

75318

R E P O R T E R ' S R E C O R D  
VOLUME 15 of 19

TRIAL COURT CAUSE NO. 48,950-D

THE STATE OF TEXAS	)	IN THE 320TH DISTRICT COURT
	)	
	)	
VS.	)	IN AND FOR
	)	
	)	
TRAVIS TREVINO RUNNELS	)	POTTER COUNTY, TEXAS

\*\*\*\*\*

TRIAL ON THE MERITS

OCTOBER 26, 2005

\*\*\*\*\*

**FILED IN**  
**COURT OF CRIMINAL APPEALS**  
MAY 02 2005  
**Louise Pearson, Clerk**

On the 26th day of October, 2005, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Don Emerson, Judge Presiding, held in Amarillo, Potter County, Texas:

Proceedings reported by Machine Shorthand.

**ORIGINAL**

## A-P-P-E-A-R-A-N-C-E-S:

FOR THE STATE:

MR. RANDALL SIMS  
SBOT: 18426650  
MR. JAMES ALLEN YONTZ  
SBOT: 24044106  
MR. JOHN L. "JACK" OWEN  
SBOT: 15369200  
47th District Attorney's Office  
501 Fillmore, Suite 5-A  
Amarillo, Texas 79101

FOR THE DEFENDANT:

MR. JAMES D. DURHAM  
SBOT: 06284000  
Attorney at Law  
1008 W. 10th  
Amarillo, Texas 79101

MS. LAURA D. HAMILTON  
SBOT: 20016450  
Attorney at Law  
215 W. 7th  
Amarillo, Texas 79101

CHRONOLOGICAL INDEX

VOLUME 15

(TRIAL ON THE MERITS)

						Page
<b>OCTOBER 26, 2005</b>						
Caption and Appearances -----						1-2
Proceedings -----						3
Jury Sworn -----						4
Defendant's Plea -----						8
State's Opening Statement -----						21
STATE'S WITNESSES:	<b>DX</b>	<b>CX</b>	<b>RDX</b>	<b>RCX</b>	<b>VDX</b>	
<b>CATHERINE NALL</b>	24					
<b>SRIDHAR NATARAJAN, M.D.</b>	26	42				
<b>BUD WILLIAMS, JR.</b>	52	65	76 82	78 83		
<b>WILLIAM GILCHRIST</b>	84	111				
<b>JIMMY JORDAN</b>	124	136	158 163	159 164		
<b>WILLIAM ELKINS</b>	165	178	192 198	196		
<b>TONY IRVINE</b>	199 202	213			202	
<b>EUGENE JOHNSON</b>	216	224				
<b>PHILLIP YOW</b>	231	242				
Adjournment -----						246
Reporter's Certificate -----						247

## ALPHABETICAL INDEX

## VOLUME 15

	DX	CX	RDX	RCX	VDX
Elkins, William	165	178	192 198	196	
Gilchrist, William	84	111			
Irvine, Tony	199 202	213			202
Johnson, Eugene	216	224			
Jordan, Jimmy	124	136	158 163	159 164	
Nall, Catherine	24				
Natarajan, M.D., Sridhar	26	42			
Williams, Jr., Bud	52	65	76 82	78 83	
Yow, Phillip	231	242			

## EXHIBIT INDEX

## VOLUME 15

EXHIBIT NUMBER	DESCRIPTION	OFFERED	ADMITTED
Sx. 1	Photo of Stanley Allen Wiley	25	25
Sx. 36	Diagram of neck used to describe injuries	41	41
Sx. 37	Diagram of neck	41	41
Sx. 51	Photograph of knives	105	105

1                    PROCEEDINGS  
2                    OCTOBER 26, 2005  
3                    (Open court, defendant present, no jury)  
4                    MR. OWEN: Before we proceed, in the interest  
5 of time, the State moves to -- for trial amendment to correct  
6 an error of nomenclature in the indictment. The prison system  
7 is referred to as the Texas Department of Corrections,  
8 Institutional Division, and we would ask that it be amended to  
9 refer to it as the Texas Department of Criminal Justice,  
10 Institutional Division.  
11                   MR. DURHAM: A trial amendment after we pick  
12 the jury, three years after the alleged crime, two years after  
13 the indictment? We cannot agree on that, Your Honor. We move  
14 that they proceed to trial on the indictment that was  
15 returned.  
16                   MR. OWEN: That's fine, Your Honor. We were  
17 just trying to save some time in the presentation.  
18                   THE COURT: Well, maybe saving time would have  
19 been easier if we had indicted it to begin with.  
20                   Okay. Bring the jury in.  
21                   (Jury enters the courtroom)  
22                   THE COURT: Well, we are all finally here  
23 together. Thank you for being with us. The first thing I  
24 need to do this morning is swear you in as jurors. If you'll  
25 each please raise your right hands.

1 lawyers can discuss some things with me. If that occurs and  
2 it looks like it's going to be a little while, I'll --  
3 certainly, Gary will tell you and you can separate and that  
4 will just be an additional break for you.  
5                   But we -- I guess what I'm really trying to say  
6 is, we're not going to be dawdling around, okay? We'll get  
7 you in and out of here just as quickly as we can. That's  
8 something we sort of take pride in trying to do.  
9                   Okay. The first thing we will do this morning  
10 is I will have the indictment read. Following that, the  
11 completion of the indictment being read, we will take the  
12 defendant's formal plea to the charge contained in the  
13 indictment. After that, I'll swear as many of the jurors  
14 (sic) who are here in the hallway and present at this time as  
15 a group so I won't have to do it individually.  
16                   MR. DURHAM: Pardon me. You mean the  
17 witnesses?  
18                   THE COURT: What did I say?  
19                   MR. DURHAM: The jurors.  
20                   THE COURT: No, I just swore them.  
21                   MR. DURHAM: I thought you did. I was  
22 wondering if we were going to have a shadow jury or something.  
23                   THE COURT: Okay. Well, as long as Mr. Durham  
24 is here, he's going to keep me on my toes with the words that  
25 I use. The witnesses is who I'll swear as a group, and that

1                   (Jury panel sworn)  
2                   THE COURT: Okay. You have some instructions  
3 there. Those are your rules of the road to operate by during  
4 the trial of this case. There's -- you know, one copy is  
5 laminated. Obviously, you can't fold that up. But there's  
6 another copy that you can certainly fold up and keep with you.  
7                   The important thing about these badges you have  
8 is that I need you to keep those on at all times that you're  
9 in the courthouse. No one would intentionally say anything in  
10 your presence about this case if they knew you were a juror,  
11 but if they -- if you don't have a badge on, they might not  
12 know. We all ride up in the same two elevators together,  
13 except those of us who choose to walk up the stairs. I don't  
14 know any of those folks, but I think there are some that do  
15 that, but the rest of us ride the elevator. So if you'll keep  
16 those on, I would certainly appreciate it.  
17                   As I told you at various times while we were  
18 selecting the jury in this case, we will work from about  
19 nine o'clock each day until about five o'clock. We'll take an  
20 hour and 15 minutes or so for lunch each day. We will try to  
21 take only one major break during the morning and one during  
22 the afternoon, and we'll just move through this case as  
23 quickly and expeditiously as we possibly can.  
24                   There may be things that come up and I may need  
25 to remove you from the courtroom for other reasons so that the

1 way we don't have to do it individually.  
2                   After that, then, I will remove all the  
3 witnesses who were sworn from the courtroom and have them wait  
4 in the hallway or elsewhere in the building.  
5                   The attorneys will have an opportunity to make  
6 opening argument to you. Opening argument is not -- actually,  
7 I should call it opening statement. It's not intended to be  
8 argument in the case, it's more intended to be an outline of  
9 how the presentation of the evidence will go; how the  
10 witnesses will come forth to testify, perhaps by name, but an  
11 explanation will be given whether they're going to proceed  
12 kind of chronologically or whether things will be a little bit  
13 mixed up and out of order so that you can better understand  
14 the nature of how the case will progress.  
15                   Neither side is under an obligation to make an  
16 opening statement, but they normally do. The State normally  
17 makes an opening statement first because the burden of proof  
18 is always on them, as we discussed.  
19                   The defendant may choose to make an opening  
20 statement or may choose to wait until the State has concluded  
21 its presentation of evidence and then make an opening  
22 statement. That's completely up to them and I haven't asked  
23 and they haven't told me as to what they intend to do about  
24 that. That's the next thing that will happen, if it does.  
25                   After that, we'll begin the presentation of the

Page 7

1 evidence. We'll just start going through the witnesses one by  
2 one and see where we go.  
3       Okay. All right. Mr. Runnels, if you would  
4 please stand for the indictment to be read.  
5       Mr. Sims, if you would read the indictment,  
6 please.  
7       MR. SIMS: "In the name and by the Authority of  
8 the State of Texas:  
9       "The Grand Jurors for Potter County, Texas,  
10 duly organized and sworn as such at the January Term A.D.,  
11 2004 of the District Court of the 251st Judicial District, in  
12 and for Potter County, Texas, upon their oaths in that Court  
13 at that term, present that Travis Trevino Runnels, on or about  
14 the 29th day of January, 2003 and before the presentment of  
15 this indictment, in Potter County, Texas, did then and there  
16 intentionally or knowingly cause the death of an individual,  
17 namely, Stanley Allen Wiley, by cutting Stanley Allen Wiley  
18 with a knife, and the defendant was then and there  
19 incarcerated in a penal institution, to-wit: the William P.  
20 Clements Unit of the Texas Department of Corrections,  
21 Institutional Division, and the said Stanley Allen Wiley was  
22 then and there employed in the operation of said penal  
23 institution.  
24       "Against the peace and dignity of the State."  
25       It is signed by the foreperson of the grand

Page 8

1 jury.  
2       THE COURT: Mr. Runnels, how do you plead,  
3 guilty or not guilty?  
4       MR. RUNNELS: I plead guilty, Your Honor.  
5       THE COURT: Members of the jury, I will need  
6 you to step into the jury room, please, at this time. I'll  
7 get you back out here shortly.  
8       (Jury left the courtroom)  
9       THE COURT: Mr. Runnels, you have entered a  
10 plea of guilty to the offense charged in the indictment before  
11 this jury. Several things come into play at this point that I  
12 need to visit with you about.  
13       First of all, because this is a case in which  
14 the State has indicated it's -- that it's seeking the death  
15 penalty, it's not a situation where any jury trial can ever be  
16 waived. You understand that?  
17       MR. RUNNELS: Yes, sir.  
18       THE COURT: And that's why the jury is here.  
19 However, your -- your plea of guilty before the jury, you need  
20 to understand, sir, that if you persist in that plea and I  
21 find that that plea is -- is voluntary and that you have done  
22 it with full knowledge of the results of your plea of guilty,  
23 I'll instruct the jury to return in accordance with your plea  
24 a finding of guilt. Do you understand that?  
25       MR. RUNNELS: Yes, sir.

Page 9

1       THE COURT: That instruction will preclude them  
2 from even having the opportunity to consider whether the State  
3 has met its burden of proof. Your plea of guilty in this  
4 case -- and this doesn't differ from any other criminal  
5 case -- will be all the evidence that's necessary to support a  
6 finding of guilt. Do you understand that?  
7       MR. RUNNELS: Yes, sir.  
8       THE COURT: Even though that's true, the State  
9 no doubt will put on much of the same evidence that it would  
10 have anyway in order to give the jury an idea of what this  
11 case is all about. Do you understand that?  
12       MR. RUNNELS: Yes, sir.  
13       THE COURT: But there will not be an issue of  
14 your guilt or innocence. Do you understand that?  
15       MR. RUNNELS: Yes, sir.  
16       THE COURT: You understand that you still  
17 maintain all the rights and privileges that you enjoy under  
18 the constitution and laws of the State of Texas and of the  
19 United States, but the -- with regard to the jury being able  
20 to consider guilt/innocence stage of this trial, that will not  
21 be one of them?  
22       You still have the right against self-  
23 incrimination, you know. You're not going to have to testify  
24 in this case. And I only tell you that because there have  
25 been cases in the past where people have said, "Well, my

Page 10

1 entering a plea of guilty to the jury is really, in effect,  
2 testifying, and nobody told me that I didn't have to do that."  
3       And our court of criminal appeals has said,  
4 "No, that's not the case," but -- under Texas law and the  
5 United States constitutional law, but I'm telling you that  
6 just to give you a heads up on that. All right?  
7       And you're still going to be able to, you know,  
8 call witnesses of your own, cross-examine witnesses, have all  
9 the witnesses testify in front of you.  
10       Nothing is going to change in this trial with  
11 regard to all of your rights other than the ability of the  
12 jury to require the State -- and your ability to require the  
13 State to prove their case beyond a reasonable doubt with  
14 regard to your guilt or innocence. Do you understand what  
15 I've told you?  
16       MR. RUNNELS: Yes, sir.  
17       THE COURT: Knowing that your plea of guilty,  
18 if I receive that, is going to result in you being found  
19 guilty of this case, and knowing that the State is seeking the  
20 death penalty in this case, do you really want to do this?  
21       MR. RUNNELS: Yes, sir.  
22       THE COURT: Okay. The State is still going to,  
23 as you've heard us discuss time and time again for days, they  
24 have the burden of proof with regard to the first special  
25 issue, and there will still be evidence entertained with

Page 11

1 regard to the second special issue, that being the mitigation  
2 issue. You understand that?  
3 MR. RUNNELS: Yes, sir.  
4 THE COURT: So the only thing that's going to  
5 change is that I will have to tell this jury that they must  
6 return a finding of guilt if you persist in this plea. Is  
7 that what you want to do? Do you want to persist in it?  
8 MR. RUNNELS: Yes, sir.  
9 THE COURT: Okay.  
10 MR. DURHAM: Your Honor, I have a document I  
11 wish to file for the Court. I'll provide a copy, unsigned  
12 copy, but a copy to the district attorney.  
13 THE COURT: Okay. Mr. Runnels, this affidavit  
14 that I've been handed says that you, having discussed the  
15 strategic and tactical aspects of a plea of guilty in this  
16 case, freely and voluntarily decided to enter this plea of  
17 guilty, and you have signed that.  
18 Is that what you fully intended to do?  
19 MR. RUNNELS: Yes, sir.  
20 THE COURT: All right. I will file that, then,  
21 among the papers of this cause.  
22 Okay. Bring the jury in.  
23 (Jury returned to the courtroom)  
24 THE COURT: Members of the jury, the defendant  
25 has entered his plea of guilty to the charge contained in the

