 1, 1992) he was working at the Box Elder Dig 'Em Donuts store. He said that Donnivan Schaeffer had come to the store delivering supplies sometime around 10:00 p.m., and upon leaving, Donnivan asked Glen if he wanted the door locked. Glen indicated that he did and Donnivan locked the door when he left. A short time later, Charles Rhines and Sam Harter entered the Box Elder store by the use of a key. This startled Glen. They struck up a conversation with Glen, and Harter mentioned there was not anything to do in Rapid City on a Sunday night. Rhines and Harter then began to talk about the store owner Dennis Digges, and Glen sensed that they had hard feelings towards Dennis. Glen was thinking at the time that this was odd for Charles Rhines to be in the store after he had been fired from Dig 'Em Donuts.

The following Sunday, March 8, 1992, Glen was working at the East North Street store when he heard of Donnivan's death. He

(9) Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID# <i>Ala</i>	(11) Date & Time Approved 9/11/92
--	---	--------------------------------------

EXHIBIT  
**35**  
PEN000-631-6989

RAPID CITY POLICE DEPARTMENT  
RAPID CITY, SD  
(12) PAGE

# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

(8) Stated that Dennis Digges and Connie Royer came to the East North Street store and told him about Donnivan being murdered. Additionally, they asked him to bake more donuts, taking into consideration that the West Side store would be closed. Approximately 1 hour after Dennis and Connie left the store, Sam Harter entered the kitchen area from the back door, while Charles Rhines entered the customer area through the front door. Again, this startled Glen. Glen could tell at the time that Sam Harter was very nervous. In fact, he recalled that as Sam was walking into the kitchen area a song began to play on the radio which clearly startled Harter. He remembered that Charles was very cheerful, was grinning, and joking around. He believed that Charles was in a very good mood at this time. Glen believed it was approximately 2:30 a.m. but could not be sure. He said that Charles mentioned to him that he had been questioned by the police and added that it was probably only because he was a former employee of Dig 'Em Donuts. Charles then helped himself to a donut out of the display case and did not pay for this. Harter and Rhines stayed approximately 15 minutes, then left.

Later in the morning of 03/09/92, several other employees of Dig 'Em Donuts came to the East North Street store. One of the employees was Sam Harter. Glen stayed at work until approximately 7:00 a.m. and remembered hearing someone from the crowd saying that Charles had lied to the police during his interview. Glen did not remember if Sam said this directly to him or if someone told him that Sam had said this. Glen Wishard will be willing to testify if he is needed.

This case remains closed by arrest. 09/09/92.

(9) Officer(s) Reporting * ALLENDER 229	(10) Supervisor Approving ID# <i>Ch</i>	(11) Date & Time Approved 9/15/92
--	--	--------------------------------------

RAPID CITY POLICE DEPARTMENT  
 RAPID CITY, SD  
 (12) PAGE 4 OF 5  
 (13) CR# 72-116628

Jo A

STATEMENT OF GLEN WISHARD  
Interviewed by Detective Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
September 11, 1992

SA: This will be a taped statement concerning case number 92-16628. Date and time is 9/8/92 at 1104 hours. This interview is being conducted in the office of Detective Steve Allender. Present with me at this time is Glen, G-L-E-N, Wishard, W-I-S-H-A-R-D. Date of birth, 11/23/62, 82 Hillcrest Drive, 342-9216. Glen is employed in the Dig 'Em Donuts Box Elder Store. K. Glen. How long have you worked for ah, Dennis Digges.

A: Ah, Since ah, the first week in February.

SA: 92?

A: Yeah.

SA: What hours did you work?

A: Ah, 10 til 6.

SA: What days of the week.

A: Ah, varied. Ah, 5 days a week.

SA: Ok. When you were, ah, working out there, did you, get to know Don Schaeffer?

A: Ah, yeah. I should say when I worked out there, I went to work at 7, I, whenever I worked, I worked out there twice, and both times I went out there at 7. Uhm, when I work at the store which I usually do, I work 10 to 6.

SA: Ok. So for a while in February you were coming there at 7 p.m.?

A: Yeah, I worked there twice actually, and I, both times I went in at 7.

SA: You worked there two separate time periods you mean?

A: Yeah. I worked on 2 Sundays I worked there.

SA: Ok. So did you get to know Donnivan?

A: I met him twice. Both times was when I worked out there. When he'd come in and make deliveries.

SA: What did you know about him. What was his job out there?

A: He ah, delivered ah, flour, icing, uhm, shortening for the fryer.

SA: Any special day of the week?

A: They, both times were Sundays.

SA: Ok. The, ah, came in here today to talk to me about some information you had, uhm, it concerns Charles Rhines. What was the nature of that information?

A: Well, (inaudible), the Sunday, one week before ah, Donnivan was, was killed, ah, I was working out at the Box Elder store and ah, just after Donnivan had been there and made his delivery and left, ah, Charles Rhines showed up with his roommate Sam, can't remember his last name. He's an, also an employee. And ah, I don't remember the exact time because I didn't have a watch and there was no clock in the kitchen, but



STATEMENT OF GLEN WISHARD  
Interviewed by Detective Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 2  
September 11, 1992

I remember I was watching ah, the McGlofflin Group on PBS when they came in, and ah, Donnivan had, had locked the door, or told me he was going to lock the door when he left, and ah, they apparently let themselves in, and they walked into the kitchen. I couldn't see the front area from the kitchen and they walked right into the kitchen and kind of startled me. And ah, before I asked them, you know, what are you guys doing here, ah, Sam said ah, boy there sure isn't much to do in Rapid City on a Sunday night, and ah, I, I thought, I thought it was odd that they were there, and, one thing that occurred to me was that they might have come over to even to spy for Dennis to see what, what kind of job I was doing out there by myself. But ah, course Charles had been, had been fired by that time, but ah, they ah, hung around maybe for a half, 20 minutes, half an hour. And ah, I didn't really want them there because it, its a very, very small kitchen, cramped working space, and I don't really care to have people standing around talking while I'm working. I was busy and I was trying to get done, because as soon as I was done I could go home. I didn't have to stay the full 8 hours. As soon as I finished the job I could go home. And ah, while they were they ah, they brought up ah, the Dennis Digges the owner, and they ah, both of them made some remarks against him that were clearly kind of bitter and hostile. Mostly to the effect that he was incompetent, that he didn't, couldn't do a good job, and that he always needed somebody to help him, and they also said some things about another baker who ah, I worked with sometimes, his name is Bill. I don't remember his last name. And ah, I kind of talked with him for a little while and then I kind of got a little bit uncommunicative cause I wanted them to go. I wanted to finish up and get out of there so, uhm, after while they left. And then ah, the next time I saw either of them was one week later, on next Sunday night when I was working at the East North Street store, and ah, we had gotten phone calls and information from customers that something had happened at the other store. And ah, after midnight I was alone at this store, and about 2:00 a.m. Dennis Digges and ah, Connie Royer came in and told me that ah, Donnivan Schaeffer had been killed.

SA: And what time was that?

A: You know, it was about 2 o'clock I think.

SA: Do you remember the date, the day that, when he got murdered?

A: No, I, I don't. But it, I, it was, I remember that, the incident one week before it. And then that week, in between those two dates I've met, I've gone out on a date for the first time with the woman that I married. But I can't remember.

SA: Ok.

A: That, that date.

SA: And is it Connie that came out and told ya,

A: And they told me that ah, that ah, Donnivan, it was Donnivan

Schaeffer that had been killed. And ah, that the police were investigating and that the other store was going to be closed, so I should do some ex, an extra bake, do some, make some extra product to sell at this store, and they said that someone would be in to help me later, and that the police would be keeping an eye on the store so I shouldn't worry about anything. And then, not long after they left, it was probably not more than an hour, ahm, Charles and Sam showed up at the store and ah, they startled me again because Sam walked in the back door. I don't remember if it was locked, or that, I think I locked it, but ah, Sam of course had a key. But he came in the back door and just, and startled me, and then immediately after he came in Charles Rhines came in the front door where the customers usually come in. Of course the buzzer sounds when he comes in that door. Ahm, and ah, they were both exited. Sam, I, Sam was exited and also he was very nervous because ah, just before he came in I had a cassette player and I just put a cassette in it and pushed the play button, and just after he came in and walked towards me and the cassette player was behind him, the tape, the music on the tape started and he jumped very, he was very startled by it. And ah, Charles seemed to be in a really good mood. He was really cheerful, and ah, he, he said to me that ah, the police had, had questioned him apparently just because he used to work for 'em, and he didn't know why else. And ah, again, just like before, I was very busy, I had a lot of work to do. I had extra work to do. And I was by myself, and ah, I didn't really want 'em to hang around and talk again. Aaa-aa, and also I was annoyed because Charles helped himself to a donut out of the case, ah, without paying for it, and he wasn't an employee anymore. So I, kind of stayed in the kitchen, they ate, they went out and sat at the counter and ah, talked maybe for 15, 20 minutes, and I stayed in the kitchen and didn't go out to talk with them. And after while they ah, they left. And ah, I went home about 7 o'clock that next morning.

SA: How long did they stay this last visit?

A: 15 to 20 minutes I think.

SA: What did they talk about?

A: I couldn't hear what they were talk, I, at that time I didn't know that Sam knew anything about what was, I didn't know that he had gone into the store, the other store, otherwise I might have been more curious, but as it was I just really just wanted them to leave. I just was too busy to waste time.

SA: When you say Charles was in a cheery mood, what was he doing?

A: Well, he ah, he was wearing this black jacket and his hat, and he was just kind of, he, he was animated and he had a, had a, he was grinning, and when he said that to me about ah, about having been questioned by the police he sounded, he said it in kind of, you know, kind of a cheerful, you know, what the hell kind of voice.

SA: K.

STATEMENT OF GLEN WISHARD  
Interviewed by Detective Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 4  
September 11, 1992

- A: Well, I guess, I guess I should mention that Sam was back in the store that morning. He came back over about the time that Dennis and Connie Royer, and several people from the other store showed up there the next morning around, oh it was about 6, 6 a.m., about the time I normally would have been leaving. And I stayed for another hour, and then they took over everything. I just went home.
- SA: Everybody from the West side store came over to the Box Elder store?
- A: No, to the East North Store.
- SA: Oh.
- A: That, that's where I was that night. I was at the East North store.
- SA: On the night of the murder you were at the East North Street s
- A: Yeah, yeah, I was.
- SA: How 'bout the Sunday prior?
- A: The Sunday prior I was at the Box Elder store.
- SA: Ok.
- A: The,
- SA: Now I got it.
- A: The East North Street store is where I usually work, and where I work, I worked there, I've worked there every night that I've worked, except for two nights, and those two nights there were two Sundays that I worked in Box Elder.
- SA: K. When ah, Sam and Charles came to the East North store then that night of the murder, they get anything else to eat or drink?
- A: Ah, no. All I remember is Charles taking the cake donut. I don't remember that they were ah, they might, they might have gone, one of them might have, Sam might have gone behind the counter and got something to drink, but I don't remember specifically if he did or not.
- SA: K. Is there anything else that's eerie about that to you? Anything else that happened?
- A: Well, m, most of it, was ah, I thought it was, ah, because Charles and Sam had been together that night. They said they just been, they just been talking to the police, and I didn't know why they made a v-line for me after they did that. And also, Sam showed up that morning without Charles and I heard him, overheard him talking to Dennis and some other people, and I don't remember if it was then or later that I heard someone, that I heard him say that Charles had lied to the police. Ah
- SA: You heard Sam say that?
- A: Yeah. I, mm, act, well I don't recall if it was Sam that said that or somebody told me that Sam said that.

STATEMENT OF GLEN WISHARD  
Interviewed by Detective Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 5  
September 11, 1992

SA: But that was the very next day, huh?

A: Ah, yeah. Ah, it was the following morning, yeah.

SA: K. Anything else?

A: I guess, the final thing is that ah, I worked with Sam a couple of times after Charles had been arrested after Sam had come back from visiting Charles, in ah, in Oregon, I worked with Sam and his wife, Sam's wife Heather came in with Sam a lot when, when he worked, and they talked about being with Charles in Oregon. And ah, ah they said a lot of things about Charles making passes, and about Charles remarks in that sort of nature towards Sam, and I asked Sam why he'd gone to see Charles and why, why did he go clear across the country to see, especially after he tells people that Charles had lied to the police

SA: Mhmm (positive)

A: All Sam said was, he said that ah, well Charles was always nice to me. That's what he said, he said, (inaudible) I can think of.

SA: Ok. This will be the end of this statement, it's ah 1121.



**In The Matter Of:**

*Schaeffer v.  
Digges*

---

*Sam Harter  
Vol. 1, January 14, 1994*

---

*Thompson & Thompson  
Registered Professional Reporters  
832 St. Joseph Street  
Eilers Building, Third Floor  
Rapid City, SD 57701  
(800) 456-0831 FAX: (605) 343-6842*

*Original File digges3.v1, 97 Pages*

**Word Index included with this Min-U-Script®**



[1] Q: Was it just the one threat?  
 [2] A: One threat, but he reminded me many  
 [3] times. He told me to remember, especially every  
 [4] time I had to go talk to the cops, he said,  
 [5] remember.  
 [6] Q: Did you get threatened when you were in  
 [7] Seattle?  
 [8] A: Yes, we did.  
 [9] Q: "We" is you and Heather?  
 [10] A: Yes.  
 [11] Q: Who did the threatening?  
 [12] A: Charles and Matt both.  
 [13] Q: Matt was Charles' roommate then?  
 [14] A: Right.  
 [15] Q: What kind of threats did you get in  
 [16] Seattle?  
 [17] A: In Seattle we had quite a few threats.  
 [18] One time he was going to kill my wife.  
 [19] Q: Who is "he"?  
 [20] A: Charles Rhines and Matt both. We went out  
 [21] to burn some wire out in the boonies, and he was  
 [22] going to kill Heather. I told him, "No way." I  
 [23] wasn't going to allow that.  
 [24] Q: Why was he going to kill Heather? Why did  
 [25] he tell you he was going to kill Heather?

[1] A: No.  
 [2] Q: Did you have contact with him after he  
 [3] moved away from the area?  
 [4] A: He called me on the phone at work a couple  
 [5] times and he wouldn't tell me where he was because  
 [6] he knew I was leaking some information out to the  
 [7] cops. I wanted to tell the cops, but I didn't know  
 [8] how much I could get. I had mixed emotions. I  
 [9] wanted to tell the cops, but yet I was still scared  
 [10] of my own life, so I was letting some of the  
 [11] information known, but not all.  
 [12] Q: Did you get invited to go to Seattle or  
 [13] did you just show up?  
 [14] A: I got invited.  
 [15] Q: By?  
 [16] A: Charles and Matt both.  
 [17] Q: Did they tell you why they wanted you to  
 [18] come there?  
 [19] A: No, they didn't. They didn't really say.  
 [20] They sent me money to go up there.  
 [21] Q: How did you get there?  
 [22] A: By bus.  
 [23] Q: Once you got there -- well did you buy a  
 [24] round trip bus ticket?  
 [25] A: Yes.

[1] A: She knew too much. He didn't like Heather  
 [2] because I brought her up because the reason why I  
 [3] brought her up is because I told him I wanted him  
 [4] to know for sure that there was no relationship  
 [5] between me and him, that I was with Heather.  
 [6] Q: Were you married when you went to Seattle?  
 [7] A: No, I wasn't.  
 [8] Q: Got married later?  
 [9] A: Yes.  
 [10] Q: Was Heather pregnant when you were in  
 [11] Seattle?  
 [12] A: No, not that -- I think she got pregnant  
 [13] when we were up there.  
 [14] Q: You are not for sure?  
 [15] A: I am not positive.  
 [16] Q: What is the birthday of the baby?  
 [17] A: It wouldn't be this one; she had two  
 [18] miscarriages before this. This was -- she was only  
 [19] five months old.  
 [20] Q: Was it Charles who reminded you that you  
 [21] shouldn't tell the police what happened?  
 [22] A: Yes.  
 [23] Q: Do you know how many times this happened?  
 [24] A: How many times?  
 [25] Q: Before he moved away from the area?

[1] Q: What happened to your return ticket?  
 [2] A: He threw those away.  
 [3] Q: Who is "he"?  
 [4] A: Charles and Matt. I don't know which one  
 [5] actually threw it away. They were both out there  
 [6] when I already asked for them back.  
 [7] Q: You asked for your bus tickets?  
 [8] A: Yes.  
 [9] Q: Who did you ask?  
 [10] A: Charles.  
 [11] Q: What did Charles tell you?  
 [12] A: He said, "Well, you are going to have to  
 [13] find your own way home now" because they don't want  
 [14] me to go back.  
 [15] Q: Did you have any money?  
 [16] A: No.  
 [17] Q: Did Heather have any money?  
 [18] A: No.  
 [19] Q: Did you ever -- were you permitted to call  
 [20] anyone like your parents when you were in Seattle?  
 [21] A: I never did.  
 [22] Q: Were you prohibited from calling your  
 [23] parents or did you just not call them?  
 [24] A: I don't think I ever asked. Heather asked  
 [25] but she was denied.

**In The Matter Of:**

*SCHAEFFER v.  
DIGGES, et al.*

---

*ARNOLD F. HERNANDEZ  
Vol. 1, January 20, 1994*

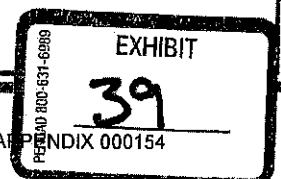
---

*Thompson & Thompson  
Registered Professional Reporters  
832 St. Joseph Street  
Eilers Building, Third Floor  
Rapid City, SD, 57701  
(800) 456-0831 FAX: (605) 343-6842*

*Original File bernandz.v1, 82 Pages*

**Word Index included with this Min-U-Script®**

YOUNG AND RUBEN



[1] Q: Did you know Mr. Rhines quite well?  
 [2] A: I would say we got to know each other  
 [3] pretty good.  
 [4] Q: This is a yes or no question. Do you have  
 [5] any opinions about why he would have committed this  
 [6] burglary at the Dig 'Em Donuts store?  
 [7] A: Yes, I do.  
 [8] Q: And after I ask you what your opinions  
 [9] are, I'll ask you what you base your opinion on;  
 [10] all right?  
 [11] A: Okay.  
 [12] Q: So what is your opinion as to the reason  
 [13] Mr. Rhines burglarized this store when he did, how  
 [14] he did it, et cetera?  
 [15] A: I would say this is part of his criminal  
 [16] nature and something that in his past that he  
 [17] probably has liked to have done elsewhere, if he  
 [18] has done so. And finding out that he was not  
 [19] employed with them, this would also be a way to get  
 [20] back at Dennis Digges and to get extra cash on hand  
 [21] so he could get out of town.  
 [22] Q: Did Mr. Rhines ever express to you that it  
 [23] would be easy or difficult to rob these stores?  
 [24] A: He indicated to me it would be very easy.  
 [25] Q: Do you believe that the ease with which a

[1] had taken money before without apprehension and  
 [2] then things of that nature?  
 [3] A: That is correct.  
 [4] Q: Let me ask you one personal question, I'd  
 [5] like to know, sir, if you've ever been convicted of  
 [6] a felony?  
 [7] A: Years and years ago.  
 [8] Q: More than ten years ago?  
 [9] A: Oh, yes.  
 [10] Q: All right. Let's take a little break and  
 [11] then I'll come back and conclude my questions for  
 [12] you.  
 [13] A: Okay.  
 [14] (Recess taken.)  
 [15] Q: Back on the record. I have a few other  
 [16] subjects I'd like to talk to you about. What was  
 [17] your understanding before you found out that Mr.  
 [18] Rhines had — before you found out that Donnivan  
 [19] Schaeffer had been murdered as to the extent of Mr.  
 [20] Rhines' criminal record?  
 [21] A: Just the taking of that money there from  
 [22] Dig 'Em Donuts earlier and that years ago when he  
 [23] got sent to prison, it was for an armed robbery  
 [24] with a shotgun back in his hometown and he was  
 [25] wearing his mother's wig and that's why he got sent

[1] burglary could be committed, at least in his mind,  
 [2] motivated him to do that as well?  
 [3] A: Yes.  
 [4] Q: Now, I asked you what your opinions were,  
 [5] and I'd like you to tell me why you have those  
 [6] opinions or upon what facts or reasons or knowledge  
 [7] do you base those several opinions as to why he did  
 [8] this?  
 [9] A: Charles was always one for wanting to have  
 [10] money, and I believe he did rob it so he could have  
 [11] extra spending cash in hand. And his nature of  
 [12] always seeing if he could outsmart the other guy,  
 [13] this was a thrill for him to do and it would go  
 [14] along, again, I would say with his criminal nature  
 [15] of wanting to rip someone off and laugh at them.  
 [16] Q: And you got to know Charles from living  
 [17] with him and having known him for many years, is  
 [18] that right?  
 [19] A: That is correct.  
 [20] Q: This would also be based upon things  
 [21] Charles would have told you?  
 [22] A: This is correct.  
 [23] Q: Those things might include the dislike he  
 [24] had for Mr. Digges, the calculations he had done  
 [25] regarding the money in the store, the fact that he

[1] to prison, and then he had some assault charges on  
 [2] him.  
 [3] Q: Did you have any knowledge of a felony he  
 [4] would have committed in Bon Homme County, which is,  
 [5] I think, in the Tyndall area having to do with, I  
 [6] believe, a theft or something at a college?  
 [7] A: I don't recall him mentioning that one to  
 [8] me of a college, no.  
 [9] Q: Did Charles ever tell you — well, on page  
 [10] 7 of a police report prepared by Mr. Allender  
 [11] there's a statement attributed to you that you were  
 [12] reporting what Charles Rhines had told you. And  
 [13] the statement goes something to the effect that,  
 [14] "The police will never take me alive," or  
 [15] something like that?  
 [16] A: That is correct.  
 [17] Q: Do you remember what Charles told you on  
 [18] that subject as to whether or not the police would  
 [19] take him alive?  
 [20] A: It was in my living room and we were  
 [21] discussing different situations. It was one of his  
 [22] nights where he just wanted to talk and babble.  
 [23] And he told me that if the authorities ever came  
 [24] after him and they were armed, that he would never  
 [25] be taken alive. And if there was any shooting, I



PRISON  
HEALTH  
SERVICES  
INCORPORATED

PROGRESS NOTES

Date/Time	Inmate's Name: Rhines, Charles	D.O.B.: 7/11/1956
	<p>Family - not close. Father - had Johnson's - died '1987 - needed 5-6 meals/day &amp; Mom wouldn't feed him - <sup>she was</sup> depressed &amp; withdrew into herself - sat &amp; smoked. "Until a year ago I blamed M for F's death."</p> <p>A/P - It's not clear what need he has for a psychologist. For now our discussion of his history &amp; of the criminal thinking literature appears useful for psych-educational purposes. Beyond this he may have speech needs I can address. If not I may just be checking in occasionally with him given his death row isolation &amp; lack of access to other staff &amp; programs.</p>	
2/18/93	<p>- S - Mr Rhines reports Samerow's book is "like the guy's been following me around for... years". He wants to know how he got this way. Affect - normal responsive range, except perhaps no sadness or joy, <sup>mood</sup> near P - I will check out Samerow's <u>Before It's Too Late</u> next, &amp; see him next week 2/25; Rtd. Inside the Criminal Mind <u>Alvin Karpis</u></p>	
2/25/93	<p>- S - Mr Rhines appeared to be somewhat passive, talking about his interest in converting (?) to Lutheran faith - he'd seen chaplain Tsemayen <del>the morning</del></p>	
	<p>* - He discussed his anger at his prosecutor, who pursued the death penalty despite Mr Rhines' confession of guilt &amp; cooperation with authorities. He discussed anger for <del>similar</del> <sup>related</sup> situation, where an authority <del>had</del> <sup>had</sup> accused/blamed him despite his having done all he could to square things - e.g. his accidentally locking car keys in trunk on fishing trip, &amp; not remembering; His suitcase <del>had</del> <sup>was</sup> paid</p>	

Complete Both Sides Before Using Another Sheet

FOR MENTAL HEALTH USE ONLY

EXHIBIT  
54  
PEN-000-631-8989  
PENDING 000-66



PRISON  
HEALTH  
SERVICES  
INCORPORATED

PROGRESS NOTES

Date/Time	Inmate's Name: <i>Rhodes, Charlie</i>	D.O.B.: <i>7/11/1960</i>
	<p><i>Switching switch with a friend, reacting in repeated questioning/interrogations &amp; his smoking at age 5-6 &amp; getting caught &amp; rejected by his father, w/o compassion or empathy.</i></p> <p><i>A/P - I'm not sure what's going on, except Mr Rhodes is consistent about wanting to understand himself better. Given his limited social resources &amp; access limitations to other people &amp; books, our sessions seem reasonable directed this way, for now. He's interested in more formal therapy lit, too.</i></p> <p style="text-align: right;"><i>Alex Kinton</i></p>	
<i>3/18/93</i>	<p><i>- S - Mr Rhodes appeared to be ambivalent about talking - unsure if he had or wanted to speak of personal issues.</i></p> <p><i>- Time was short - I offered to see him the next Thursday <sup>3/25</sup> &amp; we could talk about it then, if he wanted to - He said ok.</i></p> <p style="text-align: right;"><i>Alex Kinton</i></p>	
<i>4/15/93</i>	<p><i>- S - Charlie was concerned about understanding himself, &amp; about accepting the reality of his current life. He acknowledged feeling some sadness &amp; being depressed. I discussed P-A-C 8 need for Numb P.</i></p> <p><i>- He talked about a recurrent nightmare he'd had until 12-13, &amp; we discussed it briefly -</i></p> <p><i>- He expressed a concern about vertigo - felt when just sitting.</i></p> <p><i>A - he appears to be mildly depressed</i></p> <p><i>P - we had too little time for exploration of his dream or vertigo feelings.</i></p> <p><i>So -&gt; Next time if they're still on his mind. Next = 4/22 if time permits</i></p> <p style="text-align: right;"><i>Alex Kinton</i></p>	

Complete Both Sides Before Using Another Sheet



PRISON  
HEALTH  
SERVICES  
INCORPORATED

PROGRESS NOTES

Date/Time	Inmate's Name: <i>Rhodes, Charles</i>	D.O.B.: <i>7/11/56</i>
<i>2-8-93</i>	<p>- Seen 1<sup>st</sup> time at my invitation to evaluate suicide risk, since Mr Rhodes recently received a death sentence.</p> <p><i>1/2</i> - Mr Rhodes agreed to talk with me, <sup>always cooperative &amp; relatively well focused.</sup> He acknowledged that thoughts of suicide had occasionally come to mind - but he denied any intent or plans to carry them out. He suggested that this might change in a few months or years, if his appeals fail. He denied past self-destructive behavior apart from cutting his wrist once when a SDSP in 1978.</p> <p>1978 was also the only time he's sought counseling - at UHWA MHC in RL, SD.</p> <p>- He reported a history of not finishing things he starts, &amp; of not feeling remorse (no conscience) in regard to his actions. He denied hallucinations &amp; gave no sign of delirium.</p> <p>- He said he would like to talk further w/me about himself. It's not clear whether he needs &amp; will benefit from psych. services.</p>	
<p><i>*</i> [</p>	<p><i>A/P</i> - diag. impression - Antisocial Pers. Dis likely</p> <p>- insufficient info for any further diagnosis.</p> <p>- He does not give evidence of being an immediate danger to himself at this time.</p> <p>- I'll see him <sup>2/11/93</sup> when time permits on Thursday in RL.</p> <p style="text-align: right;"><i>Allen R. Kruttschnitt</i></p>	
<i>3/4/93</i>	<p>- Seen briefly in RL</p> <p>- Mr Rhodes said he's doing well. I'll see him next week.</p> <p>I'll see pastor Isendoger before on Thursday.</p> <p style="text-align: right;"><i>Allen R. Kruttschnitt</i></p>	

Complete Both Sides Before Using Another Sheet

FOR MENTAL HEALTH USE ONLY



PRISON  
HEALTH  
SERVICES  
INCORPORATED

PROGRESS NOTES

Date/Time	Inmate's Name: Rhines, Charles	D.O.B.: 7/1/1956
2/4/93	<p><i>note made 2/15/93</i></p> <p>- Seen at my suggestion/request - to evaluate suicide risk</p> <p>S/O - Mr Rhines agreed to talk with me. In regard to suicide he declared he'd had thoughts about it when he was first imprisoned, but he won't kill himself - or at least he won't consider it while his appeals are in process.</p> <p>- Affect somewhat flattened, Mood - normal to slightly depressed</p> <p>- He said he would like to talk to me - he wants to know why he is the way he is, &amp; why he's so lacking in conscience.</p> <p>M/P - Mr Rhines does not give evidence of being currently at risk for suicide or self-misadventure, although he might become so at some future point when his appeals are exhausted.</p>	
*	<p>- Diagnostic impression: Antisocial Pers. Dis - very psychopathic</p> <p>- I will bring down a copy of <u>Inside the Criminal Mind</u> to read, &amp; discuss Yochelson &amp; Samenow's criminal thinking approach.</p> <p style="text-align: right;">Alan R. Kuntz MD</p>	
2/11/93	<p><i>note made 2/15/93</i></p> <p>- S/O - Mr Rhines checked out <u>Inside the Criminal Mind</u>. He's also reading a borrowed copy of <u>We're all doing time</u>.</p> <p>- "I don't like myself the way I am, &amp; I don't know how to change it."</p> <p>(What part are you concerned with?) - <del>his</del> sexual orientation - gay.</p> <p>- Inquired about circumstances of his wife prior to his appeal - he described a fine &amp; Ron job; no close friends or family support there; although he <sup>suppose</sup> has a couple of real good friends in Seattle.</p>	

Complete Both Sides Before Using Another Sheet



1 STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

2 COUNTY OF PENNINGTON )

SEVENTH JUDICIAL CIRCUIT

3  
4 STATE OF SOUTH DAKOTA,

5 Plaintiff,

6 v.