Page 12

1 indictment before you. I have talked with him and he persists  
2 in his plea of guilty. I have found that that plea is freely  
3 and voluntarily entered into, and because of that, at the  
4 conclusion of this case, I will instruct you to return a  
5 finding of guilty of the charges contained in the indictment  
6 in this case.  
7 That does not preclude anything about the  
8 presentation of the evidence. The State will still call  
9 witnesses, as will the defense, with regard to other factors  
10 in this case. Then both sides are interested in you having a  
11 full and complete opportunity to know everything that you can  
12 about this case in order to make an intelligent decision with  
13 regard to those special issues that we discussed that will  
14 still be put to you.  
15 Okay. Do you have any witnesses here that are  
16 to be sworn?  
17 (Pause)  
18 THE COURT: Okay. If you folks who intend to  
19 testify this morning will please raise your right hands.  
20 (Witnesses sworn)  
21 THE COURT: Okay. If you would step back  
22 outside, please, we'll call you in when we need you. Do not  
23 discuss anything about the case among yourselves or with  
24 others.  
25 MR. DURHAM: Your Honor, for the record, we

Page 13

1 will invoke the Rule. Our witnesses are under subpoena for  
2 the 31st, and they will be instructed as to the Rule.  
3 THE COURT: Okay. Thank you, sir.  
4 Does the State wish to make an opening  
5 statement?  
6 MR. SIMS: Your Honor, could we approach a  
7 moment?  
8 THE COURT: Sure.  
9 (At the bench, off the record)  
10 THE COURT: Okay, folks, we're going to take a  
11 15-minute recess. I know you're sitting there thinking, "He  
12 tells us he moves these cases quickly and we just don't  
13 believe it." We'll get rolling here one of these days.  
14 Okay. And feel free to step outside in the  
15 hallway, whatever you care to do.  
16 Okay. We're in recess.  
17 (Jury left the courtroom)  
18 MR. SIMS: I wanted to make sure we're on the  
19 same page about -- procedurally about what we thought was  
20 going to happen, which I think we're going to put on some  
21 evidence, probably significantly less than what we would have,  
22 you're going to wind up charging the jury, then we'll come  
23 back and then do the punishment phase issues separate?  
24 THE COURT: Well, I anticipated that it would  
25 be a unified procedure just like --

Page 14

1 MR. SIMS: Okay.  
2 THE COURT: I mean, I don't see any reason not  
3 to send them out with one charge at this point instructing  
4 them to return a finding of guilty based upon that, and then  
5 to answer the questions --  
6 MR. SIMS: Okay.  
7 THE COURT: -- that are asked.  
8 MR. DURHAM: I thought that -- well, I thought  
9 they would go out and find -- a charge to find guilt, and then  
10 come back and proceed on the punishment and two different  
11 charges, because to do it in one charge, you are, in effect,  
12 instructing them to find him guilty, which is entirely proper,  
13 but it's at the same time that they have to make certain other  
14 findings that is the State's burden, and I believe that --  
15 it's our position, procedurally it would be proper for the  
16 jury at this time to be sent out to return the verdict of  
17 guilty and then proceed on punishment.  
18 THE COURT: Well --  
19 MR. DURHAM: It would be a little more  
20 cumbersome, but we believe it's more protection for the  
21 defendant in terms of making sure that the burden is squarely  
22 on the State rather than going in with a ringing endorsement  
23 of the State by instruction to find the defendant guilty,  
24 followed by questions --  
25 THE COURT: Well, the ringing endorsement of

Page 15

1 the State is driven by the defendant's plea --  
2 MR. DURHAM: Oh, I understand that.  
3 THE COURT: -- of guilty.  
4 MR. DURHAM: I understand. I'm not complaining  
5 about the ringing endorsement, I just would like the ringing  
6 to stop before they consider punishment.  
7 THE COURT: Well, whichever way it is, I'm  
8 still, when I send them out -- if I do that in separate  
9 charges, I'm still going to tell them again --  
10 MR. DURHAM: I understand that.  
11 THE COURT: -- in the punishment charge, "You,  
12 having found the defendant guilty of the offense of capital  
13 murder, must now assess his punishment."  
14 MR. DURHAM: I understand that.  
15 THE COURT: "You do so by" blah, blah, blah.  
16 MR. DURHAM: I understand that.  
17 THE COURT: And I assume that no charge has  
18 been prepared and not laying on your desk to instruct them to  
19 return a verdict of guilty?  
20 MR. OWEN: No, Your Honor.  
21 THE COURT: And the jury -- do you have any  
22 basis for me doing that other than just a gnawing feeling?  
23 MR. DURHAM: Just -- just the feeling within my  
24 innards, also know as gut feeling, yeah, uh-huh.  
25 THE COURT: Okay. How about you, Ms. Hamilton?

Page 16

1 MS. HAMILTON: The only other case I've had  
2 this way, and it wasn't a death penalty case, was that they  
3 did put on a little bit of evidence and then they did send the  
4 jury out and instructed them to come back with guilt, and then  
5 we went on into punishment. We did it that way.  
6 MR. SIMS: It doesn't matter to me. I just  
7 want to make sure we're all on the same page.  
8 THE COURT: For 20-odd years, I have done it as  
9 a unified procedure. Maybe I've been wrong all this time,  
10 but --  
11 MR. DURHAM: I just think that -- I perceive it  
12 to be prejudicial to the defendant to make it a unified  
13 procedure, and it's my obligation to try to prevent that  
14 prejudice, so I'm requesting the Court to send the jury out  
15 for a verdict and then start on punishment.  
16 THE COURT: Do you want me to handwrite one  
17 here on a yellow pad and send them out with it?  
18 MR. DURHAM: I don't expect the Court to do the  
19 State's work.  
20 THE COURT: I can do that. It would be very  
21 short and sweet. Wouldn't be a lot of repeated things in it.  
22 I think what we will do is -- you have somebody  
23 begin to prepare that, please, sir --  
24 MR. SIMS: Yes, sir.  
25 THE COURT: -- and we'll begin to take some

Page 17

1 testimony, and then at some point --  
2 MR. DURHAM: Why is testimony necessary?  
3 THE COURT: Because the State has got the right  
4 to present testimony.  
5 MR. DURHAM: He's pled guilty.  
6 THE COURT: Doesn't make any difference. The  
7 State has the right to present testimony with regard to the  
8 entire thing.  
9 MR. DURHAM: Okay. So it's going -- you're  
10 going to allow repetitious testimony?  
11 THE COURT: Well, yeah, I guess that's one way  
12 of putting it. I mean, I think that's what the -- that's what  
13 the court of criminal appeals has told us that the State has  
14 the right to do.  
15 MR. DURHAM: I understand that.  
16 THE COURT: That's one of the things that the  
17 jury will be instructed in making the decision in regard to  
18 these two questions, is all the evidence surrounding the  
19 crime. Right? Isn't that part of the --  
20 MR. DURHAM: Well, I understand that's what the  
21 Court has done in terms where there was a plea of not guilty  
22 and the State proved their case and then the evidence was re-  
23 tendered either through a motion to reconsider or to recall  
24 the same witnesses. But when we have a plea of guilty, I  
25 think that that would be just like calling -- that would be

Page 18

1 calling the same witness twice on the same issue.  
2 THE COURT: Well, that's what we'll do, then.  
3 Now, given that, do you still want two separate  
4 charges?  
5 MR. DURHAM: No.  
6 THE COURT: Do you want to let it in anyway?  
7 MR. DURHAM: No, I don't think so. What you're  
8 proposing makes it even more prejudicial, so I'm forced to  
9 withdraw my request.  
10 THE COURT: Okay. All right.  
11 MR. SIMS: So we're just going to do one  
12 unified charge at the end, then, or --  
13 THE COURT: Apparently so, yes, sir.  
14 We're going to begin -- if somebody changes  
15 their mind, that's fine. We're going to begin presenting  
16 evidence.  
17 MR. SIMS: Okay. We're ready to do that. We  
18 just wanted to try to line up some witnesses because we  
19 weren't planning some until next week. Those that were from  
20 out of town, we weren't planning on getting them until next  
21 week, and we'll get them in here sooner because we'll just --  
22 THE COURT: Oh, okay. But you do --  
23 MR. SIMS: There's about ten witnesses we won't  
24 call.  
25 THE COURT: You've got somebody here --



Page 19

1 MR. SIMS: Oh, yes, we're ready to go.  
2 THE COURT: -- ready to put on?  
3 MR. SIMS: Yes, sir, we're ready to go.  
4 THE COURT: Okay, okay.  
5 MR. SIMS: We've got at least seven or eight  
6 that are ready to go.  
7 THE COURT: Bring the jury in, please.  
8 MR. DURHAM: You will explain to the jury about  
9 the unified charge?  
10 THE COURT: Yeah.  
11 MR. DURHAM: Before we start --  
12 THE COURT: I think I really already did. I  
13 said -- I said, "I'm going to tell you in the Court's charge  
14 that you are to return a verdict of guilty, and then you will  
15 go on to consider those two questions."  
16 MR. DURHAM: Well, see, my problem is that was  
17 really not clear to me. I really thought that they would go  
18 out and return a verdict. I'm not sure it's clear to them.  
19 THE COURT: Okay.  
20 MR. DURHAM: And I'm going to make a request  
21 that you restate it where they -- where I understand it and  
22 hopefully they will.  
23 THE COURT: Okay. All right.  
24 (Jury entered the courtroom)  
25 THE COURT: Okay. Members of the jury, at

Page 20

1 the -- with the possibility that my words have been confusing  
2 at different times this morning, I've decided to tell you --  
3 explain a little more in depth.  
4 You know, we spent the entire jury selection  
5 process talking to you about the bifurcated system we have in  
6 Texas law; that the first portion of the trial has to do with  
7 the guilt/innocence stage of the trial. The testimony is  
8 presented with regard to that. The jury then takes a charge  
9 that I read to you back to the jury room and you consider that  
10 charge and consider your verdict and determine whether the  
11 State has met its burden to your satisfaction. And if it has,  
12 then you return a verdict of guilty.  
13 At that point, then, the second phase of the  
14 trial, the punishment phase begins. The -- what we're doing  
15 here today, however, with the plea of guilty by the defendant,  
16 will result in only one charge being presented to you, and you  
17 will do two things in that charge.  
18 As a matter of fact, that charge will sort of  
19 tell you to begin with that because the defendant has pleaded  
20 guilty and I have accepted his plea of guilty, that you are  
21 instructed to return a finding of guilty.  
22 Then if we were to jump to the back of the  
23 different charges that you'll receive, they will talk again  
24 about -- I mean, the jury will make a decision there in  
25 accordance -- one of the things that you will make a decision

Page 21

1 with will be in accordance with my instruction.  
2 So I'll tell you to find him guilty and then  
3 you'll find him guilty. Does everyone understand that? And  
4 then you will proceed to answer the questions that we  
5 discussed at great length.  
6 Okay. State wish to make an opening statement?  
7 MR. SIMS: A very brief one, Your Honor.  
8 THE COURT: Go ahead.  
9 STATE'S OPENING STATEMENT  
10 MR. SIMS: May it please the Court, Mr. Durham.  
11 Good morning, ladies and gentlemen.  
12 JURY PANEL: Good morning.  
13 MR. SIMS: The guilty plea in regards to this  
14 particular case is going to shorten the State's witness list  
15 by quite a bit. At this point, I would anticipate we're going  
16 to probably call about ten to 12 witnesses in regards to the  
17 matters and incidents that occurred on January 29th, 2003, to  
18 establish that it occurred at the prison, that the defendant  
19 was involved in this particular incident, and that Mr. Wiley  
20 was working there and was the victim in regards to the  
21 offense.  
22 I m not going to go into a very long lengthy  
23 statement about what all we're going to go through, but we're  
24 going to call -- we're going to call someone to identify a  
25 photograph of Mr. Wiley so that it can be used for

Page 22

1 identification purposes with some of our other witnesses,  
2 particularly the inmates that observed what happened that day.  
3 And, in fact, I anticipate we'll tell you some of the things  
4 that would indicate that the case -- and the actions by the  
5 defendant were thought out and planned. We'll probably bring  
6 somewhere in the neighborhood of six to eight witnesses in  
7 regards to that.  
8 That will probably conclude, then, the evidence  
9 that we will present to you during the guilt/innocence phase  
10 of the trial, and then we will move on into some other  
11 evidence that we think will assist you in regards to answering  
12 Question No. 1 and Question No. 2.  
13 The evidence that you're going to hear in  
14 regards to the offense that occurred on January 29th of 2003  
15 when Mr. Wiley was killed is also going to be critical and  
16 important for you to know and assess in determining your  
17 answer to Question No. 1 and Question No. 2. That's the  
18 reason we're going to go ahead and present that evidence to  
19 you, even though the defendant has pled guilty, because it's  
20 going to provide you information that will assist you in  
21 answering the probability of future dangerousness as well  
22 as --  
23 MR. DURHAM: Pardon me, Your Honor. It's -- I  
24 have to object. They have the burden to prove future  
25 dangerousness, so it's not an assist, it's their burden to