JURY TRIAL

7 CHARLES RUSSELL RETNOS,

93-21

8 Defendant.

VOLUME X

9  
10 PROCEEDINGS: The following matters were had before the  
11 HONORABLE JOHN K. KONENKAMP, Circuit Judge at  
12 Rapid City, South Dakota, on the 15th  
13 day of January, 1993.

14  
15 REFERENCES: MR. DENNIS GROVE, MR. GAY MILLER, and  
16 MR. MARK VARGO  
17 State's Attorney's Office  
18 Pennington County  
19 Rapid City, South Dakota

20 FOR THE STATE

21 MR. JOSEPH BUTLER  
22 Attorney at Law  
23 PO Box 2670  
24 Rapid City, South Dakota and

25 MR. WAYNE GILBERT  
26 Attorney at Law  
27 1202 West Main Street  
28 Rapid City, South Dakota and

29 MR. MICHAEL BODENHEIM  
30 Plaintiff  
31 Pennington County  
32 Rapid City, South Dakota

33  
34  
35

1 the neck between the skull and the spinal column.  
2 I expect the evidence will show that that knife was  
3 inserted almost halfway into the skull, far enough to  
4 hit what we call the brain stem, far enough to stop  
5 all bodily function from Donnivan Schaeffer. I  
6 expect the evidence will show that Donnivan Schaeffer  
7 should have died instantly from that final thrust to  
8 the head. I expect the evidence will show that not  
9 only was that inserted into his head, it was  
10 literally pounded into his head. But I expect the  
11 evidence to show that he was found bound, his hands  
12 were bound very tightly, several bindings of rope.  
13 And I expect, based upon the evidence, it will be  
14 your determination whether he was bound before he was  
15 stabbed in the back of the neck-head area or after.  
16 But I expect the evidence will show that after the  
17 Defendant, Charles Russell Rhines, performed this  
18 final act on Donnivan Schaeffer that he didn't leave.  
19 I expect the evidence will show that the Defendant  
20 then went back to the rear office, collected the  
21 money from several places, including the money that  
22 Donnivan Schaeffer was to take out to the Box Elder  
23 store, and I expect the evidence will show that he  
24 then remained in the building and took the plastic  
25 gloves he had been wearing and put those back in his

1 Q Thank you. Where were you when you heard this  
2 dispatch?  
3 A I was standing in the dispatch center.  
4 Q Did you hear the call come in?  
5 A Yes, I did.  
6 Q And did that call come in at the time you referred  
7 to?  
8 A Yes.  
9 Q What did you hear when the call came in?  
10 A I heard that someone with their hands tied behind  
11 their back had been found dead at the Dig 'Em Donuts.  
12 Q Now, when you went to the scene, did you go alone?  
13 A I drove my own car, but Officer Wiest came with me at  
14 the same time in another police car.  
15 Q What time did you get to Dig 'Em Donuts?  
16 A 9:56.  
17 Q When you got there at 9:56, had Officer Wiest arrived  
18 at the same time?  
19 A Yes.  
20 Q And was there anybody else there in terms of law  
21 enforcement by the time you got there?  
22 A Yes, two deputies had arrived before we got there.  
23 Q Who were they?  
24 A They were Deputy Nicholas and Deputy Savage.  
25 Q Where did you park your vehicle?

1 Mr. Belgarde was at? Now, was Mr. Belgarde staying  
2 in one position or moving?

3 A There is a long telephone cord on the phone and he  
4 was pacing back and forth here.

5 Q I'd like to have you insert arrows in either way as  
6 to how he was moving? Now, you can be seated again.  
7 After Mr. Belgarde pointed out that room, did you  
8 enter into that room?

9 A Yes, I did.

10 Q And with the pointer, could you show us which room  
11 that was and as you point that out lean back so the  
12 jury can see as best they can?

13 A As I entered the door, Joe motioned for me and  
14 directed me to go into the storage area which is the  
15 room to the right as you enter the back door. I  
16 stepped in and found what appeared to be a male  
17 individual with his hands tied behind his back,  
18 sitting Indian style with his head forward between  
19 his legs in this area.

20 Q Did you make any effort to determine whether that  
21 person was alive or dead?

22 A I approached the individual and checked to see if  
23 there was a pulse, and there was no pulse. I checked  
24 to see if there was any respiration and there was no  
25 respiration and with the large amount of blood there

1 his legs as well as the upper portion of the body as  
2 well as ropes that were tied around his hands. Would  
3 you like me to mark that sir?

4 Q Yes, sir. That was 17. Now, I'm showing you Number  
5 18 which I won't ask you to mark in, but what does  
6 Number 18 show?

7 A This is a close-up view of a cut in the male  
8 individual's back being approximately lower shoulder  
9 area.

10 Q Does it show the approximate width of that cut?

11 A Yes, it does.

12 Q Showing you State's Exhibit Number 19, what does that  
13 show?

14 A This is looking in a downward direction and shows the  
15 jacket the individual was wearing as well as the rope  
16 that was tied around his hands and red substance on  
17 the wrist and red substance that was on the cardboard  
18 below the hands.

19 Q Does that show the number of knots on that, if I can,  
20 the tying of the rope?

21 A It shows knots, but I don't know whether it shows  
22 them all, sir.

23 Q Showing you State's Exhibit Number 20, what does that  
24 show?

25 A This again is looking in a slight upward direction

1 and shows the rope that was around the individual's  
2 hands and shows the red substance on the fingers, the  
3 right hand as well as the red substance on the thumb  
4 and index finger of the left hand.

5 Q Showing you State's Exhibit Number 21 with respect to  
6 that exhibit does that also show the victim's body?

7 A Yes, sir, a portion of it.

8 Q With respect to the rope tying his hands, do we see  
9 any rope in this particular picture?

10 A Yes, we do. We see rope in two different places on  
11 the hands that I related to earlier as well as the  
12 center left-hand side of the screen near the area of  
13 the light pointer that would be to the left of the  
14 yellow barrel.

15 Q One other thing about this picture, did you see any  
16 unusual prints near the body?

17 A Yes, I did. There was a print at the bottom  
18 right-hand side of the screen near the right sole of  
19 the subject's shoes. Would you like me to mark that  
20 one, sir?

21 Q No, that won't be necessary. Do we have another shot  
22 of that shoe, a close-up of what it looks like?

23 A Yes.

24 Q Showing you State's Exhibit Number 22, what does that  
25 show?

1 A Yes, sir.

2 Q What did you obtain from the floor area?

3 Q I obtained a red cap.

4 Q Could you produce that for us please. I believe you  
5 produced what previously was marked as State's  
6 Exhibit Number 53, is that the red cap you refer to?

7 A Yes, sir.

8 Q Showing you State's Exhibit Number 41, is that the  
9 red cap we see in State's Exhibit Number 41?

10 A Yes, sir, right here.

11 Q Now, without working specifically, did you obtain --  
12 strike that. Did you observe the body of the victim?

13 A Yes, I did.

14 Q And in observing the body of the victim, did you  
15 observe his hands?

16 A Yes, I did.

17 Q What did you observe about his hands?

18 A His hands were tied behind his back.

19 Q Did you observe what they were tied with?

20 A A rope.

21 Q And did you have a chance to observe similar rope  
22 while you were there?

23 A Yes, I did.

24 Q Showing you State's Exhibit Number 39, is this the  
25 rope you are referring to?

1 A That's the rope that was tied around his hands, yes.  
2 Q Would take a look at our diagram. You said you saw  
3 some other rope. Where was that at?  
4 A Now, here in the storage by the body, against the  
5 north wall there is a tool box and a cardboard box  
6 and the rope is near the cardboard box right here  
7 against the wall.  
8 Q I am going to show you a photograph, State's Exhibit  
9 Number 22, do you see that rope in State's Exhibit  
10 Number 22?  
11 A Yes.  
12 Q Where is that at?  
13 A Right here.  
14 Q Also State's Exhibit Number 23?  
15 A It's right here dangling over the box.  
16 Q You say you gathered that for evidence?  
17 A Yes.  
18 Q Did you bring that to Court here for us today?  
19 A Yes.  
20 Q Could you produce that for us, please? And is that  
21 what has previously been marked as State's Exhibit  
22 Number 54?  
23 A Yes, sir.  
24 Q With respect to those items, State's Exhibit 51  
25 through State's Exhibits Number 54, did you look



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH DAKOTA )  
COUNTY OF PENNINGTON )

IN CIRCUIT COURT  
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

Plaintiff,

v.

JURY TRIAL

CHARLES RUSSELL RHINES,

93-81

Defendant.

VOLUME XI

PROCEEDINGS: The following matters were had before the  
HONORABLE JOHN K. KONENKAMP, Circuit Judge at  
Rapid City, South Dakota, on the 19th  
day of January, 1993.

APPEARANCES: MR. DENNIS GROFF, MR. JAY MILLER, and  
MR. MARK VARGO  
State's Attorney's Office  
Pennington County  
Rapid City, South Dakota

FOR THE STATE

MR. JOSEPH BUTLER  
Attorney at Law  
PO Box 2670  
Rapid City, South Dakota and

MR. WAYNE GILBERT  
Attorney at Law  
3202 West Main Street  
Rapid City, South Dakota and

MR. MICHAEL STONEFIELD  
Public Defender  
Pennington County  
Rapid City, South Dakota

FOR THE DEFENDANT

1 back of the hands.

2 Q In looking at that particular piece of rope and  
3 examining the ends of it, can you tell us, is that  
4 the same rope that was taken off his hands?

5 A It is the same rope. When we took it off we taped it  
6 all back together, so if someone wanted to  
7 reconstruct it they could, and you can see evidence  
8 of that.

9 Q After that rope was obtained from the hands of  
10 Donnivan Schaeffer, was it given to evidence people  
11 at the scene of the autopsy?

12 A Yes.

13 Q Now, from earlier testimony, is it my understanding  
14 that you could not tell whether or not the hands were  
15 tied before or after that wound to the head?

16 A That's right, I can't tell you that.

17 Q You can't tell me that to a reasonable medical  
18 certainty, is that right?

19 A That's right.

20 Q Was there some indication as you went through your  
21 autopsy, consistent with at least one theory or the  
22 other?

23 A There is suggestion that maybe the individual was  
24 alive, that's about all.

25 MR. GILBERT: I object and move to strike the answer. If

1 the test is reasonable medical certainty, then asking  
2 the Doctor to speculate as to what it may or may not  
3 show one way or the other is irrelevant and not in  
4 accordance with the appropriate standard, and ask  
5 that the jury be admonished to disregard it.

6 THE COURT: Objection sustained, and the jury should  
7 disregard the last comment by the Doctor.

8 Q In looking at what I'm showing you now, State's  
9 Exhibit Number 62, from what we see on State's  
10 Exhibit Number 62, is that consistent with the  
11 victim's hands being bound before he was given the  
12 final stab wound?

13 MR. GILBERT: Same objection, your Honor, and I am going  
14 to ask that we approach the bench.

15 (Side bar discussion was had.)

16 THE COURT: All right the objection is sustained.

17 Q With respect to this particular Exhibit, State's  
18 Exhibit 62, does that show the rope burns to the  
19 wrists?

20 A It shows the abrasion. You can see the abrasions  
21 right here and up in here.

22 Q And this would be to the left wrist?

23 A Yes, that's correct.

24 Q Showing you State's Exhibit Number 63, what does that  
25 show?

1 A This shows the palmar anterior aspect of the left  
2 forearm which shows the abrasion, corresponding to  
3 the ligature and it shows the incised wound up there.  
4 Q Showing you State's Exhibit Number 64, what does that  
5 show?  
6 A This is the right hand and it shows the abrasion  
7 along the wrist area there.  
8 Q As the rope was cut from the hands of Donnivan  
9 Schaeffer, what did you observe about the tying of  
10 the rope?  
11 A It was tight. I don't know if that's the word you  
12 are -- that's the word I would use. It's tight  
13 enough to cause this abrasion here, in other words,  
14 it's rubbed on the skin, this rope, so it's tight  
15 enough to cause that. It's also a furrowed abrasion,  
16 and by that I mean indented, so it's tight enough to  
17 cause that, whatever word you prefer.  
18 Q And looking at the fingers we see in this particular  
19 exhibit, do you see the ring finger?  
20 A The right ring finger.  
21 Q Did you observe blood on the finger when the autopsy  
22 was done?  
23 A You can see the blood right here.  
24 Q Now, to a reasonable medical certainty, based upon  
25 the autopsy and your experience in the area, can you

1 education and training, would probably not be fatal,  
2 is that correct.

3 A. That's right.

4 Q You don't know what a lay person or a person that  
5 doesn't have your training and experience would  
6 believe, do you, as far as whether those wounds could  
7 be fatal or not?

8 A I guess I don't understand your question.

9 Q Someone that is not a pathologist might as well might  
10 think they are fatal?

11 A I'm sure that's possible, yes.

12 Q Now, the rope on Donnivan Schaeffer's wrist you  
13 mentioned was very tightly bound, is that right?

14 A Perhaps that was a bad choice of words. It was tight  
15 enough to have caused the furrowed abrasion.

16 Q In and of itself?

17 A Yes.

18 Q And really in all fairness, if you were to try to  
19 answer the question, were the hands bound before or  
20 after Donnivan Schaeffer died, all you could do would  
21 be to guess, wouldn't you?

22 A Right. I can't tell you that.

23 Q One way or the other?

24 A No.

25 MR. GILBERT: That's all the questions I have.

1 of the door and they're instructed to throw the  
2 manila envelope with the daily receipts as far as  
3 they can, basically sometimes they would hit my desk  
4 and sometimes it would go over my desk. From there  
5 they would finish mopping the customer area and do  
6 whatever side work they have to do; check the  
7 restrooms before they leave to make sure that there  
8 is nobody in there, check the front door from the  
9 inside, leave from the kitchen, open the door and  
10 step out and lock the door and walk to the front door  
11 to the customer area and pull that door to make sure  
12 it's locked. As they are leaving they're turning the  
13 lights off.

14 Q When you say "they're turning the lights off," what  
15 do you mean?

16 A In this far corner next to the restroom in front of  
17 the office there is an electrical panel and there are  
18 two switches, one is marked 10 and 11, and they turn  
19 off switch 11, which turns off my office light, three  
20 lights in the storeroom, all the lights in the  
21 kitchen except for the one above the window.

22 Q That was which switch?

23 A That was Number 11.

24 Q And is Number 10 left on?

25 A Number 10 is left on.

1 Q What does 10 leave on?

2 A That leaves on one light in the storage room and one  
3 light in the kitchen.

4 Q What light is left on in the kitchen?

5 A There are two lights that are left on, one is on 24  
6 hours a day and that's above the friers and I had  
7 Donnivan Schaeffer install that florescent light and  
8 that's on all the time and the other light that's on  
9 is above the cutting tables.