Page 23

1 prove future dangerousness.  
2 THE COURT: Okay. Thank you.  
3 MR. SIMS: Again, the State of Texas has the  
4 burden of proof on Question Issue No. 1. We have no burden of  
5 proof on Question Issue No. 2.  
6 That is what we're going to do in regards to  
7 our case. As I said, it will be quite a bit shorter than  
8 what it would have been otherwise. I appreciate you being  
9 here.  
10 Judge, that concludes my statement.  
11 MR. DURHAM: Your Honor, the defendant, Travis  
12 Runnels, reserves opening statement until presentation of the  
13 State's case, before we call our witnesses. Thank you.  
14 THE COURT: Okay. Call your first witness.  
15 MR. SIMS: Catherine Nall.  
16 Your Honor, may we approach a minute?  
17 THE COURT: Sure.  
18 (At the bench, on the record)  
19 MR. SIMS: We've got family members that we may  
20 call in the punishment phase and they're still in the  
21 courtroom.  
22 THE COURT: It is a unified procedure.  
23 MR. SIMS: Pardon?  
24 THE COURT: We've got a unified proceeding at  
25 this point. You're going to have to take them out of the

Page 24

1 courtroom.  
2 MR. DURHAM: I invoked the Rule.  
3 MR. SIMS: Okay.  
4 MR. DURHAM: Your Honor, while we're here --  
5 while we're here, they have inmates who are under subpoena  
6 that they intend to call, I want them brought into the  
7 courtroom and sworn and instructed on the Rule.  
8 THE COURT: I'll do that at the next break.  
9 MR. DURHAM: Okay.  
10 (Open court)  
11 CATHERINE NALL,  
12 having been first duly sworn, testified as follows:  
13 DIRECT EXAMINATION  
14 BY MR. YONTZ:  
15 Q. Would you state your name, please, ma'am.  
16 A. Yes, sir. My name is Catherine Nall.  
17 Q. Where do you live?  
18 A. I live in Austin, Texas.  
19 Q. Ms. Nall, do you know an individual by the name of  
20 Stanley Allen Wiley?  
21 A. Yes, that would be my brother.  
22 Q. And --  
23 MR. YONTZ: May I approach, Your Honor?  
24 THE COURT: Sure.  
25 Q. (BY MR. YONTZ) I'll show you what's marked as

Page 25

1 State's Exhibit No. 1. Do you know who that individual is?  
2 A. Yes, this is my brother, Stanley.  
3 Q. Where did Stanley work?  
4 A. Stanley worked at the prison in the boot factory.  
5 Q. And do you know what his position was as an employee  
6 of the prison?  
7 A. I believe he was a supervisor.  
8 MR. YONTZ: I have no other questions, Your  
9 Honor. May we publish Exhibit 1?  
10 MR. DURHAM: May I see Exhibit 1? I didn't  
11 look at the back of it.  
12 MR. YONTZ: It says "1".  
13 MR. DURHAM: Well, I don't -- I haven't seen  
14 the back of it, so -- okay. No objection.  
15 THE COURT: Okay. Are you offering Exhibit 1?  
16 MR. YONTZ: Yes.  
17 THE COURT: All right. Now, no objection,  
18 correct?  
19 MR. DURHAM: That's correct, Your Honor.  
20 THE COURT: All right. The exhibit is  
21 received.  
22 MR. YONTZ: No further questions.  
23 MR. DURHAM: I have no questions.  
24 THE COURT: Okay, Ms. Nall, you may step down,  
25 please. If you would return outside, please.

Page 26

1 MS. NALL: Have I been excused? Do I need to  
2 go outside?  
3 MR. YONTZ: May she be excused?  
4 THE COURT: Does anybody intend to recall the  
5 witness?  
6 MR. SIMS: For right now, if she could wait  
7 outside, please.  
8 MR. DURHAM: I have no objection to her being  
9 excused.  
10 THE COURT: Call your next witness.  
11 MR. YONTZ: Your Honor, the State would next  
12 call Dr. Sridhar Natarajan.  
13 THE COURT: Doctor, if you would come right up,  
14 please, and take a seat here on the witness stand.  
15 SRIDHAR NATARAJAN, M.D.,  
16 having been first duly sworn, testified as follows:  
17 DIRECT EXAMINATION  
18 BY MR. YONTZ:  
19 Q. Sir, would you state your name, please?  
20 A. Sridhar Natarajan.  
21 Q. How are you employed, sir?  
22 A. The Chief Medical Examiner for Lubbock County, the  
23 Director of the Division of Forensic Pathology at the Texas  
24 Tech School of Medicine, and an assistant professor at the  
25 School of Medicine.

1 Q. Following that answer, I've got a couple more  
2 questions. First of all, what's forensic pathology?  
3 A. Forensic pathology is the -- providing a manner and  
4 cause of death on a deceased individual after most times  
5 conducting an autopsy, taking photographs, making sure the  
6 body is properly identified, examining the body for wounds,  
7 natural disease, completing a formal report, as well as  
8 providing expert testimony.

9 Q. Doctor, what experience have you had -- let me go  
10 back beyond that. Can you briefly outline your medical  
11 training for the ladies and gentlemen?

12 MR. DURHAM: Your Honor, we'll stipulate that  
13 the doctor is qualified.

14 THE COURT: Come up just a minute, please.  
15 (At the bench, on the record)

16 THE COURT: I know what they want to do, but,  
17 you know, you can't run their case, so please don't offer to  
18 stipulate in front of the jury. I mean, if you want to come  
19 up here and do that and if they want to accept the  
20 stipulation, that's fine.

21 MR. DURHAM: Just not do it in front of the  
22 jury?

23 THE COURT: Yes.

24 MR. DURHAM: Okay. I can do that.

25 THE COURT: Because then it kind of puts them

1 forensic pathology. And from there, I came out to Lubbock and  
2 Texas Tech.

3 Q. As a forensic pathologist and the head of the  
4 division at Texas Tech in Lubbock, how did you become involved  
5 in a Potter County case?

6 A. The County of Lubbock and Texas Tech has contracts  
7 with the outlying counties, such as Potter County, where, when  
8 a justice of the peace requests an autopsy, it will come out  
9 to us.

10 Q. And approximately how many autopsies have you  
11 performed or assisted in?

12 A. I've performed myself approximately 1,300 autopsies,  
13 and I've overseen and reviewed approximately three to four  
14 thousand autopsies.

15 MR. YONTZ: Your Honor, at this time, we would  
16 tender Dr. Sridhar Natarajan as an expert in the area of  
17 forensic pathology.

18 MR. DURHAM: I have no objection.

19 THE COURT: Okay. The witness is qualified.  
20 Let's proceed.

21 Q. (BY MR. YONTZ) Doctor, can you explain to us what  
22 an autopsy is and the steps that are taken pursuant to  
23 protocol in conducting one?

24 A. Initially, a body will be received at the medical  
25 examiner's office. It will arrive in a -- usually in a body

1 in a position of, you know --

2 MR. DURHAM: Which I intended to do.

3 THE COURT: Okay. Well, then, I'm going to  
4 instruct you not to do it again.

5 MR. YONTZ: I'll just be real brief on this and  
6 we'll tender.

7 THE COURT: Okay.  
8 (Open court)

9 Q. (BY MR. YONTZ) Again, Doctor, would you briefly  
10 outline your medical experience and your experience as a  
11 forensic pathologist?

12 A. I did my medical degree at the Medical University of  
13 South Carolina in Charleston, where I received my M.D.  
14 Afterwards, I entered active duty service in the Army and I  
15 trained at the Walter Reed Army Medical Center in Washington,  
16 D.C. and the Brooke Army Medical Center in San Antonio, Texas,  
17 where I did my internship as well as my training in anatomic  
18 and clinical pathology.

19 Afterwards, I was retained at the Brooke Army  
20 Medical Center and was the medical director there for  
21 microbiology, transfusion medicine, as well as flow cytometry  
22 and also conducted autopsies and was a surgical pathologist.  
23 I completed my time in the Army. I went in the Army Reserves,  
24 and at that time also I went over to the Bexar County Forensic  
25 Science Center and received my subspecialty training in

1 bag. Photographs will be taken. There will be verification  
2 of the identity of the decedent, after which an individual  
3 will be assigned to conducting an autopsy.

4 The autopsy -- the body will then be placed on  
5 a table and an external examination will be performed, which  
6 will include examination of clothing as pertinent.

7 Once the external examination is done, which  
8 we'll be looking for things such as disease processes,  
9 injuries, as well as examining the body for height and  
10 appropriate age.

11 Once that's completed, then an internal  
12 examination will be conducted, which will involve actually  
13 cutting into the body, and this will begin with a Y-shaped  
14 incision which is on the chest, and then proceeds down the  
15 chest to the abdomen.

16 The tissue and skin will be reflected back.  
17 Again, there will be an evaluation for injuries and natural  
18 disease. The ribs will be removed, organs within the chest,  
19 as well as the abdomen will be removed, weighed, and examined.

20 In a similar fashion, the neck and head will be  
21 examined. Once the scalp is removed and reflected, the bone  
22 will be cut, the brain will be taken out, examined. And once  
23 all of these things are done, there may be photographs taken  
24 during the process.

25 When completed, we'll provide a preliminary

Page 31

1 report, and at some point, probably within a few weeks to a  
2 couple of months, a final report will be put together.  
3 Q. Doctor, in regard to this, did Justice of the Peace,  
4 Haven Dysart, authorize and request an autopsy to be performed  
5 on the body of Stanley Allen Wiley?  
6 A. Yes.  
7 Q. Can you tell us how that body was received at the  
8 medical investigator's (sic) office?  
9 A. It was received with some medical intervention that  
10 had taken place. It was brought there --  
11 Q. What do you mean by medical intervention?  
12 A. By medical intervention, I'm stating that Mr. Wiley,  
13 after receiving some injuries, had been transported to a local  
14 hospital where an attempt was made to try to minimize his  
15 injuries or try to repair them.  
16 Q. In conducting an autopsy, do you also review the  
17 medical history that may accompany the person, I guess like  
18 hospital reports, hospital information that may give you an  
19 idea as to what the hospital did?  
20 A. Yes.  
21 Q. And did you do that in this case?  
22 A. Yes.  
23 Q. I'm sorry, you were telling us how the body arrived.  
24 A. Correct. It -- it just was received with a tan  
25 blanket overlying the body in a body bag, and we also had law

Page 32

1 enforcement accompany the body to attend the autopsy.  
2 Q. Okay. Is that unusual to have law enforcement  
3 accompany?  
4 A. No. In a case where there's a suspicious death or a  
5 violent death, oftentimes law enforcement will accompany the  
6 body.  
7 Q. Did you, in fact, conduct an autopsy on the body of  
8 Mr. Wiley?  
9 A. Yes.  
10 Q. And did you use the same protocol as you outlined  
11 previously?  
12 A. Yes.  
13 Q. Can you explain to the ladies and gentlemen what  
14 your examination revealed as far as injuries that had been  
15 sustained?  
16 A. The main injuries sustained to Mr. Wiley involved  
17 his neck region. Essentially, we had -- when he arrived to  
18 the morgue, he -- since he had been already at the hospital,  
19 one of the things that had taken place was there was a  
20 suturing of the wound that was found on his neck. The wound,  
21 once it was opened up, we measured it. It was approximately  
22 23 centimeters in length and essentially began from high up on  
23 the right side of his neck and then proceeded downward towards  
24 the front of the neck, across the front, and then over to the  
25 side on the left.

Page 33

1 The tissue in this region was reflected and we  
2 examined to see what were the main injuries within the neck.  
3 Q. Doctor, you indicated it ran from this --  
4 approximately this location under the ear, around to the left  
5 side. (Indicating) Were you able to determine the direction  
6 that the injury was inflicted, whether it was this way or --  
7 from left to right or right to left?  
8 A. I was not able to decide that. There had been some  
9 medical intervention with the suturing, which then hindered  
10 the actual interpretation. But it was definitely a clean  
11 wound in the sense that it was due to a sharp instrument.  
12 Q. Doctor, were there any other significant injuries to  
13 other parts of the body other than the neck and throat area?  
14 A. The only other finding was, evidently some  
15 cardiopulmonary resuscitation had been performed, and there  
16 were two associated rib fractures which we felt were due to  
17 the CPR.  
18 MR. DURHAM: Are you asking me to approve it  
19 before you ask questions?  
20 MR. YONTZ: No, I'm asking for you to look at  
21 it.  
22 THE COURT: Just go on with your examination of  
23 the witness.  
24 Q. (BY MR. YONTZ) Doctor, could I have you step down,  
25 please?

Page 34

1 MR. DURHAM: If he intends to use that as an  
2 exhibit, I don't want it shown to the jury until it's properly  
3 admitted.  
4 THE COURT: Okay. Have the witness identify  
5 that, please.  
6 MR. YONTZ: I'll do that with my next question,  
7 Your Honor.  
8 THE COURT: Okay.  
9 Q. (BY MR. YONTZ) Doctor, are you familiar with this  
10 particular item?  
11 A. Yes.  
12 Q. And what is this?  
13 A. This is a diagram of the region of the neck by a  
14 gentleman by the name of Frank Netter, who did quite a few  
15 anatomy illustrations.  
16 Q. And are the Netter diagrams accepted as accurate  
17 anatomical depictions?  
18 A. Yes.  
19 Q. And is this also accurate?  
20 A. Yes.  
21 MR. YONTZ: Your Honor, we would move State's  
22 Exhibit 37 -- not -- I would mark it at this time as State's  
23 Exhibit 37. I may have a mark on it.  
24 MR. DURHAM: I certainly have no objection to  
25 it being marked.

1 MR. YONTZ: That's fine, it's already marked.  
 2 THE COURT: Okay. Are you offering it then?  
 3 MR. YONTZ: No, sir, because we may mark on it.  
 4 I don't want to --  
 5 MR. DURHAM: Then I don't want it displayed  
 6 until it's -- until it's admitted, Your Honor. I think that's  
 7 the proper procedure.  
 8 MR. YONTZ: Not when you're using charts and  
 9 diagrams to diagram injuries.  
 10 MR. DURHAM: Your Honor, this is improper  
 11 argument before the jury. I've made my objection.  
 12 THE COURT: For the purposes of illustration,  
 13 I'll allow you to exhibit it.  
 14 MR. YONTZ: Thank you.  
 15 THE COURT: And then you can offer it later as  
 16 marked up. Thank you.  
 17 MR. YONTZ: Thank you.  
 18 Q. (BY MR. YONTZ) Doctor, could you step down, please.  
 19 Doctor, what are we looking at?  
 20 A. This is a diagram of the neck. Mainly it's showing  
 21 here the anterior or the front aspect of the neck with the  
 22 skin and some of the muscle and tissue has been removed. So  
 23 you're looking at the internal contents, essentially, of the  
 24 neck, predominantly of the vessels and skeletal muscle.  
 25 Q. Okay. This indicates superficial veins. Are there

1 to the body?  
 2 A. Well, with a sharp force injury such as this, you  
 3 are going to have a great deal of blood and -- blood that's  
 4 going to be released from both the vein and the artery,  
 5 particularly the artery, and even more so because the entire  
 6 vessel has been cut.  
 7 Q. Okay. And in this case, was it a transection of  
 8 those vessels?  
 9 A. Yes, it was.  
 10 Q. Does that pose a serious risk to the individual's  
 11 health?  
 12 A. Yes.  
 13 Q. Can you explain that to the ladies and gentlemen?  
 14 A. Yes. Once vessels of this size, with a large amount  
 15 of blood flow going through them, are either partially cut or  
 16 transected, there's going to be a great deal of hemorrhaging  
 17 or bleeding taking place.  
 18 There's a large amount of blood flow that goes  
 19 to the head, and it precedes through these vessels. So  
 20 there's going to be hemorrhaging coming out, and then in  
 21 addition, the tool itself, the weapon, also cut across the  
 22 trachea, opening the trachea, as well as being -- the thrust  
 23 was forceful enough that it went towards the spine, striking  
 24 the spine, which is located behind all of these systems.  
 25 Q. You indicated the word trachea, what is the trachea?

1 structures beneath this also?  
 2 A. Yes.  
 3 Q. And what would those be?  
 4 A. If you were to reflect or take away the superficial  
 5 muscles here, such as the sternocleidomastoid muscle, and  
 6 moved it back, which has been done over here, you would see  
 7 deeper vessels.  
 8 So the right side is showing more superficial,  
 9 but with reflection of the muscles, you're seeing some of the  
 10 deeper vessels.  
 11 Q. You indicated that there was a rather lengthy cut.  
 12 Can you indicate to us approximately where that cut would have  
 13 gone through on the superficial vessels?  
 14 A. (Witness complies)  
 15 Q. Okay. As it transversed across there, what, if any,  
 16 structures were damaged or severed?  
 17 A. The main injuries that took place here were to the  
 18 external carotid, the internal jugular on the right side.  
 19 Q. Okay.  
 20 A. And those -- we can see the external carotid over  
 21 here, but it's not as easily labeled here because they  
 22 reflected more of the tissue. It happens to be on the left  
 23 side, but in this particular case, the injuries themselves  
 24 took place on the right side.  
 25 Q. When you cut a major vessel like that, what happens

1 MR. DURHAM: Pardon me, Your Honor. If counsel  
 2 is not using the chart, he should remain seated, is my  
 3 understanding of the rules. The doctor is the one using the  
 4 chart.  
 5 THE COURT: Overruled.  
 6 Q. (BY MR. YONTZ) Go ahead. What is the trachea,  
 7 Doctor?  
 8 A. The trachea is the airway where oxygen and other  
 9 elements are going to be proceeding down into the lungs.  
 10 Q. Doctor, I'll show you what has been marked as  
 11 State's Exhibit No. 36, and ask if you're familiar with this  
 12 particular item?  
 13 A. Yes.  
 14 Q. What is this?  
 15 A. These are diagrams that we use in our office to  
 16 describe, in a region of the neck, injuries that may have  
 17 taken place.  
 18 Q. And does this relate to any particular individual  
 19 specifically?  
 20 A. Yes. This relates to Stanley A. Wiley.  
 21 Q. What are we looking at here on these three areas?  
 22 A. Here we're looking at -- actually just looking at  
 23 the front of the trachea. This is some tissue here, soft  
 24 tissue. This is cartilage here. And then we have the  
 25 tracheal cartilage as it proceeds downward. And if you

1 continued, you would see it branching into each of the right  
2 and left lungs respectively.

3 There's a line that has come across here which  
4 essentially is descriptive of the type of injury that was  
5 received location-wise on the trachea.

6 Q. Okay. There is also items on this one, which is the  
7 diagram on the left here, what are we looking at here and  
8 what's noted?

9 A. If you were to take this diagram and rotate it, you  
10 would be looking at the back of it. And that's what we're  
11 looking at here, is the back side of this diagram here, which  
12 is now showing you -- again, you're looking at the back of the  
13 cartilage here. This is the epiglottis.

14 And down here, we just indicated that the  
15 thyroid gland was cut with that injury, as well as, on one  
16 side it was completely cut, and then on the other side it was  
17 partially cut.

18 Q. You indicated this is cartilage. As far as the  
19 make-up of things in the body, skin, muscle, bone, how does  
20 this relate in density and I guess toughness?

21 A. It's going to be more tough than skeletal muscle or  
22 muscle itself. It's going to be -- essentially, the concept  
23 of once a wound is penetrated through the skin, if your blade  
24 is sharp enough, it's going to continue to cut until it  
25 strikes something very firm, which would be most likely like

1 MR. YONTZ: Your Honor, the State would move  
2 Exhibits 36 and 37 at this time.

3 MR. DURHAM: No objection.

4 THE COURT: Exhibits are received.

5 MR. YONTZ: Thank you.

6 Q. (BY MR. YONTZ) Doctor, you've indicated sharp force  
7 injury. What are you talking about when you say the words  
8 sharp force injury?

9 A. Sharp force injuries are injuries due to some sort  
10 of a tool or implement where the cutting edge is sharp enough  
11 that once it is striking, most times the skin, there's going  
12 to be clean separation of the tissue without what we see  
13 underneath, something we call bridging of underlying tissue;  
14 in other words, strands of tissue that are still connected as  
15 we would see in blunt force trauma.

16 Q. Would this be consistent with an injury that could  
17 be caused by a sharp knife?

18 A. Yes.

19 Q. Doctor, during the course of your examination, did  
20 you determine a cause of death in this matter?

21 A. Yes.

22 Q. What was that?

23 A. Sharp force injuries of the neck.

24 Q. Okay. And in regard to this, is that -- are those  
25 findings also consistent with the finding that the manner of

1 dense bone.

2 In striking something like cartilage, if your  
3 weapon is sharp enough and there is enough of an adequate  
4 thrust, it should cut through it.

5 Q. And you indicated this actually went through and  
6 actually went into the spine in the back of the neck?

7 A. That's correct.

8 Q. Is that a wound that's going to be sustained simply  
9 by drawing a sharp object across or are we looking at  
10 something you would describe as with considerable force?

11 MR. DURHAM: Your Honor, some leading is  
12 acceptable, but --

13 THE COURT: Your objection as to leading --

14 MR. DURHAM: Leading.

15 THE COURT: - is sustained.

16 MR. DURHAM: Thank you, Your Honor.

17 Q. (BY MR. YONTZ) How would you describe the force  
18 necessary to cut through the structures of the neck as well as  
19 the cartilage and into the spine?

20 A. When we're describing force, we don't really use a  
21 quantitative number value with sharp force injuries. But with  
22 the type of injuries that are seen, I would state that this is  
23 a moderate to severe level of force required since it did  
24 strike the spine.

25 Q. Okay.

1 death is a homicide?

2 A. Yes.

3 MR. YONTZ: I have no further questions, Your  
4 Honor.

5 MR. DURHAM: If I may have just a moment, Your  
6 Honor.

7 CROSS-EXAMINATION

8 BY MR. DURHAM:

9 Q. Just a couple of questions. And usually when a  
10 lawyer says a couple of questions, they go on and on, but  
11 really, I just have two.

12 You've just testified that the manner of death  
13 was homicide, but that's not consistent with your autopsy  
14 report, is it?

15 A. The manner of death, if I was asked the opinion  
16 of --

17 Q. Sir, it's a yes-or-no question. Is it consistent  
18 with what you put on your autopsy report?

19 A. The manner of death would be determined by the  
20 justice of the peace.

21 Q. Okay. You didn't determine the manner of death?

22 A. No.

23 Q. So, see, I'm already -- already gone past -- that's  
24 my two, except I've got one more, so it's three. Let's go for  
25 four.

Page 43

1 How long is 23 centimeters?  
 2 A. Approximately nine to ten inches.  
 3 Q. All right. Would you open that board and draw the  
 4 approximation of 23 centimeters for the jury's benefit,  
 5 please?  
 6 Or better yet, could we -- could you -- well,  
 7 these are not to scale, are they?  
 8 A. No, they're not.  
 9 Q. Okay. So it would be -- you couldn't -- if you put  
 10 23 centimeters on that, it wouldn't show it properly, would  
 11 it?  
 12 A. I don't believe it would.  
 13 Q. Okay. Well, just open the board and demonstrate to  
 14 the jury how long 23 centimeters is, if you -- if you know  
 15 exactly how long 23 centimeters is.  
 16 A. Well, we would need a ruler.  
 17 Q. Okay. I don't have a ruler.  
 18 THE COURT: Go to my office and get one.  
 19 Q. (BY MR. DURHAM) Does that have centimeters on it?  
 20 It doesn't have centimeters.  
 21 A. Well, we can just -- we can convert.  
 22 Q. Okay.  
 23 A. 2.5 centimeters --  
 24 Q. You may be able to, but I can't.  
 25 Just draw it there for us.

Page 44

1 A. (Witness complies)  
 2 Q. Okay. That's -- you're showing that's -- how long  
 3 is that, please?  
 4 A. This should be approximately 23 right here.  
 5 (Indicating)  
 6 Q. Okay. Okay. So in inches -- tell me in inches  
 7 about what that would be. Just measure it there. Just kind  
 8 of tell us with your measurement about how far that would be.  
 9 A. It would be approximately nine inches.  
 10 Q. Okay. Will you put "nine inches" above that,  
 11 please? You see, I don't understand meters and centimeters or  
 12 millimeters. So the wound was about nine inches long, right?  
 13 A. Yes.  
 14 Q. And a round -- and a roundness like -- of course,  
 15 the neck is round.  
 16 A. Well, the wound is nine inches long.  
 17 Q. On a round surface?  
 18 A. It would be on any surface, it's nine inches.  
 19 Q. Well, but -- well, yeah, that's right. I'm just  
 20 saying that if I draw nine inches across my neck, it would  
 21 cover more than my neck, where if I started up here, it could  
 22 stop somewhere in between or just past halfway. Would you  
 23 agree with that?  
 24 A. I would just state that it's nine inches on your  
 25 neck and you could get it in a variety of ways.

Page 45

1 Q. Depends on the size of your neck?  
 2 A. Yes.  
 3 Q. That's the reason they make shirts in different  
 4 sizes?  
 5 A. Well, it's nine inches on your neck.  
 6 Q. Well, I'm sorry I asked you more than two questions,  
 7 but I really intended to only ask two. Thank you very much.  
 8 MR. DURHAM: I'll pass the witness.  
 9 MR. YONTZ: No further questions, Your Honor.  
 10 THE COURT: Okay, Doctor, you can step down.  
 11 MR. YONTZ: Your Honor, may Dr. Natarajan be  
 12 excused?  
 13 MR. DURHAM: We certainly have no objection.  
 14 THE COURT: Okay. You're free to go. Thanks.  
 15 DR. NATARAJAN: Thank you.  
 16 THE COURT: Call your next witness.  
 17 MR. SIMS: Bud Williams. Our next witness has  
 18 not been sworn, Your Honor.  
 19 (At the bench, on the record)  
 20 MR. DURHAM: This is an inmate who, when he  
 21 gets through testifying, will go back --  
 22 THE COURT: Okay, okay. All right. I wasn't  
 23 aware that we were beginning with the penitentiary guys. I  
 24 thought I said I was going to take them out and swear them all  
 25 in.

Page 46

1 MR. SIMS: Okay.  
 2 (Open court)  
 3 THE COURT: Okay, folks, if you'll step into  
 4 the jury room, please.  
 5 (Jury left the courtroom)  
 6 THE COURT: Okay, Gary, -- how many witnesses  
 7 do you have down there that you intend to call who are  
 8 inmates?  
 9 MR. SIMS: Eight, Your Honor.  
 10 THE COURT: Okay. I need to chain them all in  
 11 a line and bring them up here.  
 12 MR. SIMS: Actually, there's only seven there,  
 13 Your Honor. One is on parole, so he's not in the back.  
 14 THE COURT: Okay. So seven of them on a chain  
 15 and bring them up here to the courtroom, please. Go no  
 16 further than the edge of the jury box with them when they're  
 17 brought up. You can take this guy back and do him the same  
 18 way.  
 19 With regards to your others, what I know is  
 20 coming, there will be no ability to keep these people apart  
 21 after their testimony. I'll swear them in, I'll instruct them  
 22 on the rule. You may certainly voir dire each of them as they  
 23 come up here with regard to any discussions they have, but  
 24 there is simply no way to keep them separate.  
 25 MR. DURHAM: I understand that and I will

Page 47

1 ask -- I would like the opportunity to ask appropriate  
2 questions about their contact outside the presence of the  
3 jury.  
4 MR. SIMS: Your Honor --  
5 THE COURT: I don't know how I'll work that.  
6 Yes, sir?  
7 MR. SIMS: The guards have informed me that  
8 they don't have -- they're just in hand restraints.  
9 THE COURT: Okay.  
10 THE GUARD: We have other restraints down in  
11 holding, we can get them if we need it.  
12 MR. SIMS: And they also are planning, I'm not  
13 sure how, but they're planning on trying to keep them  
14 separate. Once they testify, they're going to try to keep  
15 them not -- from getting back together.  
16 THE COURT: Okay.  
17 MR. DURHAM: That would meet -- what you just  
18 brought up, that would be okay with me.  
19 MR. SIMS: That had been previously discussed  
20 with them.  
21 THE COURT: All right. If that's the  
22 situation, then, how many -- how many do you feel comfortable  
23 bringing up at a time here just for me to swear in and take  
24 them back?  
25 THE GUARD: We can bring them all up if you

Page 48

1 need them, all seven of them. We have two officers in here.  
2 THE COURT: Okay. That would make it a lot  
3 easier, then. And just bring them and hold them right there  
4 in that area and I'll swear them in and then --  
5 THE GUARD: Hand restraints?  
6 THE COURT: Well, yeah, keep --  
7 MR. SIMS: Just hands.  
8 THE COURT: Yeah, just hands is fine, yeah.  
9 (Pause)  
10 MR. SIMS: Judge, I've now been told they're  
11 going to be put in the holding cell together after they  
12 testify. There's not a way to keep them separate here.  
13 THE COURT: Okay.  
14 (Pause)  
15 THE COURT: Okay, I'm going to swear each of  
16 you in as a witness, then I'll give you some instructions with  
17 regard to this trial.  
18 (Witnesses sworn)  
19 MR. YOW: No, sir.  
20 THE COURT: Okay. And your name, sir, is?  
21 MR. YOW: Yow.  
22 THE COURT: Yow?  
23 MR. YOW: Yes, sir.  
24 THE COURT: Okay. Will you affirm to that,  
25 Mr. Yow?