10 Q With respect to this florescent light, as part of the  
11 routine of the business, that's supposed to be left  
12 on at all times, 24 hours a day, each day?

13 A Which light is that?

14 Q That florescent?

15 A They are all florescent, but the one in the hood  
16 above the friers is left on 24 hours a day.

17 Q Sir, I'm showing you now what's marked as State's  
18 Exhibit Number 28 as depicted by slide 28-A, do you  
19 recognize what that light is?

20 A Yes, sir.

21 Q What is that light?

22 A That's the light installed inside the hood system  
23 over the friers.

24 Q Is that the light that is supposed to be on 24 hours  
25 a day?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH DAKOTA )  
COUNTY OF PENNINGTON )

IN CIRCUIT COURT  
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,  
Plaintiff,

v.

CHARLES RUSSELL RHINES,  
Defendant.

JURY TRIAL  
93-81  
VOLUME XII

PROCEEDINGS: The following matters were had before the  
HONORABLE JOHN K. KONENKAMP, Circuit Judge at  
Rapid City, South Dakota, on the 20th, 21st and  
22nd days of January, 1993.

APPEARANCES: MR. DENNIS GROFF, MR. JAY MILLER, and  
MR. MARK VARGO  
State's Attorney's Office  
Pennington County  
Rapid City, South Dakota

FOR THE STATE

MR. JOSEPH BUTLER  
Attorney at Law  
PO Box 2670  
Rapid City, South Dakota and

MR. WAYNE GILBERT  
Attorney at Law  
3202 West Main Street  
Rapid City, South Dakota and

MR. MICHAEL STONEFIELD  
Public Defender  
Pennington County  
Rapid City, South Dakota

FOR THE DEFENDANT



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Harter and Dennis Digges. Was there anybody else?  
If you could think of someone -- those are the  
people I can think of. Who is he scared of opening  
that bolt? Someone has a key. And then that person  
comes back and turns on the lights and then that  
person comes through the door. Now, a lot of things  
can happen as that person comes through the door, but  
we know the person that comes through the door can  
only be one of the owners or Donnivan Schaeffer.  
They are the only ones with keys. As that happens  
the Defendant does something. He doesn't make a  
decision to just hit the person and run. He doesn't  
make a decision to hide behind one of the desks, no,  
what happens to Donnivan Schaeffer at that time is  
cowardly, it's vicious, for that person hides behind  
that door and waits for that door to open and says,  
saw a male figure. There are only two possible male  
figures here, one is Dennis Digges, the person who  
fired him, and the other is Donnivan Schaeffer. The  
lights are on, but more importantly, in his statement  
there is discussion about the use of knives, the fact  
that he had been in the military, and he says, well,  
anybody knows how to use a knife and dull cuts are  
better, they leave better wounds. But the important  
thing is not what he said about knives, but what you

1 know about knives, and what you know about knives is  
2 this. I submit you know that from being youngsters  
3 we always have the knife down, the edge down, because  
4 we don't want to cut ourselves, we don't want to trip  
5 and fall on that thing. We don't want to slice  
6 ourselves. That's not how this knife was. And  
7 whether or not it's the knife that was on St. Patrick  
8 Street, or whether it's a bigger knife as the  
9 Defendant describes a Buck 119 is not the issue.  
10 What he does with that knife, he's got it by his side  
11 and the blade is up, and with that blade being up  
12 when that male figure comes through the door and  
13 says, what's going on, what does he do with that  
14 knife. The answer is in State's Exhibit Number 57.  
15 Sure, you can see the wound there, but you see  
16 something else. The doctor told you the blunt end is  
17 on the bottom, the sharp end was on the top. And  
18 then you see this line going up. That knife was held  
19 with that blade up for this ripping kind of motion to  
20 gut that person, and it shows on State's Exhibit  
21 Number 57. I submit at that moment that you know  
22 what this Defendant wanted to do to that person  
23 coming in, stopping him from perpetuating his greed.  
24 How did that stop? We know how it stopped. You saw  
25 a picture of the hand. You know it was a left hand

1 and here's the cut. And that person, surprised as he  
2 was, Donnivan Schaeffer tried to save himself, and  
3 that hand came down while that knife came up, and he  
4 got sliced. But he was able to get that knife up,  
5 even though that knife had penetrated three to five  
6 inches. He got it out. He got it out, but he  
7 couldn't stay standing, instead he was on the floor.  
8 And was he saying profanity? Was he saying, help,  
9 please? He was yelling out a name. Charles. How  
10 did this happen? How could this cowardly act happen?  
11 It happened because there was a motive here, a motive  
12 so great, the first motive was to get money, that the  
13 life of Donnivan Schaeffer was worth very little  
14 compared to that money in that office. And so the  
15 Defendant, Charles Russell Rhines, made a decision,  
16 what's more important to me, to walk out now and  
17 leave this guy behind or finish what I came to do.  
18 My motive is to get the money and this guy's not  
19 going to stop me. So he continued on, and as that  
20 name was called out, think about the second wound.  
21 Do you remember this first wound? It's vertical.  
22 We've already talked about why it's vertical. But  
23 take a look at the second wound. As it's closed up,  
24 it's lateral. Why would that wound be lateral; that  
25 wound that was inserted into Donnivan Schaeffer? You

1 STATE OF SOUTH DAKOTA : IN SENATE  
2 COUNTY OF PENNINGTON : SENATE JUDICIAL OFFICE

3  
4 STATE OF SOUTH DAKOTA,

5 Plaintiff,

6 JURY TRIAL

7 CHARLES RUSSELL RHINES,

81-82

8 Defendant.

VOLUME 8181

9  
10 PROCEEDINGS. The following matters were had before the  
11 HONORABLE JOHN E. BOWENHAMP, Circuit Judge at  
12 Rapid City, South Dakota, on the 25th and 26th  
13 days of January, 1993.

14 APPEARANCES: MR. DENNIS GROFF, MR. JAY MILLER, and  
15 MR. MARK VARGO  
16 State's Attorney's Office  
17 Pennington County  
18 Rapid City, South Dakota

19 FOR THE STATE

20 MR. JOSEPH BUTLER  
21 Attorney at Law  
22 PO Box 2670  
23 Rapid City, South Dakota and

24 MR. WAYNE GILBERT  
25 Attorney at Law  
26 3202 West Main Street  
27 Rapid City, South Dakota and

28 MR. MICHAEL STONEFIELD  
29 Public Defender  
30 Pennington County  
31 Rapid City, South Dakota

32 FOR THE DEFENDANT

1 going was, hitting on the ground, was stabbed again,  
2 but he didn't die quickly, and even though he said he  
3 couldn't tell, he was taken back to that storeroom  
4 and that knife was inserted so deep in his head that  
5 he could never speak another word. And he never  
6 spoke another word after that day, and he never will.  
7 And to a great extent, for that night, the Defendant  
8 succeeded, he succeeded. He was not arrested, no, in  
9 fact he was cheerful after he talked to the police,  
10 he was cheerful when he went over to the Box Elder  
11 store. He was cheerful because he had gotten away  
12 with it. He even went to the funeral. He was surely  
13 dead, wasn't he? And the Defendant Charles Russell  
14 was certainly someone who had avoided latered with  
15 and prevented his lawful arrest for that burglary of  
16 Big 'Em Donuts, and the only cost was, he had to kill  
17 someone. But in his own words, he had been caught  
18 in the act, and he eliminated the witness. So he  
19 did. But, by what he did and what he told you,  
20 ladies and gentlemen, as you look at that death  
21 verdict in that second box, it has been proven, based  
22 upon this evidence and based beyond a reasonable  
23 doubt, that the murder was committed while the  
24 Defendant was engaged in the commission or attempted  
25 commission of a burglary and that the Defendant

1 killings and cases you have made that determinations,  
2 then go to the second part. For what happens here is  
3 trauma, severe pain, and that severe pain starts with  
4 that first wound, not just a glancing blow mind you,  
5 not just a scrape or a cut, a wound so deep, three to  
6 five inches, that literally knocks that man down, it  
7 knocks Donnivan down. We've already talked about how  
8 the knife was. That scrapes as it comes up, it's  
9 wider than the knife is, maybe twice the size. You  
10 determine what that means in your mind you determine  
11 what that scrape mark means in your mind. What's  
12 happened during that very first wound that so  
13 surprises and shocks Donnivan Schaeffer. But he  
14 doesn't die. At that point in time if he could have  
15 just played possum, if he could have just stayed  
16 quiet and acted like he was dead, maybe he could have  
17 avoided the horrible death that awaited him. But you  
18 know, in that glancing, flickering view of a knife  
19 just about to stab you, that knife being thrust in to  
20 its very depth, that brief moment, you may not have  
21 known why, but did his life pass before him? And if  
22 it didn't, if he didn't think about his death at that  
23 time, how about while he's kicking on the floor and  
24 that second wound is laterally stuck in to a point  
25 where it goes through two parts of his lung and comes

1 driven until this young man dove and he's got a trace  
2 of bodily function left. He goes limp. This man  
3 and whether or not he tied him up before or after is  
4 for your determination. But he had to tie him up, so  
5 he had to make sure that he never called 911 now  
6 that he's had that final wound! Take a look at these  
7 Instructions very carefully, Instructions on torture  
8 and depravity, Instruction Number 6. I'm not  
9 concerned whether or not you find both torture and  
10 depravity or one or the other. If you find that this  
11 particular murder was outrageously or wantonly vile,  
12 horrible or inhuman, and that it involved torture at  
13 the hands of the Defendant or depravity of mind,  
14 then I submit, based on this evidence, find also the  
15 first aggravating circumstance, fill it in and sign  
16 it. And remember, as you look at it, you need to  
17 check whether it's one or both, torture or depravity.  
18 We have some pictures. We've seen autopsy pictures  
19 and pictures at the scene. It's just a body. It's  
20 just a body, the body of Donnivan Schaeffer. He's  
21 not with us anymore. So what? So what? He was a  
22 person. He was a person. Consider him as a person.  
23 He had his own bedroom, his own fiancée, his own  
24 dreams. He's a person whose life was senselessly and  
25 cruelly snuffed out for the sake of killing a witness

11

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

well and that's just what it is.  
I wasn't personally offended. By the way, when Mr  
Butler said, what bothers me about this law is that  
the discretion of the prosecutors. How can you make  
all 60 think the same way. And then it hit me, and I  
thought, hold it, you know, let's just assume that  
prosecutors didn't have any say in this. The next  
argument would be, there has to be one jury in our  
country to decide all these death penalty cases  
because, Lord, we can't trust it to different ones.  
It's a circular argument that never ever stops. But  
that wasn't the end of it. There was comment about  
deterrence and that is that it will never stop  
anybody, and speculation goes both ways on  
deterrence. But wouldn't you like to think for just  
a moment that the next time a convenience store or  
donut shop has this sort of thing happen, that the  
person who does it realizes that no matter whether  
you stab him once or twice or you bind him and you  
stab him in the head or you mutilate him, that at  
some point in time you just don't get by with just a  
life sentence? Might there not be some deterrence  
here? And, of course, I can't imagine why he said  
these things, no, how could any of us imagine that  
kind of thing that would go ahead and do this kind of



STATE OF SOUTH DAKOTA  
COUNTY OF PENNINGTON

**CHARLES RUSSELL RHINES**

*Petitioner,*

vs.

**DOUGLAS WEBER, Warden, South  
Dakota State Penitentiary,**

*Respondent.*

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

IN CIRCUIT COURT  
SEVENTH JUDICIAL CIRCUIT

CIV. 02-924

AFFIDAVIT OF SAM HARTER

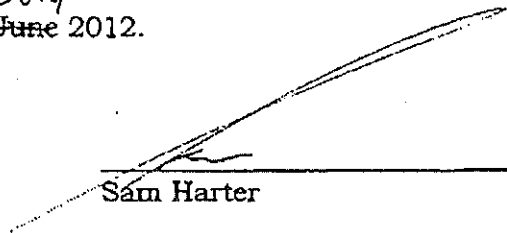
Affiant Sam Harter, after first being sworn upon his oath, states as follows:

1. If called at trial, affiant would testify to the following facts.
2. Excerpts from the state's Exhibits 9, 10, 11, 25, and 31 are attached hereto. Except in places where affiant sought to minimize his role in driving Charles Russell Rhines to the burglary at Dig'Em Donuts, and picking him up afterward, affiant's statements as recorded in Exhibits 9, 10, 11, 25, and 31 are true and accurate. Also the testimony affiant provided under oath in the civil case, which is Exhibit 38, excerpts of which are attached hereto for the sake of brevity, is truly and accurately reported in the full transcripts.
3. Affiant was acquainted with Charles Russell Rhines prior to, and for a period after, March of 1992. Rhines and affiant were roommates in an apartment in Rapid City, South Dakota, in early 1992. During that time, Rhines admitted to stealing money from his former employer, Winchell's Donuts, in Seattle, Washington. As described in Exhibit 25 and Page 67 of Exhibit 38, Rhines told affiant he stole money from Winchell's cash registers while an employee, and he also forged or altered payroll checks. As described in Exhibit 25, Rhines told affiant his payroll forgery scheme netted him approximately \$38,000. Rhines devised numerous schemes to steal. As described on Page 5 of Exhibit 11, one such scheme involved copying keys for trucks Rhines would test drive at dealerships. Rhines would then later steal the truck to use in robbing electronics and other stores around Rapid City. As described in Exhibits 25 and 31, Rhines stole

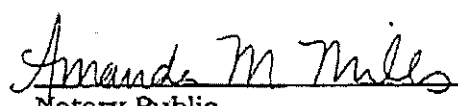


Shepard out at the burn area. A second occasion, described on Page 60 of Exhibit 38, occurred when affiant sought police protection from Rhines. Police came to a hotel room in Seattle where affiant, Shepard, Rhines, and Mighell were staying due to a public disturbance involving Rhines and affiant taking place outside the room. Affiant identified himself as a minor and a runaway and sought to be taken into police custody to escape Rhines. Affiant told the police that Shepard, who also was a minor at the time, was in the motel room and that they had to retrieve her before Rhines killed her. When police entered the motel room to retrieve Shepard, Rhines told the police that she was not there. The police searched the room and found Shepard in the shower where Rhines had ordered her to hide. Had the police taken affiant away without searching the room, Rhines would have killed Shepard to silence her as a potential witness against him.

Dated this 17<sup>th</sup> day of <sup>July</sup> ~~June~~ 2012.

  
\_\_\_\_\_  
Sam Harter

Subscribed to and sworn before me this 17<sup>th</sup> day of June 2012.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

August 30, 2015

SEAL

AMANDA M. MILLS  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Jasper County  
My Commission Expires Aug. 30, 2015  
Commission # 11229117

STATEMENT OF SAM HARTER  
Interviewed by Sgt. D. Bahr & Det. S. Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
July 24, 1992

SA: K. This will be a taped statement ah, regarding case number 92-16628. The taped statement will be of Sam Harter. The date is 7/15/92, 1510 hours. Present at this time is ah, Sam Harter, myself Detective Steve Allender, and Sergeant Don Bahr. Alright. Sam you probably got it figured by now, you talked to us a bunch, haven't you.