Page 49

1 MR. YOW: Yes, sir. I will not testify at all.  
2 THE COURT: Okay. All right. So you will not  
3 swear nor affirm that you will tell the truth if called as a  
4 witness in this case?  
5 MR. YOW: I'm saying that I would not testify,  
6 so I would not swear in.  
7 THE COURT: All right. Well, that's a decision  
8 that you make. If you -- if you're called as a witness -- you  
9 know, I've got to tell you Mr. Yow, I feel kind of foolish  
10 telling you this --  
11 MR. YOW: Uh-huh.  
12 THE COURT: -- you being in the penitentiary  
13 and all.  
14 MR. YOW: Yes, sir.  
15 THE COURT: But if you refuse to testify as a  
16 witness, I'll hold you in contempt and keep you in jail until  
17 you do agree to testify.  
18 MR. YOW: That's fine. I'll stay in jail, sir.  
19 THE COURT: That's why I say that I feel kind  
20 of foolish.  
21 Okay. Now, as a practical matter, Mr. Yow,  
22 what is going to happen, though, is, if the State insists on  
23 calling you into the courtroom as a witness, I'm still going  
24 to bring you in.  
25 MR. YOW: All right. That's fine. I'll come,

Page 50

1 sir.  
2 THE COURT: And then we'll -- then you can --  
3 if that's your choice, then you'll repeat that refusal again.  
4 MR. YOW: Yes, sir.  
5 THE COURT: Okay. All right. Now, what I was  
6 going to tell you, those of you who will testify, is this:  
7 The Rule has been invoked. What that means is that I am  
8 instructing you not to discuss your testimony or the testimony  
9 of other witnesses with each other or anyone else.  
10 You're not to read anything in the newspaper or  
11 watch television and see the media reports of it, don't listen  
12 to anything about it on the radio with regard to the testimony  
13 of other witnesses. Does everybody understand those things?  
14 WITNESSES: Yes, sir.  
15 THE COURT: Okay. All right. Thanks a lot.  
16 No, sir, step back, please, while we're doing  
17 this. Nobody but prison folks over here. I'm completely  
18 serious, Mr. Sims, not in this area.  
19 Okay. All right. Take them back, please.  
20 Okay. We'll be in recess for about another ten  
21 minutes until the jury gets back, then.  
22 Okay. I need to make something clear here. No  
23 lawyers, State, defense, or otherwise are allowed through this  
24 door.  
25 MR. DURHAM: I've not --



Page 51

1 THE COURT: Nobody.  
 2 MR. DURHAM: I've not been through there.  
 3 THE COURT: I know you haven't, sir, and it's  
 4 not pointed to you --  
 5 MR. DURHAM: All right.  
 6 THE COURT: -- that comment.  
 7 Another thing is, this is a huge security  
 8 issue, and I'm running the courtroom, so when I say, "Move,  
 9 stop, don't," I want those instructions followed explicitly.  
 10 MR. SIMS: Yes, sir.  
 11 THE COURT: I'm not trying to bully this  
 12 courtroom, I'm trying to keep the jurors, the litigants, the  
 13 lawyers, and the gallery safe during this trial.  
 14 MR. SIMS: Yes, sir.  
 15 THE COURT: All right.  
 16 (Recess)  
 17 THE COURT: Okay. Everybody be seated, please.  
 18 (Jury returns to the courtroom)  
 19 THE COURT: Be seated, please.  
 20 Okay. Bring Mr. Williams in, please.  
 21 Mr. Williams, if you would come right through  
 22 the middle there, please, sir, and take a seat back on the  
 23 witness stand.  
 24 Now reach up and pull that microphone sort of  
 25 towards you, Mr. Williams. Thank you.

Page 52

1 Go right ahead.  
 2 BUD WILLIAMS, JR.,  
 3 having been first duly sworn, testified as follows:  
 4 DIRECT EXAMINATION  
 5 BY MR. SIMS:  
 6 Q. Would you state your name, please, sir?  
 7 A. Bud Williams, Jr.  
 8 Q. Where are you currently residing?  
 9 A. Bill Clements Unit.  
 10 Q. Is that a maximum security unit for the Texas  
 11 Department of Criminal Justice, Institutional Division?  
 12 A. Yes, sir.  
 13 Q. What are you in prison for at this time, sir?  
 14 A. Aggravated sexual assault.  
 15 Q. Doing a 55-year sentence out of Potter County; is  
 16 that correct?  
 17 A. Yes, sir.  
 18 Q. In regards to your testimony here today, has anybody  
 19 promised you anything at all?  
 20 A. No, sir.  
 21 Q. Do you know a Travis Trevino Runnels?  
 22 A. Yes, sir.  
 23 Q. See him here in the courtroom today?  
 24 A. Yes, sir.  
 25 Q. Would you please point him out and describe what

Page 53

1 he's wearing?  
 2 A. Red shirt and tie, glasses, tan pants, brown shoes.  
 3 Q. How long have you known him?  
 4 A. About eight years.  
 5 Q. Before being on the Clements Unit with him, were  
 6 y'all in another unit together?  
 7 A. In the Robertson Unit.  
 8 Q. For about how long were you there together?  
 9 A. He was in seg and I was in G-3. I used to cut hair  
 10 back then. Didn't know him back then.  
 11 Q. Okay. Do -- did you know Stan Allen Wiley?  
 12 A. Yes, sir.  
 13 Q. Who was he out at the prison, sir?  
 14 A. He was a boot factory worker, staff.  
 15 Q. I'll show you State's Exhibit No. 1. Are you able  
 16 to recognize that?  
 17 A. Yes, sir.  
 18 Q. Who is that, sir?  
 19 A. Mr. Wiley.  
 20 Q. How did you come to know Mr. Wiley at the prison?  
 21 A. I worked out there about 12 days in the second shift  
 22 boot factory.  
 23 Q. That's all you worked at the boot factory; is that  
 24 correct?  
 25 A. Yes, sir.

Page 54

1 Q. What's your current job?  
 2 A. Barber.  
 3 Q. On January 29th of 2003, are you aware of where this  
 4 defendant, Mr. Runnels, was working?  
 5 MR. DURHAM: Calls for a hearsay response, Your  
 6 Honor, unless he was personally present.  
 7 THE COURT: Overruled.  
 8 Q. (BY MR. SIMS) Are you aware of where Mr. Runnels  
 9 was working?  
 10 A. Yes, sir.  
 11 Q. Where was he working at?  
 12 A. First shift boot factory.  
 13 Q. And there's only one boot factory out at the prison,  
 14 isn't there?  
 15 A. Yes, sir.  
 16 Q. From your discussions with Mr. Runnels, are you  
 17 aware of where he worked at before he was in the boot factory?  
 18 A. He was in the boot factory.  
 19 Q. Before he was in the boot factory?  
 20 A. Before that, he was working as a barber and then in  
 21 the kitchen.  
 22 Q. And from your discussions with Mr. Runnels, why was  
 23 he no longer in the -- a barber, and then why was he no longer  
 24 in the kitchen and now in the boot factory?  
 25 MR. DURHAM: Your Honor, that -- that calls

Page 55

1 for -- that calls for a hearsay response unless it could  
2 involve subjective desires.  
3 THE COURT: Overruled.  
4 A. He was working as a barber and he got switched to  
5 the kitchen, but he had problems in the kitchen with someone,  
6 but they never wrote him a case and he --  
7 MR. DURHAM: That's exactly the gravamen of my  
8 objection, Your Honor. How would he know that -- what those  
9 problems were, if there were, in fact, problems?  
10 THE COURT: As I understood -- and I may be  
11 wrong. As I understood, the question was predicated on what  
12 Mr. Runnels told him.  
13 MR. DURHAM: That was not the answer. That's  
14 my objection. Then it's nonresponsive, ask that it be --  
15 THE COURT: Sustained.  
16 MR. DURHAM: -- stricken and the jury to  
17 disregard.  
18 THE COURT: The jury will disregard the last  
19 answer given.  
20 Q. (BY MR. SIMS) Based on your discussions with  
21 Mr. Runnels, what is your understanding of why he was no  
22 longer in the kitchen, just --  
23 MR. DURHAM: Okay --  
24 THE COURT: Sustained.  
25 A. He told me that a sergeant --

Page 56

1 Q. (BY MR. SIMS) No, you can't --  
2 A. Okay.  
3 Q. Just a minute. Let me ask it this way. Well, I'll  
4 come back to that.  
5 Earlier during the week of January 29th of  
6 2003, did you have some communications and discussions with  
7 the defendant, Mr. Runnels?  
8 A. Yes, sir.  
9 Q. Did any of those deal with -- well, start with that  
10 Monday. Where were you at when you first had a discussion  
11 with Mr. Runnels?  
12 A. We was on the pod in the section together where we  
13 stayed.  
14 MR. DURHAM: Would you speak up just a little  
15 bit, sir?  
16 A. We stayed in the same section together on the pod.  
17 Q. (BY MR. SIMS) Okay. What happened at that time?  
18 A. He was just saying he was trying to get released  
19 from the boot factory to get another job, and saying he was  
20 supposed to have been released from the boot factory, trying  
21 to go back being a barber. And he said that the plant  
22 manager, Mr. Williams, said he would release him if he would  
23 get someone to call him for a job. And so this sergeant  
24 called and said he would give him a job, but they didn't  
25 release him from the job.

Page 57

1 Q. Was Mr. Runnels upset, or how would you characterize  
2 Mr. Runnels' behavior in regards to them not releasing him  
3 from work at the boot factory?  
4 A. He was upset because he was saying that once he got  
5 released, that he would get a barber job, which the sergeant  
6 said he would give him a job, and they didn't release him, so  
7 he was talking to different rank, you know, about trying to  
8 get a job, get from out of there. And one thing led to  
9 another when he said that he was trying to leave from -- he  
10 wanted to be from out there.  
11 So that night, I went in there, I barber, I go  
12 to school, and I went in there --  
13 MR. DURHAM: At some point, this became  
14 nonresponsive to the question.  
15 THE COURT: Sustained.  
16 Q. (BY MR. SIMS) Let me ask a few questions in there,  
17 okay?  
18 Now, in regards to this conversation, that  
19 happened two days before the incident at the boot factory; is  
20 that correct?  
21 A. Yes, sir.  
22 Q. After that -- now, you go to school; is that  
23 correct?  
24 A. Yes, sir.  
25 Q. What time do you have to get up and go to school?

Page 58

1 A. I get up around 4:00. I have to be at school at  
2 5:00.  
3 Q. Okay. Is that about the same time that the  
4 individuals are getting ready to go to the boot factory?  
5 A. Yes, sir.  
6 Q. Y'all start out early --  
7 A. Yes.  
8 Q. -- in the prison system; is that right?  
9 A. Yes, sir.  
10 Q. Okay. Did you wake up one morning and find anything  
11 under your door?  
12 A. I woke up and there were some barber combs up under  
13 my door, and I woke up and asked my cellie who put them under  
14 there. So he said he didn't know. So --  
15 MR. DURHAM: Objection. It's -- Your Honor,  
16 it's not responsive, and also has hearsay in the answer.  
17 THE COURT: Sustained.  
18 MR. DURHAM: May I have an instruction?  
19 THE COURT: Let's proceed.  
20 Q. (BY MR. SIMS) You didn't know who had placed the  
21 barber combs under there, correct?  
22 A. Not at that time. When I woke up, I didn't.  
23 Q. Okay. You asked your cellie about it; is that  
24 correct?  
25 A. Yes, sir.

Page 59

1 Q. After that, who did you ask about it?  
2 A. They rolled the doors for us to come out, and a  
3 couple of other guys said Runnels put his barber combs under  
4 the door.  
5 MR. DURHAM: Your Honor, that's not responsive.  
6 We continually get hearsay responses.  
7 THE COURT: Sustained. Mr. Williams, listen to  
8 the question that you're asked, sir, and answer just that  
9 question, all right?  
10 THE WITNESS: Yes, sir.  
11 Q. (BY MR. SIMS) Once you got out, did you decide to  
12 make contact with Mr. Runnels about --  
13 MR. DURHAM: Leading question, Your Honor.  
14 Counsel is leading his witness.  
15 THE COURT: Don't lead the witness, please,  
16 sir.  
17 Q. (BY MR. SIMS) Did you eventually decide to contact  
18 anyone about the combs that were left under your door?  
19 A. Yes, sir.  
20 Q. Who did you contact?  
21 A. When I come out the cell door, Runnels was standing  
22 in the day room and he told me he put the combs under there.  
23 I said, "For what?" And he said --  
24 MR. DURHAM: Nonresponsive to the question.  
25 Objection.

Page 60

1 THE COURT: Sustained.  
2 Q. (BY MR. SIMS) You've got to let me ask questions  
3 before you answer.  
4 A. Okay.  
5 Q. You just can't tell a narrative story, okay?  
6 MR. DURHAM: We're going to object to the  
7 sidebar comment.  
8 THE COURT: Let's proceed.  
9 Q. (BY MR. SIMS) So you talked to this defendant, when  
10 you said Mr. Runnels; is that correct?  
11 A. Yes, sir.  
12 Q. And he told you what?  
13 A. That he put the barber combs up under my door.  
14 Q. What happened at that point, very next thing?  
15 A. He had a letter in his hand and asked me would I  
16 mail this letter off to his mom if he don't come back. And I  
17 asked him, "Where are you going?" and he said, "I might not  
18 come back. I ain't going to be coming back." So I said,  
19 "Okay. What you going to do?"  
20 Q. What happened at that point?  
21 A. I got the letter and just slid it up under my door  
22 and we were walking on out. He said, "Do you want to know?"  
23 I said, "Not really." He said, "I ain't coming back. Just  
24 make sure the letter gets mailed to my mom." I said, "All  
25 right." He said, "Because they're going" --

Page 61

1 Q. Did he --  
2 A. -- "they're going to ship" --  
3 Q. Did he, in fact, give you a letter --  
4 A. He gave me a letter.  
5 Q. -- at that time?  
6 A. Yes, sir.  
7 Q. Okay.  
8 A. And he said, "Because if they don't release me, I  
9 ain't coming back. They're going to ship me one way or the  
10 other."  
11 MR. DURHAM: That's not responsive to any  
12 question.  
13 THE COURT: Sustained.  
14 MR. DURHAM: May I have --  
15 THE COURT: The jury is instructed to  
16 disregard.  
17 Q. (BY MR. SIMS) After he gave you the letter, what's  
18 the very next thing that happened? Just --  
19 A. I put the letter --  
20 Q. -- the very next thing. Not a whole bunch, just the  
21 next thing.  
22 A. I put the letter up under my door.  
23 Q. Then what happened?  
24 A. We walked off the section.  
25 Q. Okay. Now, you said he told you what about the

Page 62

1 letter? What were your instructions to do with the letter?  
2 MR. DURHAM: Asked and answered.  
3 THE COURT: Sustained.  
4 A. He asked me would I mail it --  
5 THE COURT: Okay. You don't need to answer  
6 that question. I sustained the objection to that, so he'll  
7 ask you another question now.  
8 Q. (BY MR. SIMS) Did you read the letter at that time?  
9 A. No, sir.  
10 Q. At one point, did you tell him, yes, you would like  
11 to know what he was going to do?  
12 A. Yes, sir.  
13 Q. What happened after you told him that?  
14 A. He told me what his intent -- what -- what he was  
15 going to do.  
16 Q. What did he tell you?  
17 A. He said he was going to get shipped one way or  
18 another, that he was going to kill someone. I said, "Man, you  
19 tripping." I mean, you know, "What are you talking about?"  
20 He said, "I'm for real." So --  
21 Q. What happened after that?  
22 A. He went on to the boot factory and I went on to  
23 school.  
24 Q. Did he give you anything else at that time?  
25 A. No, sir.

Page 63

1 Q. Did you ever remember seeing a yellow sheet of  
2 paper?  
3 MR. DURHAM: Leading question.  
4 A. No, sir.  
5 MR. DURHAM: Objection --  
6 THE COURT: Sustained.  
7 MR. DURHAM: -- to the leading --  
8 THE COURT: Sustained.  
9 MR. DURHAM: May I have an instruction to  
10 counsel to stop leading?  
11 THE COURT: Proceed.  
12 Q. (BY MR. SIMS) Besides delivering the letter, did he  
13 ask you to do anything else?  
14 A. No --  
15 Q. At that time, at that time.  
16 A. No, sir.  
17 Q. Okay. Now, did you go on and go to school that day?  
18 A. Yes, sir.  
19 Q. What happened while you were at school?  
20 A. We was in school doing classwork, and all of a  
21 sudden, they said -- had a response to the boot factory.  
22 MR. DURHAM: Hearsay.  
23 THE COURT: Okay. Let's don't ask open-ended  
24 questions that call for a narrative, please. Let's ask direct  
25 questions and then we -- I don't think Mr. Williams knows when

Page 64

1 we want him to stop, you know, when it becomes nonresponsive,  
2 so ask direct questions.  
3 Q. (BY MR. SIMS) You went on to school that day; is  
4 that correct?  
5 A. Yes, sir.  
6 Q. While you were at school that morning, did you  
7 become aware that something had happened on the unit?  
8 A. After they did a response and racked us up.  
9 MR. DURHAM: Your Honor, that's a yes-or-no  
10 question.  
11 THE COURT: Sustained.  
12 MR. DURHAM: It's not a responsive answer.  
13 Q. (BY MR. SIMS) Did you become aware that something  
14 had occurred on the unit?  
15 A. Not until they racked us up.  
16 Q. Tell the ladies and gentlemen of the jury what  
17 racking you up means.  
18 A. That means that everybody on the unit, you go back  
19 to your pod, to your cell, and you're in lockdown.  
20 Q. Will just any kind of minor problem cause the whole  
21 unit to get racked up?  
22 MR. DURHAM: Objection, that calls for an  
23 interpretation of prison policy, Your Honor.  
24 THE COURT: Sustained.  
25 Q. (BY MR. SIMS) How long have you been in prison,

Page 65

1 sir?  
2 A. This is my 13th year.  
3 Q. Based on you being aware that the whole unit had  
4 been racked up, based on your observations, what did you think  
5 had happened that day?  
6 MR. DURHAM: Your Honor, that's not admissible,  
7 what he thought happened, and it calls for a hearsay response  
8 and it is immaterial and it is irrelevant.  
9 THE COURT: Sustained.  
10 Rephrase your question, please.  
11 Q. (BY MR. SIMS) After the unit was racked up -- or,  
12 as a matter of fact, after Mr. Runnels left to go to the boot  
13 factory and you went to school, did you ever see the defendant  
14 again?  
15 A. No, sir, not until today.  
16 MR. SIMS: I'll pass the witness, Your Honor.  
17 MR. DURHAM: Thank you.  
18 CROSS-EXAMINATION  
19 BY MR. DURHAM:  
20 Q. Mr. Williams, just a few questions.  
21 You forgot to tell the jury about Travis  
22 telling you that Mr. Wiley was messing with him, didn't you?  
23 A. He never told me Mr. Wiley was messing with him.  
24 Q. Well, in your statement you said that. Do you not  
25 remember your written statement?

Page 66

1 MR. DURHAM: May I approach the witness, Your  
2 Honor?  
3 THE COURT: Sure.  
4 Q. (BY MR. DURHAM) Here, you gave a rather lengthy  
5 voluntary statement, three -- three pages worth. Do you  
6 want -- do you want to review that? Go ahead and review it.  
7 First, is that the statement you gave? Look at  
8 the signature there and see if that's the statement you gave.  
9 A. That's my signature.  
10 Q. That's your signature, that's your statement. Do  
11 you want to read that -- take a moment, please?  
12 A. (Witness reading)  
13 THE COURT: Mr. Durham, perhaps you'll direct  
14 his attention out of that three pages to the part that you  
15 wish to cross-examine about.  
16 (Pause)  
17 THE COURT: Have you completed your --  
18 THE WITNESS: Yes, sir.  
19 THE COURT: -- review, Mr. Williams?  
20 THE WITNESS: Yes, sir.  
21 THE COURT: Thank you. Let's proceed. He says  
22 he's completed his review.  
23 Q. (BY MR. DURHAM) Okay. Right, and did you find the  
24 part where you told them about Mr. Wiley messing with Travis?  
25 A. Yes, sir.

1 Q. Okay. So you forgot to tell the jury about that,  
2 didn't you?  
3 A. Well, he said that --  
4 Q. Sir, did you tell the jury about that in all the  
5 statements you made?  
6 A. Yes, sir.  
7 Q. Oh, you did tell them?  
8 A. Do you want me to tell them?  
9 Q. And I missed it?  
10 A. Do you -- do you want me to tell them?  
11 Q. Sir, did he tell you that Mr. Wiley was messing with  
12 him?  
13 A. He said Mr. Wiley was messing with him.  
14 Q. Yes, sir, that's --  
15 A. That's what he said. I don't know.  
16 Q. Now, that's just based on what he said, right?  
17 A. Yes, sir.  
18 Q. Okay. Let me -- you've been in prison quite a  
19 while. Is the sexual offense the only case you've been  
20 convicted on?  
21 A. Yes, sir.  
22 Q. Okay. Having been in prison, you've been in more  
23 than one unit?  
24 A. Yes, sir.  
25 Q. Okay. What other units have you been in?

1 Q. And if your supervisor is giving you a hard time,  
2 you're an unhappy prisoner, aren't you?  
3 A. Yes.  
4 Q. Okay. Now, when Travis told you he -- he might not  
5 be coming back, that could have meant a lot of things,  
6 couldn't it?  
7 A. Well, he stipulated why he didn't want to be out  
8 there.  
9 Q. Stipulated he did not want to be there?  
10 A. Yes.  
11 Q. So not coming back could mean that he was going to  
12 climb over the fence?  
13 A. Well, he put it in --  
14 Q. Pardon?  
15 A. -- words that he was going to do something to make  
16 them ship him.  
17 Q. Well, climb -- if he ran to climb over the fence,  
18 that would get their attention, wouldn't it?  
19 A. Yeah, if he done that.  
20 Q. Yeah. And you weren't present when anything  
21 happened?  
22 A. No, sir.  
23 Q. And you don't personally know what was going on in  
24 that boot factory?  
25 A. No, sir.

1 A. Robertson, Hughes, Garza, Gurney.  
2 Q. And what occasioned you being transferred from one  
3 unit to another?  
4 A. They just transfer us.  
5 Q. For no reason?  
6 A. No reason.  
7 Q. Okay. In the prisons, are jobs important?  
8 A. Yes, sir.  
9 Q. So various jobs carry various benefits with them?  
10 A. That's the way you do your job.  
11 Q. Well, I mean, there's a difference in being on a  
12 farm unit and being out in the sun chopping cotton and being  
13 in a unit where it's air-conditioned and you're doing  
14 paperwork. Would you say there's a difference?  
15 A. There's a difference there.  
16 Q. And so jobs are very important?  
17 A. If you've got the skills to do it.  
18 Q. Okay. And your relationship with your supervisors  
19 is important; is that correct?  
20 A. That's correct.  
21 Q. Okay. And if you've got a good relationship with  
22 your supervisor, you're a happy prisoner, right?  
23 A. Yes, I guess.  
24 Q. And happy prisoners don't cause problems, do they?  
25 A. Yes, sir.

1 Q. Are you -- strike that.  
2 Let me see if I can get this straight. He told  
3 you about problems he was having, correct?  
4 A. Yes, sir.  
5 Q. And he told you that he intended to put an end to  
6 those problems some way?  
7 A. Yes, sir.  
8 Q. And he didn't say, "I am going to" -- did he say, "I  
9 am planning to do A, B, C?"; that is, "I'm going to get a  
10 knife and go kill somebody"? Did he say that?  
11 A. No, he didn't say it -- he never told me he was  
12 going to get a knife and go do something. He just said that  
13 he was going to make them ship him some kind of way. And I  
14 said, "What you mean? You tripping."  
15 Q. Okay. So he -- he was -- he apparently was having a  
16 miserable time within that job?  
17 A. He didn't want to be out there.  
18 Q. And did he tell you what his job was out there?  
19 A. I think janitor, sweeping up, cleaning up, I think.  
20 Q. You don't know?  
21 A. I'm pretty sure that's what he said, that he was a  
22 janitor or something to the sort.  
23 Q. These various units you've been in -- I notice the  
24 State swore in several witnesses this morning, were -- and you  
25 were one of them, correct?

Page 71

1 A. Yes, sir.  
 2 Q. And they were all inmates, correct?  
 3 A. Yes, sir.  
 4 Q. And there were seven of them, correct?  
 5 A. Yes, sir.  
 6 Q. And one of them was white, correct?  
 7 A. Yes, sir.  
 8 Q. And the other seven were black; is that correct?  
 9 A. Yes, sir.  
 10 Q. Is that -- does that represent the population at  
 11 Clements, primarily black?  
 12 MR. SIMS: Objection, calls for speculation.  
 13 THE COURT: Well, overruled. If he can answer  
 14 the question.  
 15 Q. (BY MR. DURHAM) Is the population out there  
 16 primarily black?  
 17 A. I wouldn't say that.  
 18 Q. Pardon?  
 19 A. I wouldn't say that, to my knowledge.  
 20 Q. It's just that the witnesses they swore in were all  
 21 black?  
 22 A. I guess that was the ones that worked out there. I  
 23 didn't work in there at that time.  
 24 Q. Well, you're familiar with using knives, aren't you?  
 25 A. Why would you say that?

Page 72

1 Q. You used a knife when you raped that 80-year-old  
 2 woman that you went to prison for.  
 3 A. That's what they claimed.  
 4 MR. SIMS: Objection, Your Honor. It's not  
 5 admissible.  
 6 THE COURT: Sustained.  
 7 Q. (BY MR. DURHAM) All right. Have you ever used --  
 8 did you use a knife in the commission of the offense you're in  
 9 prison for?  
 10 A. No, sir. That's what they put down. Wasn't no  
 11 knife ever found.  
 12 Q. Oh, they lied about it?  
 13 A. I guess so. If they would give me a DNA, I would be  
 14 innocent today.  
 15 Q. So you're an innocent man in prison?  
 16 A. Give me a DNA and it will prove it.  
 17 Q. You're an innocent man in prison?  
 18 A. Yes, sir.  
 19 Q. So you're hoping to get a DNA to help you get out of  
 20 prison --  
 21 A. Yes, sir.  
 22 Q. -- and you haven't been promised a DNA for  
 23 testifying?  
 24 A. No, sir.  
 25 Q. You're not worried about getting a snitch sheet?