A: Right.

SA: You probably got it figured by now that when we turn the tape recorder on and tape a conversation for something new.

A: Right.

SA: Right. Sometimes it's been kind of ugly.

A: Mhuhmm (positive)

SA: We haven't, we haven't had just only friendly conversations, right?

A: No.

SA: Well, we're up to something new again and ah, it might be something that you really don't want us to ask you. But I can't tell you how,

A: Mhuhmm (positive)

SA: How important it is to us, to know the truth, and whether or not the truth hurts a little bit, that's something that's gonna come out anyway.

A: Alright.

SA: Alrightee. You got an idea of what I'm talking about?

A: No I don't.

DB: Just one other thing. Ah, we want you to know that uhm, we talked to your dad

A: Mhuhmm (positive)

DB: And did he tell you that, that we had talked to him today or yesterday?

A: He told me that you guys called and wanted to know if he had seen us.

DB: K. We told him what we wanted to talk to you about, and he told us it was ok. Do you understand that?

A: No, no I don't. (inaudible)

DB: Did he say to go talk to them?

A: Yeah, he told me to come down and talk, that you guys want to talk to me.

DB: Well, we want you to understand that. If, If he's given us the ok to talk to you about what we want to talk to you about.

SA: On the other hand, you're married now.

A: Right.

SA: So you gotta make up your own mind anyway.



SA: Did you know he was leaving on that day?  
A: No, I didn't. He called me up and just said he was 3000 miles away.

SA: Now, when uh, when you two went to the funeral together  
A: Right

SA: How did he act?  
A: He, he didn't act sorrowful at all. In fact, when that one song Spirit in the Sky came on he started kind of dancing to that. He likes that song.

SA: Did he make a statement to you?  
A: He made a statement, he goes I wonder if the killer's here.

SA: I wonder if the killer's here?  
A: Yes

SA: What'd you think about that?  
A: I thought, well, in my mind I was thinking no shit you know he's here. I wasn't gonna make a statement like that.

SA: Is there something else that we didn't ask you that you need to tell us?  
A: I don't think so.

SA: Do you see the importance of telling us?  
A: Uh huh

SA: So, if you leave here, today, and remember some statement, or somethin Charles told you, it can be important for you to get a hold of us again.  
A: Yeah, but, the part about me telling people, I haven't told anybody that. I told Bill Dohr at the most.

SA: Ok  
A: But, I never told anybody about this. Bill Dohr, I don't know where he came up counting the money cause I never told that.

SA: Ok.  
A: But, Bill Dohr is the type, he likes to be more important than he is. He, tells everybody, (inaudible) carries a gun around.

SA: Yeah  
A: And he does everything, he's a security guard. He's scared right now. He's scared shitless. If you go up and knock on the door he'll pull a gun on you.

SA: Why is that?  
A: Because, I guess he got a threat out from his wife, and he's gonna get killed and he don't want to \_\_\_\_\_.

STATEMENT OF SAM HARTER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 1  
June 9, 1992

SA: This is a taped statement concerning CR 92-16628. It is 06/06/92, at 1040 hours. Present is myself Detective Steve Allender, Officer Sergeant Don Bahr, and ah, person being interviewed today is Sam Harter. K. Sam, you're living back with folks then right?

A: Yes.

SA: Ok. Uhm, well let's talk about your trip to Seattle. You know, we didn't uhm, we didn't know you were going there and, and ah, so we want to find out every detail we can about it.

A: Mhmm (positive).

SA: Uhm, the whole time when you and ah, Heather were planning on going on vacation, you were kind of planning on heading up there?

A: Yeah, we were planning on heading to Seattle and then down to Texas.

SA: Ok. Could, would you scoot up a little bit? Uhm, have you called Charles?

A: I called him and told him that we would stop out there for a couple days.

SA: Did ya tell him when and stuff like that?

A: Yeah, I told him when so he could pick me up from the bus.

SA: K. How did he, was he excited about that?

A: Yeah, he was very excited. He was surprised I was coming up.

SA: He still ah, living in the same place there?

A: That, the one he stopped on, on, yes, off 52nd Street.

SA: K. Ah, but then you made it to Seattle. What day was that, do you remember?

A: Uhm, we got there Memorial Day.

SA: What day is that \_\_\_\_\_?

DB: On a weekend?

A: Yeah. Monday morning.

DB: On a Monday.

A: Yeah.

SA: Oh, Monday.

A: Memorial Day.

SA: Ok. What time of day?

A: I think we pulled in at 1:20 in the morning. Something like that. I (inaudible)

DB: June 1st?

SA: Memorial Day, ah, no, the 25th.

A: May 25th.

DB: On the 25th of May?



STATEMENT OF SAM HARTER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 6  
June 9, 1992

- SA: What did Charles tell you about the murder on that night?  
A: He didn't, he just told, he was mainly talking to Heather, and we were there, and he says, well, I may have killed one pe, he goes, I may have killed a f, one, I may have killed one person but, he goes, I wouldn't kill you, he goes, cause Sam likes you and I love Sam.
- SA: I may have killed one person?  
A: Yeah. That's how he worded it. And then he told, he goes, he said, just since I killed Donnivan, I won't kill you. He goes Donnivan \_\_\_ for, the reason why I killed Donnivan was because I was, eh, for protection. That's what he told Heather, is for protection. He didn't want to get caught cause, if their, he said, he said the best way of getting rid of evidence is to kill them off. So. And he said he's, if he had left Donnivan there, there'd been evidence that he took the store down.
- SA: Who was he telling this?  
A: Who? To me and Heather both.
- SA: And where was this conversation at?  
A: Uhm, at the motel room. We were, we got
- SA: Ok  
A: We got the motel room on the 30th. That's when we, we had to move out on the 29th. We got a motel room the 30th, about the afternoon. On the 30th, that's when he started telling us about it, cause he found out she was afraid. So, he was telling us that in that first motel.
- SA: Ahuh (positive)  
A: And then he, he knew that she was afraid. Ah, I told Heather before that he, I was sure he's the one that killed, and I told her not to be scared cause I don't think they would do anything to you, us, well, they wouldn't. I asked him a couple times if I could call my mom and dad, and he wouldn't let me.
- SA: What'd they say when you asked?  
A: He says no. He, he strai, straight out said no. And I \_\_\_ him one more day, he goes no. He was acting like that, (inaudible), I go. But then, eh, well, then he was scared about, he didn't, Matt and Charles got scared cause they thought they might get in trouble for. He wanted me to stay, but they want to send Heather home. But when they found out, after Matt found out about how much she knew about the murder. So they didn't want \_\_\_, risk and they didn't know if they want to send her home, but she was afraid she might come tell. Cause she, they didn't want to send her home cause they knew that she would tell where I was.
- SA: Oh  
A: And but, she called her mom. I don't know what day she called her mom. She called her mom one of those days. She asked her mom, she said now, it was on a Wednesday, that she called her

STATEMENT OF SAM HARPER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 7  
June 9, 1992

mom, and asked her mom, to sno, send up her social security card and her birth certificate, so she could look for a job up there. Cause Charles was wanting us to get a job and live up there.

SA: So she called her mother and not her grandmother?

A: No. Her grandmother, she calls her grandmother mom. You know.

SA: K. So uhm, did ya, how many nights did you talk about the murder then?

A: We basically only talked about it one night, and then we talked about it right before the cops were getting there. And when the cops pulled up he had a slip of paper he was showing me about the, this thing he wrote about his confession about the murder.

SA: Yeah.

A: He had a slip of paper about the confession about the murder and he was going to leave it on his body after he killed himself out in the red wood.

SA: And when was he planning on killing himself?

A: Ah, he was planning on, before he even got to Seattle. Right after he killed Donnivan that he left that day, the knife, the knife was found by (inaudible)

SA: Ok.

A: He left that night. Then he went out, and he headed to Nevada and he then ~~out to California.~~

SA: What did that note say?

A: It told about the, well he and, killing Donnivan and, that there's no use in living life, he can't put up with the guilt. And so, he told me that reason why he didn't kill, the reason why he didn't go through killing himself is because he said well, they, they can't prove anything, he won't be going down.

SA: Yeah.

A: And he said well, he thought he'd cover up, if not, he's going to kill himself when the cops come.

SA: Oh, ok.

A: So,

SA: Now

A: He said, he said he's, there's been, lied to, (inaudible) he said want to take a chance on, you know, he said he was going to go ahead and take a chance at living. Cause he goes, or anything else, he goes if I kill myself now I have no purpose in life. But the cops will kill me sooner or later.

SA: Ok. Tell me this. Remember back Sam, every detail tha, that Charles told you about the murder.

A: Mhmm.



STATEMENT OF SAM HARTER  
Interviewed by Det. Steve Allender  
Transcribed by Deanna Johnson  
Defendant:

CR\92-16628  
PAGE 8  
June 9, 1992

- SA: Ah, how he did it, what Donnivan said, anything like that.  
A: He made a statement about, ah, he goes uhm, he says, he was surprised how easy it was for a first time, cause he was on his first murder
- SA: Yeah.  
A: And he said he was surprised how easy, it's not like, it was on TV, and he said he was surprised how easy it was. He was surprised that that one went down so quick, and that fellow, he didn't fight at all. And he sa, he, he said the only thing that (inaudible) with Donnivan kept on saying, Donnivan kept on saying uhm, ah, don't kill me, he goes, I won't tell, don't kill me I won't tell. So.
- SA: Anything else?  
A: No.
- SA: How'd he get into that building?  
A: He didn't say (inaudible). He di, he did say that, (inaudible) if I had 10 more minutes I'd been outa there clear free. And it would have been like a professional murder, a professional robbery because he was going to make a hole in the Sheetrock, and (inaudible) there's a escape hole supposedly somewhere in the back. He said (inaudible) a ladder out back.
- SA: Obviously he went in there with a key though.  
A: That's, yeah, obviously. He did make a statement, he said one thing good he had going for him is that he left the door open. He, he also, k. He made a statement that it was dark in the office. He didn't know that he had to turn. He thought there was just a light switch in the office. He didn't know he had to turn on the light switch box.
- SA: Ok.  
A: So he said it was dark, couldn't see the office. He had no light.
- SA: Was he wearing gloves?  
A: He didn't tell me if he was wearing gloves or not. He did tell me there was \_\_\_\_\_ fingerprints though. Supposedly he was wearing gloves. He said he left no evidence behind. And then he told, he told me, I go, I go, well, I, you know, I sat there and go, Charles they found fingerprints on a knife. (Inaudible) he goes, I wiped it off before I threw it out. He goes, there's snow out on the ground too.
- SA: He told you that while you were in Seattle too?  
A: No, that was before I went to Seattle. I think I told you about him saying he wiped it off. He said, he made a statement, he goes, uhm, how did he word it. Something about he, he said, well if they found the fingerprints, they'd already arrested me. That's how he put it. And then (inaudible) he wiped it off.

walked in the apartment and told Heather to hop in the shower, and threw away the piece of paper I guess, I don't know what he did with the piece of paper. And come out with another piece of paper. He must have got rid of \_\_\_\_\_ too.

DB: Did Heather see the note?

A: Uhm, I, I couldn't say. You can ask her. I don't know if she seen the note or not. But ah, he, she, she knows that Charles was on acid and all that. She uhm, th, she, we, they, they told her to hide in the shower. He comes out, he goes well see here, he goes, here's what was in my pocket. And so, cop (inaudible) piece of paper, a blank piece of paper.

DB: Do you believe he wrote that note then, ah, and he's been carrying it around?

A: Yeah, I believe he wrote that note, cause I (inaudible) think he's going to kill \_\_\_\_\_, but

DB: Do you think he, (inaudible) right now, if ah, comes a time that he's going to be arrested that he might kill himself?

A: He, he made a statement. He goes, he says, if I'm ready to die, (inaudible) die from a cop. (inaudible)

DB: Have you ever heard of him ahm, tell about that he would ah, not go back to jail, that he'd kill somebody.

A: Yeah, he, he told me and Arnie both (end of side 1)

TAPE 1, SIDE B

DB: K. We're back on the other side. As far as the, what was said in Seattle and what wasn't. The things that you've told us this morning basically ah, that were said inside Seattle was the fact that, you just mentioned about the Arnie and you?

A: Mmmm (positive)

DB: And ah, there was another comment about the knife?

A: Mmmm (positive)

DB: Did he ever mention the knife in Seattle?

A: He mentioned that you guys came and asked him about a knife, and he said

DB: What'd he say?

A: He says that uhm, he's got something on him, I don't know what he called it. He says yeah, sure I had a knife. I have a lot of knives. But he said he was carrying something else, (inaudible) what it was called.

DB: What did he say he did to that knife? Ok when, he threw it out. You said that before, but, did he say it was, that was the knife?

A: Yeah.

DB: Did he clarify that again in Seattle?

A: He, he goes, he asked, he goes well, he asked me in Seattle,



# ADDENDUM

(1) CR# 92-16628

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

(7) Block No. (8) identified as Bill arrived several minutes later at approximately 0300 hours. The conversation between Jeannie and Sam Harter lasted approximately 45 minutes, and the quality of this tape recording is no better than the first attempt. Jeannie did advise us that Sam made the statement "The way it was done was the fastest way to kill somebody", and said that Sam told her that he was told by Charles that Donnivan did not suffer and did not fight.

On 04/27/92, Sam Harter came to the police department to retrieve the two rifles which were recovered in Seattle, Washington. Sam mentioned at this time that he has spoken a few times to Charles Rhines, and that Charles assured him that Donnivan did not suffer due to the fact that a knife through the back of the neck kills instantly. He also added that the week before the murder occurred, Charles had talked about test-driving a pickup truck at a Rapid City dealership, and having a key made during this time. ~~Charles had apparently planned to~~ use the pickup truck for a burglary at a glass shop on St. Joseph Street and an electronic shop somewhere on Omaha Street.

Beginning May 8, 1992, Sam's new address will be Hainesway Apartments, Building 7, Apartment 305. He will be living with Bill Dohr.

At 0900 hours, I returned the two firearms to Sam Harter with previous permission from Sam's father. A receipt was signed at this time.

On 04/28/92, at 2200 hours, Sergeant Bahr and myself again met with Jeannie Melton at the police department. This time a Nagra

(9) Officer(s) Reporting * ALLENDER 229	(10) Supervisor Approving ID# <i>OSL</i>	(11) Date & Time Approved 5/13/92
--	---	--------------------------------------

RAPID CITY POLICE DEPARTMENT  
 RAPID CITY, SD  
 (12) PAGE 2 OF 11  
 (13) CR# 92-16628

# APPENDIX

APID CITY POLICE DEPARTMENT

KAPID CITY, SD

(12) PAGE \_\_\_\_\_ OF \_\_\_\_\_

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

No. (8) VICTIM: Donnivan Schaeffer

CLASSIFICATION: Murder

The attached 67 pages were generated by the King County Police Department and pertain specifically to burglary charges against Matt Mighell and Charles Rhines which were filed in King County, Washington.



(9) Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID#	(11) Date & Time Approved
--	----------------------------------	---------------------------

8 This incident was an un-reported Burglary to a locked fenced yard. The locked fenced yard is approximately 11 acres of storage area for construction equipment and machinery. The fence is cyclone with top strings of barbed wire. The locked fenced area is posted with numerous signs declaring non-entry. The defendants named in this report entered the locked fenced area by cutting a hole into the east fence. The defendants entered the yard and during the hours of darkness went to a stored tower crane. The defendants removed approximately 200 feet of power feed cable from the crane. The crane is a "PECCO" model 2000 tower crane used in the construction of high rise buildings. The defendants cut the rubber insulation from the power feed cable, and removed the interior copper wiring of the cable. The cable is 4.00 So/W cable, and the replacement cost to re-wire the tower crane is \$2,000. The power feed cable enables the crane to operate, and the elevators to run. Detectives Allender, and Bahr accompanied this Detective to the Construction yard along with <sup>w1</sup> Sam Harter. Harter was able to show the point of entry and the location of the crane, and the discarded insulation that was cut from the power feed cable. <sup>w1</sup> Harter was also able to direct this Detective to another location where the defendants entered a building under construction. (refer to 92-204970 Commercial Burglary of the Northshore Senior Center) Both defendants were arrested and booked into the King County Jail. See other reports, and followups regarding this report attached by reference.

PROPERTY INVESTIGATION

STATEMENT

WAIVER

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original report as filed in the files of the King County Sheriff's Office, and that the same has been reviewed and approved by me.

Date: \_\_\_\_\_ Reported by: \_\_\_\_\_ and at \_\_\_\_\_ Agent: \_\_\_\_\_



MR. JIM DAVIS

Kiewit Construction Co.  
20400 Hwy 9,  
Woodinville, WA 98072

483-1884

SANGA VIRIYINCY

Winsome Trading Inc.  
7023 N.E. 175th  
Bothell, WA 98011

483-8888

3 PROPERTY:

SEE ATTACHED EVIDENCE SHEETS.

4 ADDITIONAL ENTRIES:

06-15-92 1130 hrs DETECTIVE STEVE ALLENDER of the Rapid City Police Department out of South Dakota arrived at the precinct and advised of an investigation he was currently conducting regarding defendants RHINES and MIGHELL. He advised that he was looking for any burglaries that might have occurred in the northeast King County area of thefts of commercial businesses where metal had been taken. There appeared to be no particular burglaries in the area as DETECTIVE ALLENDER was looking for.

5 1230 hrs Contacted DPA for King County JOHN BELLOTTI and asked him about Northeast District Court case that was currently being prosecuted there of defendant MIGHELL. I advised DETECTIVE ALLENDER that I would be at his disposal should he want to investigate any unreported burglaries. DETECTIVE ALLENDER stated that he would attempt to have a witness brought forward to locate some unreported burglaries in northeast King County.

5 06-16-92 1000 hrs DETECTIVE ALLENDER introduced me to DETECTIVE SERGEANT DON BAHR of the Pennington County Sheriff's Department of Rapid City, South Dakota. Accompanying SERGEANT DON BAHR voluntarily was witness SAM HARTEK. SAM HARTEK was introduced as a person that had either been a witness to the burglaries or was reluctantly a participant in them. Further, that DETECTIVE ALLENDER and SERGEANT BAHR advised that witness SAM HARTEK would direct me to two locations where burglaries had occurred. SAM HARTEK, along with DETECTIVE ALLENDER and SERGEANT BAHR accompanied me to the Kiewit Construction Company at 20400 Highway 9 in Woodinville where he located a point of entry through a cyclone and barbed wire topped fence where entry had been gained by cutting it with a possible bolt cutter. He further showed where defendants RHINES and MIGHELL had stripped power feed cable from a crane and further removed that through that



hole and taken that stolen wire to a location in Seattle where they would cash it in for scrap metal. Witness HARTER further accompanied me to the Northshore Senior Center which is being completed and is new construction. HARTER advised that defendants MIGHELL and RHINES had entered this building by prying back a plywood board over the main entry way; had gone into a wire spool used by electric sub-contractors during the construction of the building and had removed many spools of electrical wire where they further took that wire to a location in Seattle and cashed it in for scrap metal.

7 1400 hrs Returned to Precinct #2 with DETECTIVE ALLENDER and SERGEANT BAHR. I was further able to take a 21 page witness statement from SAM HARTER.

8 06-17-92 1100 hrs SAM HARTER, along with SERGEANT BAHR and DETECTIVE ILLINGWORTH went to the Duvall area in Guardian 1, KCP helicopter to identify a site in a remote wooded area east of Duvall, Washington where defendants RHINES and MIGHELL would burn the insulation from wire to make the wire clean so they could present it to a scrap metal company for cash.

1300 hrs I called DPA BELLOTTI on advice of execution of search warrants and affidavit information. I received that advice and began preparing my affidavit of search warrant.

10 1610 hrs I received a statement from JEREMIAH BRAUNSTEIN of McConnell Electric Company that he would prosecute and assist in this case.

11 06-18-92 Detectives from this unit attempted to locate both defendants RHINES and MIGHELL. Those efforts proved negative.

12 06-19-92 1200 hrs DETECTIVE ALLENDER and SERGEANT BAHR and myself arrived at 2725 Montlake Blvd. at the National Marine Fisheries on the Montlake cut which is a canal in Seattle, Washington. It was believed that defendant MATT MIGHELL's father may have initiated employment for defendant RHINES at this location. Defendant RHINES' car was located in the parking lot of NOAA and defendant RHINES was further observed on a smoke break there at that business. Surveillance was initiated on RHINES. At 1245 hrs RHINES left that business and arrived at 18710 141st Place N.E., Woodinville, WA where defendant MIGHELL was employed. Both defendants were taken into custody without incident and defendant RHINES and defendant MIGHELL's vehicles were impounded for evidence. Defendants were then transported to

SUS: Yes.

DET: Is that correct? Okay. Do you know of any stolen property of any other crimes that they've committed and where it might be located now?

SUS: He just took some ...

DET: Who is "he" that you're talking about?

SUS: MATT MIGHELL took stuff from his work place, like furniture and he stored it in his storage unit .. all in a storage spot on Aurora Ave.

DET: Okay.

SUS:

DET: So you know where the storage unit is where some stolen furniture is from where MATT MIGHELL works?

SUS: Yes.

DET: Okay. So MATT MIGHELL is stealing from his employer, is that right?

SUS: Right.

DET: Okay. Do you know of any other property that MATT MIGHELL has that may be stolen?

SUS: Yes. At JIM MIGHELL's place, they had tools in the shed which was .. I was told by CHARLES that they were all stolen except a few items. And they told me a few items that were stolen.

DET: Okay, so all the tools that MATTHEW MIGHELL's father JIM MIGHELL's house in a shed there at his house, MATTHEW MIGHELL told you that all those tools in his father's shed are stolen, is that right?

SUS: Yes.

DET: Okay. Have you seen any other stolen property or heard about stolen property that either MATTHEW MIGHELL or CHARLES RHINES has told you about?

SUS: CHARLES RHINES has told me about a check, I don't know you call it, where he got \$38,000 off a check and he bought

a truck off of it and sold the truck and bought a car. But it's not in his name.

DET: This \$38,000 you're talking about, on checks, did he write himself forged checks or how did .. how was he able to get \$38,000 from checks?

SUS: He was a manager of Winchell's and , Winchell's Doughnut shop and his paychecks, he was like \$900 a month or \$500. I forget the exact amount and he would erase that and type a new note.

DET: Did he have a machine or something to do that, a typewriter?

SUS: Yes.

DET: And he would make new amounts on his pay checks?

SUS: Yes.

DET: By using this machine then right?

SUS: Right.

DET: Okay. And he had another friend involved and she got, I guess got busted for it.

DET: A friend of his got arrested for forging or altering these checks, is that right?

SUS: Right.

DET: And these were the checks that Winchell's Doughnuts would pay them?

SUS: Right.

DET: Okay. Alright.

SUS: Something else he told me, he took money from the till from Winchell's Doughnuts and also at Dig M Doughnuts when he was working with me. He .. CHARLES RHINES took \$38,000 amount from the payroll, not from the payroll but from the nightly drop.

# ADDENDUM

(1) CR#

2) Victim's Name (Last, First, Middle)	3) Location of Occurrence	4) Date Occurred	5) Time Occurred	6) RD Occurred
--	---------------------------	------------------	------------------	----------------

7) Block No.

(8) VICTIM: Donnivan Schaeffer

CLASSIFICATION: Murder

On 06/03/92, at approximately 2330 hours, I was notified at home by Officer Speer that Sam Harter and his girlfriend, Heather Shepherd were picked up in Seattle, Washington, by Seattle police. Officer Speer advised me that after contacting parents, runaway reports would be made and the two juveniles would be put on a bus for Rapid City at approximately 0130 hours, on 06/04/92.

On 06/04/92, at 0940 hours, I called William Harter at home. We made an appointment to meet at the police department at 10:30 this same morning.

On 06/04/92, at 1030 hours, I met with William Harter at the police department. He told me that he had spoken with Sam briefly over the telephone while they were at the Seattle Police Department. He also informed me that Matt Mighell had called Heather's grandmother, Lillian Harrington, and had told her that Sam and Heather were staying with him, and that he did not want her to think he was taking in runaways. He left a phone number of (206)363-0242.

On 06/04/92, at 1430 hours, I called U. S. West Security Division and learned that telephone number (206)363-0242 is listed to James L. Mighell, 18736 50th Avenue North East, Seattle, Washington.

I called the last known phone number for Charles Rhines in

(9) Officer(s) Reporting  
\* ALLENDER ID# 229

(10) Supervisor Approving  
ID#  
*CPA*

(11) Date & Time  
*7/18/92*

800-631-6888  
EXHIBIT  
**31**  
YOUNG APPENDIX 000203

RAPID CITY POLICE DEPARTMENT  
RAPID CITY, SD  
(12) PAGE 1 OF 1  
(13) CR# 49-1160-18

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred		(5) Time Occurred			
<p>Block No. (8) Seattle, (206)524-2152, and learned that that number had been disconnected.</p> <p>On 06/05/92, I spoke with William Harter. He advised me that his son, Sam, and Sam's girlfriend, Heather, had arrived in town on the Greyhound bus. He thought that it would be wise for me to speak with Sam and felt that Sam had information to give me which could be quite significant.</p> <p>On 06/06/92, at 1000 hours, Sergeant Don Bahr and myself met with Sam Harter at the police station. We had a brief conversation with Sam about his trip in general. At 1040 hours, we conducted a taped interview with Sam. Sam told us that he and Heather had arrived in Seattle on Monday, 05/25/92, at approximately 0120 hours. Charles, along with Matt Mighell picked them up at the bus station. The next day he went with Charles and Matt to Matt's father's house and learned that Charles and Matt had purchased a 70's model, 3/4 ton, four-wheel drive International pickup, maroon in color. <u>Sam told us that he had been with Charles and Matt during 3 burglaries which he believed started on the evening of May 26. On May 27, they stripped insulation off of copper wire which had been stolen the night before.</u> He believed that on the 28th, 29th, and 30th they spent more time removing insulation from copper wire by burning it. On May 30, June 1, 2, and 3, he said that the four of them had stayed in a motel. He thought one of the motels they stayed in was at or near the intersection of 88th and Aurora in Seattle. Sam told us that on the 29th of May, Charles made a statement to Heather saying "I may have killed one person, but I wouldn't kill you." He also said that Charles stated that the only</p>							
(9) Officer(s) Reporting * ALLENDER ID# 229		(10) Supervisor Approving ID# CJA		(11) Date & Time Approved 7/8/92			

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

(8) *Work No.*   
 thing that really bothered him about killing Donnivan was that Donnivan kept repeating "Don't kill me, I won't tell," over and over. Charles also told Sam he was surprised it was so easy to kill someone for the first time. Charles also stated he did not get \$3000.00, but only received \$1800.00 in cash. Charles was also surprised that a 6 inch knife would take Donnivan down so quickly. Charles told Sam that he was wearing a blue jacket and blue jeans on the night of the murder, and that the jacket was stained by Donnivan's blood. He then said that he threw the blue coat and blue jeans in a farmer's yard in between Rapid City and Regional Airport. Sam told us that along with hearing these statements from Charles, he had observed a note which Charles was carrying on him at this time. Sam said that note is a suicide note that Charles originally wrote after killing Donnivan. The note contains a confession to Donnivan's murder. Charles told Sam that he had originally planned to kill himself in the Redwood Forests of California and leave this note on his body as an explanation. Charles later changed his mind about killing himself when he was questioned but not arrested by police. This interview with Sam Harter ended at 1126 hours. (See taped statement for further details).

On 06/06/92, Sergeant Bahr and myself conducted a taped interview with Heather Jo Shepard, DOB 05/07/76, 321 Patton Street, 348-2544. Her guardian is grandmother, Lila Harrington. The interview began at 1150 hours. Heather had been Sam's girlfriend for approximately 1 month when she decided to travel to Seattle with him on vacation. She said that she had heard about Charles but had not heard any specific details about the murder. She said

(9) Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID# <i>Ch</i>	(11) Date & Time Approved <i>7/1/92</i>
--	--	--

# ADDENDUM

(1) CR#

92-10020

2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred

RAPID CITY POLICE DEPARTMENT

RAPID CITY, SD

(12) PAGE 4 OF 1

(13) CR# 92-10020

No. (8) That during the initial part of her stay with Charles Rhines and Matt Mighell, Charles asked her "Do you know about Donnivan?" then went on to tell her details of how he had committed this murder. He told her that he had only planned to rob Dig 'Em Donuts and was either in the till or the safe when Donnivan walked in. Charles was then very scared and stabbed Donnivan. Charles stated he was so scared he did not remember tying Donnivan up. He also told her that he threw the knife away, but she could not remember where he said. Also during their stay, Sam had told Heather that Charles had just confessed to him to killing someone. Heather believed that one of the names of the motels they stayed in was similar to the Georgianna Hotel. On one occasion, Heather went with Charles, Matt, and Sam to a location somewhere in the forest to burn the insulation off of copper wire which had been stolen. She felt from the way Charles and Matt were acting, and from the fact that they had brought a firearm with them, that she would be killed and that possibly Sam would be killed also. She believed this was going to happen due to the statements that Charles had made about the murder. She said that Charles later said to her that he may have killed one person but he would not kill her, due to the fact that Sam cared about her and he cared about Sam. (See taped statement for further details.)