Page 73

1 A. No, sir.  
 2 Q. You know what a snitch sheet is, don't you?  
 3 A. Yes, sir.  
 4 Q. And no one has -- are you -- have you been moved  
 5 since you were told you were going to testify?  
 6 A. No, sir.  
 7 Q. You're still in the same unit?  
 8 A. Still in the same unit.  
 9 Q. Same pod?  
 10 A. Different pod.  
 11 Q. Pardon?  
 12 A. Different pod.  
 13 Q. Oh, what pod did they switch you to?  
 14 A. I got my ten years in and I got dorm eligibility.  
 15 Q. Eligibility for what?  
 16 A. To move to the dorms.  
 17 Q. To the dorms?  
 18 A. The dormitories.  
 19 Q. Okay. So there are different classifications out  
 20 there?  
 21 A. Yes. You've got to become a different class to be  
 22 moved to the dorm.  
 23 Q. All right. Are you familiar with the classification  
 24 system?  
 25 A. Yes, sir.

Page 74

1 Q. Okay. What is it?  
 2 A. I was a G-3, which if --  
 3 Q. All right. What is a G-3?  
 4 A. If you've got -- if you've got 50 years or more,  
 5 you've got to have ten years calendar flat time on it to be  
 6 moved to the dormitory or the --  
 7 Q. And in the dormitory, you're not locked up?  
 8 A. You're locked up, but you're not in a cell block.  
 9 Q. Okay. What other classifications are there than  
 10 G-3?  
 11 A. You've got a G-4, which is medium custody; you've  
 12 got a G-5, which is closed custody. Anything after that is  
 13 seg.  
 14 Q. All right. Five is -- five is --  
 15 A. High security.  
 16 Q. -- the worst? It's the high security?  
 17 A. Yes, sir.  
 18 Q. And four is just below that?  
 19 A. Yes, sir.  
 20 Q. And at some point in time, were you either a four or  
 21 a five?  
 22 A. I've never been a five; I've been a four.  
 23 Q. Okay. And four is --  
 24 A. Medium.  
 25 Q. -- is what kind of security?

1 A. Medium security.  
 2 Q. And then you moved down to a three?  
 3 A. Yes.  
 4 Q. And now you're a two?  
 5 A. Yes, sir.  
 6 Q. What happens when you become a one?  
 7 A. I'll never become a one.  
 8 Q. You can't become a one?  
 9 A. No, sir.  
 10 Q. Why not?  
 11 A. Because of my case, what I'm locked up for.  
 12 Q. Well, what is the one? What level is one? Is it a  
 13 trusty or what?  
 14 A. That's a trusty.  
 15 Q. Trusty?  
 16 A. Trusty status.  
 17 Q. So you can never be a trusty?  
 18 A. No, sir.  
 19 Q. Okay. And -- because of your classification?  
 20 A. Yes, sir.  
 21 Q. It must be hard to be doing 80 years when you're  
 22 innocent?  
 23 A. I don't have 80 years.  
 24 Q. Fifty-five years, I'm sorry, 55 years.  
 25 The -- your alleged victim was 80. You're only

1 A. It could, yes, sir.  
 2 Q. Okay. Mr. Williams, it's right here. If you would  
 3 read starting right here. (Indicating)  
 4 THE COURT: Read it to yourself.  
 5 THE WITNESS: Okay. (Witness reading)  
 6 Q. (BY MR. SIMS) Does that help refresh your memory  
 7 about what Mr. Runnels told you?  
 8 A. Yes.  
 9 Q. What is it he told you, sir?  
 10 A. He asked me, did I really want to know. And I told  
 11 him no and he said -- then I said yes. He said that he was  
 12 going to kill Mr. Wiley if he say something to him this  
 13 morning. I said, "Man, you tripping." I said, "You're going  
 14 to get a job change."  
 15 Q. Now, you had known Mr. Runnels for some -- close to  
 16 ten years; is that correct --  
 17 A. Eight years.  
 18 Q. -- at the time this occurred?  
 19 A. About eight years, yes, sir.  
 20 Q. Eight years?  
 21 A. Yes, sir.  
 22 Q. To you, had you always found him to be a truthful  
 23 person and do what he said?  
 24 A. Yeah, he was always a truthful person. He was a  
 25 good person to me.

1 doing 55, though, correct?  
 2 A. Yes, sir.  
 3 MR. DURHAM: I'll pass the witness.  
 4 REDIRECT EXAMINATION  
 5 BY MR. SIMS:  
 6 Q. When you asked Mr. Runnels yes -- or told  
 7 Mr. Runnels yes, you wanted to know what he was going to do  
 8 that morning --  
 9 A. Yes, sir.  
 10 Q. -- do you recall what it is he told you?  
 11 MR. DURHAM: Asked and answered, Your Honor.  
 12 THE COURT: Sustained.  
 13 Q. (BY MR. SIMS) In regards to the question Mr. Durham  
 14 asked you while ago, you indicated that Mr. Runnels did not  
 15 specifically tell you what he was going to do.  
 16 MR YONTZ: Mr. Runnels.  
 17 Q. (BY MR. SIMS) Mr. Runnels, I'm sorry.  
 18 A. Yes, sir.  
 19 Q. Is that correct?  
 20 A. Yes, sir.  
 21 Q. And Mr. Durham indicated you gave a witness  
 22 statement shortly after this all happened; is that correct?  
 23 A. Yes, sir.  
 24 Q. If you were to read that, would that help refresh  
 25 your memory as to what might have actually been said?

1 Q. And do what he would tell you he would do?  
 2 A. Yes, sir.  
 3 MR. SIMS: Pass the witness.  
 4 RECROSS-EXAMINATION  
 5 BY MR. DURHAM:  
 6 Q. Well, to you, has he been a violent person?  
 7 A. Not since I've known him.  
 8 Q. And you have known him eight years. He's been in  
 9 prison eight years and not been violent, correct?  
 10 A. Not to my knowledge, he hasn't.  
 11 Q. Been a pretty good prisoner, as far as you know?  
 12 A. Yes, sir.  
 13 Q. But, of course, your memory is kind of on and off,  
 14 isn't it?  
 15 A. No, sir.  
 16 Q. Well, did you forget about being in prison in  
 17 Florida?  
 18 A. No, sir. You didn't ask me about Florida.  
 19 Q. No, sir, I asked you if you had been convicted of  
 20 anything else and you said no. Now, what were you convicted  
 21 in Florida for?  
 22 A. A robbery.  
 23 Q. I guess you were innocent of that also?  
 24 A. No, sir, I didn't say that.  
 25 Q. But you were convicted. Now you're telling the jury

1 while ago when you said you didn't have any other felony  
2 convictions, that was incorrect?  
3 A. I thought you were talking about the state of Texas.  
4 Q. Oh. Well, do you have felony convictions other  
5 places than Florida?  
6 A. No, sir.  
7 Q. Just Florida and Texas?  
8 A. That's it.  
9 Q. Now, how did you get to Texas?  
10 A. I moved down here with my wife.  
11 Q. Why did you leave Florida?  
12 A. I wanted to change up.  
13 Q. What about that probation you did for beating a man,  
14 did you forget about that one, too?  
15 A. I got probation. It got taken off my record.  
16 Q. You went to court --  
17 A. That was self-defense.  
18 Q. -- again and it was taken off your record?  
19 A. Yes, sir.  
20 Q. It was not a final conviction?  
21 A. No, sir.  
22 Q. Oh, so it doesn't count?  
23 A. I guess.  
24 Q. Well -- all right. But you can truthfully say that  
25 Travis has been a pretty peaceable prisoner, hasn't he?

1 not him.  
2 Q. No, sir, I'm asking you, based on your observations  
3 over your eight-year relationship with Travis Runnels, you've  
4 had occasion to see him almost on a daily basis; is that  
5 correct --  
6 A. Yes, sir.  
7 Q. -- or incorrect?  
8 A. That's correct.  
9 Q. All right. And he's appeared to be a peaceable  
10 person?  
11 A. Yes, sir.  
12 Q. He's been a good prisoner?  
13 A. Yes, sir.  
14 Q. So for him to react, it would take more than just an  
15 unkind word, in your opinion?  
16 A. I imagine if someone put his hand on him, he would  
17 have fought back, or something like that, but -- but --  
18 Q. It would take something unusual, wouldn't it?  
19 A. I can't say that.  
20 Q. Well, based on your experience, do you have an  
21 opinion?  
22 A. I mean, for me, for me doing my time, I can --  
23 Q. No, sir.  
24 A. -- I can look over and walk away from things now,  
25 but when I first come in, I wouldn't have, but now I do.

1 A. Yes.  
2 Q. Do people get in fights in prison?  
3 A. Every day.  
4 Q. You haven't seen him get in a fight in eight years,  
5 have you?  
6 A. No, sir.  
7 Q. He takes a lot of pushing to get his dander up,  
8 doesn't he?  
9 A. I can't say that.  
10 Q. Have you ever seen him lose his temper?  
11 A. Several times, but he didn't get in no fight over  
12 it.  
13 Q. He reined it in; is that correct?  
14 A. What do you mean? What are you trying to say?  
15 Q. Well, he -- he held his temper; he didn't go out and  
16 do anything about it?  
17 A. No, he didn't fight, if that's what you're trying to  
18 insinuate.  
19 Q. Well, okay. Did he later do something about it, put  
20 slop in their food or hide their shoe laces or something?  
21 A. No, sir.  
22 Q. Okay. So it would take more than just a little to  
23 push him to a point of doing something violent, in your  
24 opinion; is that correct?  
25 A. I don't know the -- about the pushing. I mean, I'm

1 Q. But you saw him walk away from things on many  
2 occasions, didn't you?  
3 A. I seem him walk away from things that he could have  
4 fought about, but he walked away from them.  
5 Q. Many times?  
6 A. Several times when I've been around.  
7 MR. DURHAM: Pass the witness.  
8 REDIRECT EXAMINATION  
9 BY MR. SIMS:  
10 Q. Are you with the defendant 24 hours day at the  
11 prison?  
12 A. No, sir.  
13 Q. So some of these things, you don't know whether he  
14 retaliated against anybody or not, do you?  
15 A. No, sir. I wasn't there to see it.  
16 Q. Tell the jury what you think about Mr. Wiley.  
17 A. He was a good -- he was a good guy. If he could  
18 help you, he would help you. If you had a problem, you could  
19 go to him and talk to him about it. He would see what he  
20 could do for you. I worked there like 12 days, and when I  
21 wanted to leave because I liked cutting hair, he was trying to  
22 get me to stay to cut hair -- I mean to stay and work, said I  
23 was a good worker, but I told him I didn't like that, I liked  
24 to cut hair. So when I got my line class, I left to go cut  
25 hair.



Page 83

1 Q. In fact, you even had an opportunity to talk to  
2 Mr. --  
3 MR. DURHAM: Objection, leading.  
4 Q. (BY MR. SIMS) Did you ever have an opportunity to  
5 talk to Mr. Wiley about a problem?  
6 A. Yes, sir.  
7 Q: Did he get that resolved?  
8 A. Yes, he got it resolved.  
9 Q. It wasn't any kind of physical altercation problem,  
10 though, was it?  
11 MR. DURHAM: That's -- that's a leading  
12 question.  
13 THE COURT: Sustained. Don't lead the witness,  
14 please.  
15 MR. SIMS: Pass the witness, Your Honor.  
16 RECROSS-EXAMINATION  
17 BY MR. DURHAM:  
18 Q. Mr. Williams, how long did you know Mr. Wiley?  
19 A. I knowed him about 12 days, when I was working in  
20 the boot factory.  
21 Q. Twelve days. And in that 12 days, y'all had a good  
22 relationship?  
23 A. Yes, sir.  
24 Q. Was he -- were you working in the boot factory?  
25 A. He was over me.

Page 84

1 Q. He was over you at the boot factory?  
2 A. Yes.  
3 Q. But you transferred out of there?  
4 A. Yes, sir.  
5 Q. For a better job?  
6 A. Yes, sir.  
7 MR. DURHAM: Okay. No further questions.  
8 MR. SIMS: Nothing further.  
9 THE COURT: Okay, Mr. Williams, you can step  
10 down.  
11 THE WITNESS: Yes, sir.  
12 THE COURT: Call your next witness.  
13 MR. SIMS: William Gilchrist.  
14 THE COURT: Mr. Gilchrist, if you would come  
15 right around here, please, sir, and take a seat up there on  
16 the witness stand.  
17 Pull that up a little bit and kind of  
18 towards -- yeah, yeah, right there. That's good. Thanks.  
19 Go ahead.  
20 WILLIAM GILCHRIST,  
21 having been first duly sworn, testified as follows:  
22 DIRECT EXAMINATION  
23 BY MR. SIMS:  
24 Q. State your name, please, sir.  
25 A. William Gilchrist.

Page 85

1 Q. Where are you residing, sir?  
2 A. Clements Unit.  
3 Q. Max unit for the Texas Department of Criminal  
4 Justice; is that correct?  
5 A. Yes, sir.  
6 Q. You're in for an aggravated robbery with a deadly  
7 weapon; is that correct?  
8 A. Yes, sir.  
9 Q. On a 59-year sentence?  
10 A. Yes, sir.  
11 Q. Has anyone promised you anything in regards to your  
12 testimony here today?  
13 A. No, sir.  
14 Q. Do you know Travis Trevino Runnels?  
15 A. Yes, sir.  
16 Q. See him here in the courtroom today?  
17 A. Yes, sir.  
18 Q. Point him out and describe the clothing he's  
19 wearing, please.  
20 A. Red shirt and some slacks.  
21 Q. How did you come to know this defendant?  
22 A. Just through -- just kicking it with him on the  
23 Clements Unit.  
24 Q. Can I ask you to speak up just a little bit?  
25 A. Yes, sir, yes, sir.