On 06/08/92, Detective Bruce Evans and myself used four-wheel all-terrain vehicles to search the road ditches on Highway 44 between Rapid City and Rapid City Regional Airport. At approximately 1120 hours, I located a "Botany 500" button-down shirt. This shirt had obviously been there for quite some time. This shirt was taken into Evidence. (See Officer Larry Rose's

(9) Officer(s) Reporting * ALLENDER 229	(10) Supervisor Approving ID#	(11) Date & Time Approved
	<i>[Signature]</i>	7/1/92

# APPENDIX

Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
-------------------------------------	----------------------------	-------------------	-------------------	-----------------

Block No. (B) Report.) It was in the early afternoon hours that we made contact with Marty Rypkema, RR 2, Box 100, 393-0894. Marty told us that sometime in late February or early March he found a blue winter jacket on his property. He believed that his dog had dragged the coat up into the yard. He told us he kept the coat for a couple of months and when no one claimed it threw it away. Detective Bruce Evans would later show Marty Rypkema a photograph of Charles Rhines' blue coat provided by Arnold Hernandez. This was done in an attempt to find out if this could have been the coat discovered on his property. (See Detective Evans' report regarding this specific incident.)

On 06/09/92, Detective Evans and myself again searched an area east of Rapid City, specifically on the property of Marty Rypkema and David Lamb. Nothing further as far as clothing was located.

On 06/08/92, at 0730 hours, I spoke with William Harter on the phone. He advised me that on 06/07/92, sometime in the afternoon, a person who he believed to be Charles Rhines had called Sam Harter's younger brother Titus and asked him if Sam was in jail. He also asked Titus if Sam was in town, etc. William expressed to me a worry he had that Charles Rhines may be in the Rapid City area.

On 06/09/92, I telephoned Detective Bruce Larson of the Seattle Police Department at 206-684-5723. I gave him the information I had regarding the burglaries allegedly being committed by Charles Rhines and Matt Mighell.

Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID# <i>ABE</i>	(11) Date & Time Approved <i>7/1/92</i>
--	---	--

RAPID CITY POLICE DEPARTMENT  
RAPID CITY, SD  
(12) PAGE 5 OF 1  
(13) CR# 92-116628



# APPENDIX

RAPID CITY POLICE DEPARTMENT

RAPID CITY, SD

(12) PAGE

10

OF

1

(13) CR#

92-10608

(2) Victim's Name (Last, First, Middle)	(3) Location of Occurrence	(4) Date Occurred	(5) Time Occurred	(6) RD Occurred
---	----------------------------	-------------------	-------------------	-----------------

Block No. (8)

On 06/10/92, at 1226 hours, I met with Arnold Hernandez at the police department. He viewed the Botany 500 shirt recovered from Highway 44 east. He remarked that Botany 500 is Charles Rhines favorite brand of shirt, however, could not be sure if this particular shirt belonged to him. He also left me various photo negatives along with one photograph at this time. He believed that one of the photo negatives may be of the blue coat owned by Charles Rhines. (See Detective Evans' report regarding possible identification of blue jacket by Marty Rypkema.)

On 06/10/92, at 1500 hours, Sergeant Don Bahr and myself met with Heather Jo Shepard at the police station. She reported being telephoned by Matt Mighell on a fairly regular basis and that the calls usually came from 1730 to 2100 hours. When asked, she said that Charles told her that he buried the clothes he was wearing on the night of the Dig 'Em Donut murder somewhere in the forest between Rapid City and Seattle. The location where the clothes had been buried was something Heather Shepard was not completely sure about. At this time Heather gave Sergeant Bahr and myself one of the cassette tapes she had made of a telephone conversation between her and Matt Mighell.

On 06/10/92, at 1550 hours, Sergeant Bahr and myself spoke to Sam Harter at the police department. Sam told Sergeant Bahr and myself that there was one more thing he had remembered about a conversation between he and Charles Rhines. He said that while they were staying in the motel in Seattle, Rhines asked Sam "What would you have done if I'd have killed Heather?" He also informed us that he now thought Matt Mighell may have been at the scene of

(9) Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID# <i>CM</i>	(11) Date & Time Approved <i>7/1/92</i>
--	--	--

D CITY POLICE DEPARTMENT  
 RAPID CITY, SD  
 (12) PAGE 1 OF 1  
 (13) CR# 92-100028

70-Block No. (8) the murder, however, stated this was just a hunch. We attempted to find out from Sam which part of the Seattle area the burglaries had been committed in. I showed him a map of the Seattle area. He pointed to an area north of Seattle in a suburb named Bothell. He believed they were in this area and told us at this time that if he were there he could drive us to the specific location. He said he remember a place with a name similar to Seagull Electric, as well as two other places which he did not know the names of.

On 06/11/92, in the morning hours, I attended a meeting regarding the progress of the murder investigation. I was informed that Matt Mighell had called Heather Shepard the previous night (06/10/92) and left a call-back number of 206-367-9929. On 06/11/92, at 1330 hours, I called the U. S. West Security Office and learned that the physical location for phone number 206-367-9929 was a pay phone at Circle K Convenience Store, 12248 Aurora Avenue North, Seattle, Washington.

INVESTIGATION CONTINUING, 06/11/92.

(9) Officer(s) Reporting * ALLENDER ID# 229	(10) Supervisor Approving ID# <i>Chc</i>	(11) Date & Time Approved <i>7/6/92</i>
--	---	--

**In The Matter Of:**

*Schaeffer v.*

*Digges*

---

*Sam Harter*

*Vol. 1, January 14, 1994*

---

*Thompson & Thompson*

*Registered Professional Reporters*

*832 St. Joseph Street*

*Eilers Building, Third Floor*

*Rapid City, SD 57701*

*(800) 456-0831 FAX: (605) 343-6842*

*Original File digges3.v1, 97 Pages*

**Word Index included with this Min-U-Script®**



[1]  
[2]  
[3]  
[4]  
[5]  
[6]  
[7]  
[8]  
[9]  
[10]  
[11]  
[12]  
[13]  
[14]  
[15]  
[16]  
[17]  
[18]  
[19]  
[20]  
[21]  
[22]  
[23]  
[24]  
[25]

[1] A: 18.  
[2] Q: Are you married?  
[3] A: Yes, I am.  
[4] Q: Who is your wife?  
[5] A: Heather Jo Harter.  
[6] Q: What was Heather's maiden name?  
[7] A: Shepard.  
[8] Q: Do you have any children?  
[9] A: Yes, I do. I have a little daughter.  
[10] Q: How old is your daughter?  
[11] A: Five months old.  
[12] Q: What is her name?  
[13] A: Faith Nichole Harter.  
[14] Q: What is your address?  
[15] A: 1342 Kansas City Street, Apartment Number  
[16] 3.  
[17] Q: Is that a place you are renting?  
[18] A: Yes, it is.  
[19] Q: What's your telephone number?  
[20] A: 605/348-5209.  
[21] Q: What is your Social Security number?  
[22] A: 504-78-2302.  
[23] Q: Do you have a job today?  
[24] A: Yes, I do.  
[25] Q: Who is your employer?

[1] (Deposition of SAM HARTER, taken before  
[2] me, Judith M. Thompson, a Registered Professional  
[3] Reporter and a Notary Public in and for the County  
[4] of Pennington, State of South Dakota, at 9:00 a.m.,  
[5] on the 14th day of January, 1994, pursuant to  
[6] Notice and/or Stipulation, at the Law Firm of  
[7] Quinn, Eiesland, Day & Barker, Creekside Plaza,  
[8] 2620 Jackson Boulevard, Suite E, in the City of  
[9] Rapid City, County of Pennington, State of South  
[10] Dakota, counsel appearing on behalf of the  
[11] respective parties as hereinbefore indicated.)  
[12] MR. WILSON: Same stipulation, counsel?  
[13] MR. ASHMORE: Yes.  
[14] SAM HARTER,  
[15] a witness being first duly sworn, was examined and  
[16] testified on his oath as follows:  
[17] EXAMINATION  
[18] BY MR. WILSON:  
[19] Q: State your name, please?  
[20] A: Sam Harter.  
[21] Q: Sam, what's your middle name?  
[22] A: Kenneth.  
[23] Q: What's your birth date?  
[24] A: 06-07-75.  
[25] Q: How old are you today?

[1] A: Excavating Specialists.  
[2] Q: Is that a Rapid City company?  
[3] A: Yes, it is.  
[4] Q: What's the name of your boss?  
[5] A: Terry Arsen.  
[6] Q: Is he the owner of the business?  
[7] A: Yes, he is.  
[8] Q: How long have you worked for that company?  
[9] A: About nine months now.  
[10] Q: Is there a period of time where you were  
[11] laid off by that company?  
[12] A: Yes, about a week and a half, two weeks.  
[13] Q: Now, you have been hired back?  
[14] A: Right.  
[15] Q: Sam, I am going to ask you some questions  
[16] today and I want you to, as I suggested to you just  
[17] a moment ago, I want you to try to avoid telling me  
[18] your answer until my question is done.  
[19] A: All right.  
[20] Q: If you can have a little pause, that will  
[21] make it easier for Judy to get it all in her  
[22] machine, all right?  
[23] A: All right.  
[24] Q: It's a common thing that people do, so I  
[25] just remind you because it's sort of unnatural to

[1] anything like that?

[2] A: Yes. He took one daily receipt from the  
[3] office the other time. He took two altogether, one  
[4] — I don't remember exactly where he took it from,  
[5] but he told me about hitting it twice; one was from  
[6] the Base and one was from the Mrs. Scott — I am  
[7] trying to figure — Jeane Scott's till money.

[8] Q: Charles told you he got her money?

[9] A: Yes.

[10] Q: Did he tell you that he got it out of the  
[11] office?

[12] A: It was when he went in — he was working  
[13] on the Base that time — when he went in to drop  
[14] his money in, when he opened the slot he saw one,  
[15] took it out, put his in, and left.

[16] Q: That's what he told you?

[17] A: Yes.

[18] Q: Did he tell you, if you remember, how much  
[19] money he got from the Jeane Scott deposit?

[20] A: He told me, but I don't remember exactly.

[21] He said it was three hundred some.

[22] Q: Did he tell you how much he got on the  
[23] other time he took money?

[24] A: It wasn't quite that much. He told me,  
[25] but I don't remember exactly, but it wasn't as much

[1] A: Yes.

[2] Q: That's what Charles told you?

[3] A: Right.

[4] Q: You don't know that of your own or do you  
[5] know that?

[6] A: I do not know about the first one on my  
[7] own. The second one I knew was taken and I knew  
[8] that it was taken. He told me after I moved in  
[9] with him that he did it. I said, "I figured I knew  
[10] you did."

[11] Q: Do you remember who gave you — let me ask  
[12] you this: do you remember when you got your key to  
[13] the West Main store?

[14] A: I got my key when Karen, the manager,  
[15] hired me, quit. She gave it to Dennis. That's the  
[16] only time I remember a key being given back, is  
[17] Karen gave it back to Dennis and Dennis gave me her  
[18] key.

[19] Q: There's been some talk earlier, Sam, about  
[20] the West Main store being open 24 hours a day, 7  
[21] days a week. Do you know when that changed over to  
[22] being closed sometimes?

[23] A: Exact date, no. It was before the murder,  
[24] though.

[25] Q: Is that about the time you got your key or

[1] as that time.

[2] Q: Sam, did Charles tell you he had taken the  
[3] money from the Jeane Scott deposit — let me say  
[4] this clearly again. You told me that Charles told  
[5] you that he had taken the Jeane Scott deposit,  
[6] right?

[7] A: Yes.

[8] Q: When was this told to you, before or after  
[9] the murder?

[10] A: Before the murder.

[11] Q: What was your understanding about when he  
[12] took the other sum of money? Was that before or  
[13] after the Jeane Scott case?

[14] A: Before.

[15] MR. ASHMORE: Can I interrupt just one  
[16] second? That last —

[17] MR. WILSON: I will say it again.

[18] MR. ASHMORE: Could you?

[19] MR. WILSON: Yes.

[20] Q: (MR. WILSON CONTINUING:) As far as you  
[21] knew, Sam, Charles took money twice: once from the  
[22] Jeane Scott deposit and once somewhere else?

[23] A: Yes.

[24] Q: And that somewhere else would have  
[25] happened before the Jeane Scott theft?

[1] did you get your key before the switchover occurred  
[2] and the switchover is when they began to close the  
[3] store certain times?

[4] A: I got my key before that.

[5] Q: Why did you need a key to the store if it  
[6] was open 24 hours a day?

[7] A: They had closed on holidays. I didn't  
[8] really need a key before that, but I got one.

[9] Q: Was that key to the office or to the back  
[10] door?

[11] A: It was to the baker's door.

[12] Q: Do you know if your key worked in the  
[13] front door?

[14] A: I never opened the front door with my  
[15] key. I don't know if it fit or not.

[16] Q: Sometimes did you work with people as a  
[17] baker and sometimes did you work alone?

[18] A: Yes, true.

[19] Q: Let's talk about the time period for the  
[20] six months before the murder and that would be the  
[21] last three months, roughly, of — three or four  
[22] months of 1991, and the first two or three months  
[23] of 1992. Let's talk about that time period in  
[24] general, okay?

[25] A: Okay.

(1) Q: Was it just the one threat?  
 (2) A: One threat, but he reminded me many  
 (3) times. He told me to remember, especially every  
 (4) time I had to go talk to the cops, he said,  
 (5) remember.

(6) Q: Did you get threatened when you were in  
 (7) Seattle?

(8) A: Yes, we did.

(9) Q: "We" is you and Heather?

(10) A: Yes.

(11) Q: Who did the threatening?

(12) A: Charles and Matt both.

(13) Q: Matt was Charles' roommate then?

(14) A: Right.

(15) Q: What kind of threats did you get in  
 (16) Seattle?

(17) A: In Seattle we had quite a few threats.

(18) One time he was going to kill my wife.

(19) Q: Who is "he"?

(20) A: Charles Rhines and Matt both. We went out  
 (21) to burn some wire out in the boonies, and he was  
 (22) going to kill Heather. I told him, "No way." I  
 (23) wasn't going to allow that.

(24) Q: Why was he going to kill Heather? Why did  
 (25) he tell you he was going to kill Heather?

(1) A: No.

(2) Q: Did you have contact with him after he  
 (3) moved away from the area?

(4) A: He called me on the phone at work a couple  
 (5) times and he wouldn't tell me where he was because  
 (6) he knew I was leaking some information out to the  
 (7) cops. I wanted to tell the cops, but I didn't know  
 (8) how much I could get. I had mixed emotions. I  
 (9) wanted to tell the cops, but yet I was still scared  
 (10) of my own life, so I was letting some of the  
 (11) information known, but not all.

(12) Q: Did you get invited to go to Seattle or  
 (13) did you just show up?

(14) A: I got invited.

(15) Q: By?

(16) A: Charles and Matt both.

(17) Q: Did they tell you why they wanted you to  
 (18) come there?

(19) A: No, they didn't. They didn't really say.  
 (20) They sent me money to go up there.

(21) Q: How did you get there?

(22) A: By bus.

(23) Q: Once you got there — well did you buy a  
 (24) round trip bus ticket?

(25) A: Yes.

(1) A: She knew too much. He didn't like Heather  
 (2) because I brought her up because the reason why I  
 (3) brought her up is because I told him I wanted him  
 (4) to know for sure that there was no relationship  
 (5) between me and him, that I was with Heather.

(6) Q: Were you married when you went to Seattle?

(7) A: No, I wasn't.

(8) Q: Got married later?

(9) A: Yes.

(10) Q: Was Heather pregnant when you were in  
 (11) Seattle?

(12) A: No, not that — I think she got pregnant  
 (13) when we were up there.

(14) Q: You are not for sure?

(15) A: I am not positive.

(16) Q: What is the birthday of the baby?

(17) A: It wouldn't be this one; she had two  
 (18) miscarriages before this. This was — she was only  
 (19) five months old.

(20) Q: Was it Charles who reminded you that you  
 (21) shouldn't tell the police what happened?

(22) A: Yes.

(23) Q: Do you know how many times this happened?

(24) A: How many times?

(25) Q: Before he moved away from the area?

(1) Q: What happened to your return ticket?

(2) A: He threw those away.

(3) Q: Who is "he"?

(4) A: Charles and Matt. I don't know which one  
 (5) actually threw it away. They were both out there  
 (6) when I already asked for them back.

(7) Q: You asked for your bus tickets?

(8) A: Yes.

(9) Q: Who did you ask?

(10) A: Charles.

(11) Q: What did Charles tell you?

(12) A: He said, "Well, you are going to have to  
 (13) find your own way home now" because they don't want  
 (14) me to go back.

(15) Q: Did you have any money?

(16) A: No.

(17) Q: Did Heather have any money?

(18) A: No.

(19) Q: Did you ever — were you permitted to call  
 (20) anyone like your parents when you were in Seattle?

(21) A: I never did.

(22) Q: Were you prohibited from calling your  
 (23) parents or did you just not call them?

(24) A: I don't think I ever asked. Heather asked  
 (25) but she was denied.

[1] Q: Who denied her?  
 [2] A: Matt did.  
 [3] Q: Who did she say she wanted to call?  
 [4] A: Her grandma, Lila Harrington.  
 [5] Q: Did you continue to get threats in  
 [6] Seattle?  
 [7] A: Yes, but it wasn't because of the murder  
 [8] case. All the threats wasn't because of the  
 [9] murder.  
 [10] Q: Some of the threats were for other  
 [11] reasons?  
 [12] A: Yes.  
 [13] Q: Like what?  
 [14] A: I found out they were bringing drugs into  
 [15] jail and I found out they were — well, the  
 [16] robberies up there.  
 [17] Q: You went along with some of those  
 [18] robberies?  
 [19] A: Every one, I think.  
 [20] Q: I think on July 24, 1992, you gave a  
 [21] statement to the police and I believe I don't have  
 [22] a copy of that statement with me, but in that  
 [23] statement I believe you for the first time really,  
 [24] told the police a lot of information about what  
 [25] happened that night?

[1] A: Yes, I did.  
 [2] Q: Do you remember that interview?  
 [3] A: Yes.  
 [4] Q: Do you remember why you decided then to  
 [5] tell the police what you knew?  
 [6] A: Because we just got back from Seattle, I  
 [7] figured it's time for — they promised me  
 [8] protection from Charles.  
 [9] Q: Did you tell them in Seattle some things  
 [10] about Charles and the murder, too?  
 [11] A: Yes, I did.  
 [12] Q: How is it that you escaped from Charles  
 [13] and Matt in Seattle?  
 [14] A: We were on what they call Aurora Drive  
 [15] which is — it was hooker street. And the cops saw  
 [16] me with two guys and I was arguing with them and  
 [17] they pulled up.  
 [18] Q: Was Heather in the vicinity?  
 [19] A: She was inside the motel room.  
 [20] Q: What did the cops do?  
 [21] A: I got the cops, told Charles and Matt to  
 [22] go back into the motel room. I sat in their car.  
 [23] We was going to go down to the police station. I  
 [24] said, "My girlfriend is in there," and, I said,  
 [25] "she is going to get killed if you don't get her

[1] right now," so the cops turned around and went back  
 [2] and they denied her being in there, but the cops  
 [3] went in anyway, found her in the shower, hiding.  
 [4] Q: Why was she in the shower hiding?  
 [5] A: That's where Matt and Charles told her to  
 [6] hide.  
 [7] Q: And then you went into police custody in  
 [8] Seattle?  
 [9] A: Yes.  
 [10] Q: Did you sometime thereafter tell the  
 [11] police in Seattle about the burglaries and things  
 [12] in Seattle as well as the murder?  
 [13] A: I started to. They didn't want to hear  
 [14] it. They didn't care really.  
 [15] Q: They didn't care about what?  
 [16] A: Any — well, I told them — as soon as I  
 [17] told them I was from South Dakota, and they claimed  
 [18] us as runaways at that time because we were both  
 [19] minors. They figure — they told me to just leave  
 [20] all my information for the cops down here.  
 [21] Q: Did you tell the people in Seattle, did  
 [22] you give any statements in Seattle that you  
 [23] remember?  
 [24] A: After I came back and I flew up with the  
 [25] cops, I made statements up there.

[1] Q: Okay. After Charles Rhines was fired — I  
 [2] am shifting gears on you here now — after Charles  
 [3] was fired and before he moved out to wherever he  
 [4] moved to, and before the murder, did Charles ever  
 [5] come in the store while you were working there?  
 [6] A: Yes.  
 [7] Q: How often did that happen?  
 [8] A: He would drop me off and pick me up.  
 [9] Sometimes he'd leave right away, but sometimes he'd  
 [10] stay for a couple hours and then leave, go home,  
 [11] sleep, come back, help me finish up, clean up.  
 [12] Q: I think Charles was fired February 20, is  
 [13] that about right?  
 [14] A: Probably. I don't know for sure.  
 [15] Q: Did Dennis ever see you and Charles in the  
 [16] store together when — rather, after Charles was  
 [17] fired?  
 [18] A: Yes.  
 [19] Q: When did that happen?  
 [20] A: About a week afterwards was the first time  
 [21] him and Charles talked after that. Dennis was  
 [22] going to hire Charles back.  
 [23] Q: How do you know that?  
 [24] A: Because, well, actually Dennis did offer  
 [25] Charles a job back. Charles didn't want it.

[1] Q: Did you hear Dennis say that?  
 [2] A: No, I didn't hear Dennis say that.  
 [3] Charles went — Dennis took Charles in the office  
 [4] and talked for a while and Charles said, "No way, I  
 [5] am not coming back here," and we were getting ready  
 [6] to leave. Said, "There's no way I am coming back  
 [7] to work here for no pay." Dennis did say, "Well,  
 [8] you always helped Sam anyway; what's the  
 [9] difference?"  
 [10] Q: Did you hear this conversation?  
 [11] A: Yes, I heard that part. And Dennis said,  
 [12] "You are always helping Sam, so what's the  
 [13] difference?"  
 [14] Q: This happened in the office?  
 [15] A: That part that I said was when me and  
 [16] Charles was leaving the building, not in the  
 [17] office, after they came out of the office.  
 [18] Q: What time of day would that have been?  
 [19] A: About 6 in the morning.  
 [20] Q: Anybody else hear that kind of remark?  
 [21] A: Charles. Nobody else was there at that  
 [22] time yet.  
 [23] Q: When did you learn that Charles had a past  
 [24] criminal record?  
 [25] A: When?

[1] A: Right.  
 [2] Q: Was there ever a time that you heard  
 [3] Charles Rhines tell Dennis Digges about his  
 [4] criminal record?  
 [5] A: Yes, there was.  
 [6] Q: When do you remember that conversation  
 [7] taking place?  
 [8] A: It was before he got fired; it was before  
 [9] the murder. We were in the office; I don't know  
 [10] what time of day we came to pick up a check, so I  
 [11] don't know what time of the day it was; we both  
 [12] were in to pick up our checks and when we come,  
 [13] picked up our checks, Dennis always talked to us  
 [14] two or three hours. You couldn't go in and get  
 [15] your check and leave. He'd sit there and talk to  
 [16] you complaining about the donuts, or basically  
 [17] complaining, or if you had a good day, then he  
 [18] would congratulate us this once in a million. But  
 [19] usually complain about the donuts. And he started  
 [20] telling about the time he hit with the shotgun, the  
 [21] sawed-off shotgun.  
 [22] Q: Let's go to that. Who hit with the  
 [23] shotgun?  
 [24] A: Charles Rhines was telling about the time  
 [25] he held up a store with the shotgun.

[1] Q: Before or after the murder?  
 [2] A: Before.  
 [3] Q: Before or after you moved in with him?  
 [4] A: At the time I was living with him because  
 [5] Dennis warned me.  
 [6] Q: What did Dennis warn you about?  
 [7] A: He told me he had a felony record and I  
 [8] shouldn't move in with him. Started telling me  
 [9] stories about Charles.  
 [10] Q: What kind of stories did Dennis tell you?  
 [11] A: He told me about his criminal record; I  
 [12] think — well, I thought for sure that part about  
 [13] him being homosexual was brought up at that time; I  
 [14] did not believe it, nobody believed it. But Dennis  
 [15] — I guess Dennis knew before that.  
 [16] Q: You guessed that because Dennis told you  
 [17] that?  
 [18] A: Right.  
 [19] Q: In your opinion was Dennis Digges fond of  
 [20] you?  
 [21] A: Dennis Digges and I got along real great.  
 [22] He said, yeah, he told the sales person that one  
 [23] time, he says, "Yes, this is my little pet;" he  
 [24] made that statement.  
 [25] Q: Referring to you?

[1] Q: Who was he telling this to?  
 [2] A: Dennis Digges and me. It was either Doug  
 [3] or Grandpa Dee in there with him. I don't know  
 [4] which other one was. I remember somebody else  
 [5] sitting in the chair; I can't picture who it was.  
 [6] I can't remember who it was. There's another guy  
 [7] there, but I can't remember.  
 [8] Q: How did the conversation get started about  
 [9] Charles' past criminal behavior, if you remember?  
 [10] A: We were talking about the time Jeane Scott  
 [11] took that money — I mean, Charles took that money  
 [12] from Jeane Scott. That's when Charles admitted to  
 [13] Dennis Digges.  
 [14] Q: Admitted that what?  
 [15] A: He took the money from Jeane Scott. He  
 [16] thought Charles was kind of bragging that he did it  
 [17] and Dennis never knew about it.  
 [18] Q: Was he kidding with Dennis?  
 [19] A: He was just kind of — Dennis knew that  
 [20] Charles did it before and I think Dennis actually  
 [21] said something like, "I am going to deduct that  
 [22] pay, deduct it out of your pay." Charles said,  
 [23] "No, you never knew I did it; you can't deduct it  
 [24] now." That's how it started.  
 [25] Q: So Charles was talking about a prior



[1] holdup he had committed?

[2] A: The shotgun and also he told about the  
[3] Winchell's he used to work in, how he would take  
[4] money from the till quite a bit. That's the day we  
[5] were told we could take money from the till was  
[6] through that talk.

[7] Q: What were you told about taking money from  
[8] the till?

[9] A: Because both me and Charles asked for a  
[10] raise; we threatened to quit if we didn't get a  
[11] raise. And he said, well, he couldn't give me a  
[12] raise because he is not — he said he didn't have  
[13] enough — wasn't making enough money to do that and  
[14] he didn't want to — he said — at first he was  
[15] telling me how to run a business, kind of. He said  
[16] the first three years of your business you don't  
[17] want to show any profit, you want to show a loss;  
[18] that's what he is trying to do. So he told us how  
[19] we was going to get our money was at night, every  
[20] other dozen, we could keep the — pocket the  
[21] money. He showed us how to do that.

[22] Q: How did he show you?

[23] A: He told us with the cash register open, he  
[24] said, it would be a no sale.

[25] Q: With that button?

[1] A: Uh-huh.

[2] Q: Did you and Charles take money out of the  
[3] till that way?

[4] A: Yes, quite a bit.

[5] Q: So if a customer came in and bought a  
[6] dozen donuts, would you ring up the sale?

[7] A: I'd ring up half of them; when he buys a  
[8] dozen, I'd ring it up; next person came in to buy a  
[9] dozen, I wouldn't ring them up; the total was  
[10] \$4.60, he'd give it to you; most of them are steady  
[11] customers; they knew it, new us.

[12] Q: How much per month did you get out of the  
[13] till that way, if you know?

[14] A: Enough to pay rent because that's how we  
[15] paid our rent. Every day we'd put, me and —  
[16] Charles, worked up at East North store; I worked  
[17] down here. And every night we come home and put it  
[18] in that jar; paid our rent plus utilities. One  
[19] month we did quite good. We paid our month and  
[20] utilities both.

[21] Q: Sam, is it your testimony that Dennis  
[22] Digges knew you were doing this?

[23] A: Yes, Dennis Digges knew. He told us not  
[24] to let Connie know because Connie would disagree.  
[25] I told Donna about it the night she was firing me.

[1] Q: Donna Digges?

[2] A: Right, because I took \$20 out of the till  
[3] to go back to the fair.

[4] Q: Did Donna know that you had been doing  
[5] this?

[6] A: She did not know until that time. Dennis  
[7] told her that it hasn't been going on. I just made  
[8] that up, is what Dennis told her.

[9] Q: How do you know that?

[10] A: Because he talked to me afterwards. He  
[11] said, "I told you not to tell anybody." He said,  
[12] "Don't ever tell Donna." He didn't want — him  
[13] and Scott came and confronted me; him and Ken  
[14] Scott, they confronted me about that and about  
[15] supposedly I got Ken Scott's daughter pregnant.  
[16] And also about the problems between Ken Scott and  
[17] his wife, I wasn't supposed to tell anybody about.

[18] Q: Sometimes did you work alone at night?

[19] A: Most of the time I did.

[20] Q: Did sometimes you invite friends or other  
[21] people to come and hang around with you while you  
[22] were working?

[23] A: Most of the time I did.

[24] Q: Sometimes you found people who would do  
[25] that?

[1] A: Yes.

[2] Q: Why did you do that?

[3] A: Because I was scared and I am the type  
[4] that wants people around me all the time.

[5] Q: What were you scared of?

[6] A: Just working at night, it gets boring and  
[7] everybody gets scared. I mean, you never know  
[8] what's going to happen.

[9] Q: Did some of the other stores have only one  
[10] baker working?

[11] A: Very seldom. The Base store always only  
[12] had one baker except for when Dennis went out there  
[13] and baked; Dennis and Connie go out together. East  
[14] North store did sometimes, but very seldom; usually  
[15] was two bakers. West Main, Joe Belgarde baked a  
[16] couple times by himself, but most of the time it  
[17] was me by myself. I don't think any other bakers  
[18] had worked by themselves except Charles Rhines up  
[19] at East North.

[20] Q: Did you complain to the boss to work alone  
[21] when other bakers had help?

[22] A: I complained a great deal. I complained  
[23] because I was the only one who worked by myself. I  
[24] had to work seven days a week. I got tired of it.  
[25] That's why I quit.