Page 86

1 Q. That's way better. Thank you.  
2 You knew him how, sir?  
3 A. Just, you know, playing basketball, barber shop, all  
4 that type of stuff.  
5 Q. On January 29th of 2000 (sic), where were you  
6 working at, sir?  
7 A. The boot factory.  
8 Q. Is there just one boot factory out there?  
9 A. Yes, sir.  
10 Q. On January 29th of 2003, what particular job did you  
11 have there?  
12 A. I was working in the lasting cage.  
13 Q. Explain just real briefly to the jury what that  
14 means.  
15 A. It's where you put the uppers on the rack, and  
16 then -- it goes from one machine to another machine to put the  
17 sole on, and I was at the beginning of the process.  
18 Q. The boot factory makes all the boots and all the  
19 tennis shoes for the prison system in the state; is that  
20 correct?  
21 A. Yes, sir.  
22 Q. That's your understanding?  
23 About how many people are out there working on  
24 a shift?  
25 A. About 50, somewhere around there.

Page 87

1 Q. About 50 inmates, and then there's some other people  
2 there, correct?  
3 A. Yeah.  
4 Q. Correctional officers, and then also civilian  
5 employees that are in charge of the boot factory?  
6 A. Yes, sir.  
7 Q. Is that right?  
8 In regard to that, do you know Mr. Wiley, Stan  
9 Wiley?  
10 A. Yes, sir.  
11 Q. How did you know him, sir?  
12 A. From -- he was an officer at first before he went to  
13 the boot factory. And by him being an officer, we had contact  
14 on the pods and stuff.  
15 Q. And he would -- what is the word you used before he  
16 was in the boot factory? I didn't quite understand.  
17 A. Correctional officer.  
18 Q. Okay. He was a CO?  
19 A. Yes, sir.  
20 Q. Correctional officer.  
21 And then he changed jobs and went to the boot  
22 factory as a civilian employee?  
23 A. Yes, sir.  
24 Q. Is that your understanding?  
25 A. Yes, sir.

Page 88

1 Q. Okay. Now, did you, in fact, turn out for work on  
2 the 29th in 2003?  
3 A. Yes, sir.  
4 Q. Went to the boot factory?  
5 A. Yes.  
6 Q. About what time did that take place?  
7 A. The turn out, when we first turned out?  
8 Q. Yes, sir.  
9 A. About 4:45, five o'clock, in that time frame.  
10 Q. And then about what time did you head to the boot  
11 factory?  
12 A. About 5:15, after everybody had been rostered in.  
13 Q. Now, did you see the defendant at the boot factory  
14 that day?  
15 A. Yes, sir.  
16 Q. Did you see Mr. Wiley at the boot factory that day?  
17 A. Yes, sir.  
18 Q. Explain your relationship, or tell the ladies and  
19 gentlemen of the jury about Mr. Wiley.  
20 A. Well, Mr. Wiley was a -- he was an all right  
21 officer, tended, you know what I'm saying, to be a little  
22 aggressive sometimes, but more or less, he come to do his job.  
23 Q. If you did your job, did you ever have a hassle with  
24 him?  
25 A. No, sir.

Page 89

1 Q. Based on your observation -- how long had you been  
2 working at the boot factory out there?  
3 A. About a year and a half.  
4 Q. Did you ever work the same shift with Mr. Wiley  
5 until that week?  
6 A. That was the first time.  
7 Q. Okay. Now, they had just changed some shifts at the  
8 boot factory, correct?  
9 A. Yes, sir.  
10 Q. Eliminated one, didn't they?  
11 A. Yeah, second shift.  
12 Q. And combined them -- combined it with the first  
13 shift?  
14 A. Yes, sir.  
15 Q. That's when Mr. Wiley went to work --  
16 A. Yes, sir.  
17 Q. -- on the same shift you were; is that correct?  
18 A. That's correct.  
19 Q. About how long do you recall it being that y'all had  
20 been working together?  
21 A. About -- almost a week.  
22 Q. And when did Mr. Runnels go to work with you out  
23 there, the first time you remember?  
24 A. I don't exactly know the date or nothing like that,  
25 but I think he was out there like about three or four days.

Page 90

1 Q. He had only been out there three or four days?  
2 A. Like -- yeah, yeah.  
3 Q. Now, during that day, shortly after getting to work  
4 at the boot factory, did you see Mr. Wiley having a discussion  
5 with someone?  
6 A. In the -- what you mean, when we first went out  
7 there?  
8 Q. Yeah, shortly after you got out there, yes, sir.  
9 Q. Well, he was, you know, conversating with a lot of  
10 people.  
11 Q. Okay. Did you wind up talking to Mr. Runnels that  
12 day?  
13 A. Yes, sir.  
14 Q. When did that first occur?  
15 A. When we first got out there in the boot factory.  
16 Q. About what time would that have been?  
17 A. About 5:20.  
18 Q. So you get out to the boot factory, but you don't  
19 immediately start working; is that correct?  
20 A. No, no, sir.  
21 Q. What are the inmates doing until you start work once  
22 you're out there?  
23 A. Well, everybody go get some coffee to jump off, you  
24 know what I'm saying. But I'm the head of the process, so  
25 everybody got to wait until I start the process and then it

Page 91

1 will work its way on down. But usually, they just standing  
 2 around waiting on the racks to get to them.  
 3 Q. So once things start moving through the system, then  
 4 the others will start working as the work gets to them?  
 5 A. Right.  
 6 Q. Is that what you're telling me?  
 7 A. Yes, sir.  
 8 Q. Okay. I'm going to show you what's been marked for  
 9 identification purposes as State's 50. Are you able to  
 10 recognize that, sir?  
 11 A. Yes.  
 12 Q. Can you tell the ladies and gentlemen of the jury  
 13 basically what that represents?  
 14 A. The layout of the boot factory. The layout of the  
 15 boot factory.  
 16 MR. DURHAM: Your Honor, may I move where I can  
 17 follow the testimony?  
 18 THE COURT: Sure.  
 19 Q. (BY MR. SIMS) If you can - you're able to recognize  
 20 this; is that correct?  
 21 A. Yes, sir.  
 22 Q. I'm just going to have you go ahead and stay up  
 23 there, if that's all right.  
 24 What's along this wall over here? (Indicating)  
 25 A. That's where the bathroom --

Page 92

1 Q. Just start up here and work your way down.  
 2 A. That's the storage room, you got Mr. Williams'  
 3 office coming down, then you got a little closet as you come  
 4 down, and then the bathroom stalls, and then you got the  
 5 maintenance shop coming on down.  
 6 Q. Down here; is that correct?  
 7 A. Yes, sir.  
 8 Q. Now, the doors are here and here; is that correct?  
 9 (Indicating)  
 10 A. Right.  
 11 Q. Okay. Now, where were you working on this  
 12 particular day?  
 13 A. I worked further up, go up, go up, go up. Yeah, go  
 14 up -- keep going. Right there in the boxing area.  
 15 Q. In this --  
 16 A. That's my assigned job right there. But in them  
 17 little bins right there. (Indicating)  
 18 Q. These --  
 19 A. No, right there. No, come down. No, keep coming  
 20 down, keep coming. Now go over this way. No, right there.  
 21 (Indicating)  
 22 Okay. You see where the 30 at, with the boxes?  
 23 Q. Yes.  
 24 A. Now go straight to your right, this way. Right  
 25 there. That's -- yeah. (Indicating)

Page 93

1 Q. Okay. So you were working in this area here?  
 2 (Indicating)  
 3 A. Right.  
 4 Q. Okay. I'm going to -- if it's all right, I'll put  
 5 your initials right here. Is that all right?  
 6 A. Uh-huh.  
 7 Q. WG?  
 8 A. Uh-huh.  
 9 Q. That's where you were working --  
 10 A. Yes, sir.  
 11 Q. -- correct?  
 12 Now, approximately where was Mr. Wiley that  
 13 day?  
 14 A. He was -- he was everywhere.  
 15 Q. Walking everywhere --  
 16 A. Walking everywhere.  
 17 Q. -- initially? Okay.  
 18 Now, you came into contact with the defendant  
 19 shortly after getting to work while y'all were drinking  
 20 coffee, or before you started working?  
 21 A. Right.  
 22 Q. What happened at that point, sir?  
 23 A. When we first came in, Runnels pulled me and another  
 24 guy aside and said that he was getting tired of the boot  
 25 factory, he didn't want to be out there no more. And he said,

Page 94

1 "I'm going to do something to either get you out of the boot  
 2 factory or you can get shipped." And I asked him what it was.  
 3 And then he said he was going to hold Williams  
 4 hostage in the office when the other officers leave. I told  
 5 him why he want to do that. He said, well, it's the only way  
 6 he feels that he can get off the farm or get out of the boot  
 7 factory.  
 8 Q. Who is Williams?  
 9 A. Who is who?  
 10 Q. You said he was going to hold Williams hostage.  
 11 A. Oh, Mr. Williams, that's the plant manager.  
 12 Q. I'm sorry, that's -- the plant manager at the boot  
 13 factory?  
 14 A. Yes, sir.  
 15 Q. What else did he tell you?  
 16 A. That I can use this information to either get off  
 17 the farm or get out of the boot factory myself.  
 18 Q. What happened then?  
 19 A. We all went our separate ways.  
 20 Q. Did y'all start work --  
 21 A. Yeah.  
 22 Q. -- shortly after that?  
 23 A. Yes, sir.  
 24 Q. Did you wind up talking to him again later --  
 25 A. Yes, sir.

Page 95

1 Q. -- meaning Mr. Runnels?  
2 A. Yes, sir.  
3 Q. About how much later?  
4 A. Approximately about 45 minutes, somewhere, to an  
5 hour.  
6 Q. What happened at that point?  
7 A. Well, I was sitting in the back in the boxing area  
8 over there, and he came -- was sitting on the table, and he  
9 came up and he said that Wiley was giving him a hard time.  
10 Q. Then what happened?  
11 A. And then he said, "I'm going to go take the trash  
12 out and when I come back I'm going to ask him what's up."  
13 Q. Okay. Did you ever see the defendant come back from  
14 taking out the trash?  
15 A. Yes, sir.  
16 Q. What happened then?  
17 A. He approached Mr. Wiley and they had a little  
18 conversation. I couldn't hear it all, but he was like, you  
19 know, why you keep jiggling at me, why you keep pointing me  
20 out. And Mr. Wiley said, "Well, you're a janitor. It's your  
21 job to take the trash out. Those two inmates right there,  
22 they're assigned to do something else, and that's their job.  
23 If I ask you take out the trash, take out the trash."  
24 Q. Okay. And is that basically how all the other  
25 supervisors that you've dealt with handle things?

Page 96

1 A. More or less --  
2 MR. DURHAM: Objection --  
3 A. -- yes, sir.  
4 MR. DURHAM: -- Your Honor. What someone else  
5 does is not material.  
6 THE COURT: Sustained.  
7 Q. (BY MR. SIMS) What happened after that  
8 conversation? Let me ask this: Was there any kind of --  
9 anything other than a verbal discussion that you saw?  
10 A. That was it, just a verbal discussion.  
11 Q. What happened after that?  
12 A. Runnels walked off.  
13 Q. What did you do then?  
14 A. I went back to work.  
15 Q. Okay. What's the next thing that you're aware of  
16 about Mr. Runnels doing that day?  
17 A. He asked me could I get him a knife and I told him  
18 no, they all had been checked out already. I said, "But you  
19 can go around the corner and ask this Mexican dude if you want  
20 to use his knife."  
21 He walked off and came back and he said he  
22 wouldn't give it to him.  
23 Q. And what -- what did he do then with you again at  
24 that point?  
25 A. Asked me how he can get another knife.

Page 97

1 Q. What happened then?  
2 A. I told him to ask this dude, Mr. Blue -- I don't  
3 know his real name, but we call him Blue. And he asked him  
4 could he use his knife, and Mr. Blue said, no, he was busy at  
5 the time.  
6 MR. DURHAM: I'm going to object to what  
7 Mr. Blue said. If he said anything, it would be hearsay --  
8 THE COURT: Sustained.  
9 MR. DURHAM: -- unless he was present at the  
10 conversation.  
11 Q. (BY MR. SIMS) Did Mr. Blue let him use the knife?  
12 A. Not the first time.  
13 Q. Did it happen again?  
14 A. Yes, sir.  
15 Q. And you saw it happen, or heard?  
16 MR. DURHAM: Your Honor, first, that's leading;  
17 second, it would be hearsay unless he was there and heard the  
18 conversation. It's speculation and conjecture of what the  
19 conversation was.  
20 THE COURT: Rephrase the question, please.  
21 Q. (BY MR. SIMS) Did you observe it happen again?  
22 A. No.  
23 MR. DURHAM: Objection as to what --  
24 Q. (BY MR. SIMS) Okay. Did --  
25 MR. DURHAM: -- happened, Your Honor.

Page 98

1 THE COURT: Sustained.  
2 Q. (BY MR. SIMS) What's the next thing you saw happen?  
3 A. I went to do my work. I didn't know that he had got  
4 the knife. I don't know when he got the knife.  
5 Q. Okay.  
6 A. But I asked Mr. Runnels, I said, "Are you all  
7 right?" I said, just playing with him, I said, "You take your  
8 medication?" And, you know, he just --  
9 MR. DURHAM: Nonresponsive to the question and  
10 also --  
11 THE COURT: Sustained.  
12 MR. DURHAM: -- hearsay.  
13 Q. (BY MR. SIMS) When is the next time you saw  
14 Mr. Runnels?  
15 A. The next time I saw Mr. Runnels is when he was  
16 walking away with the knife in his hand.  
17 Q. Walking away from what?  
18 A. Mr. Wiley.  
19 Q. Did you see Mr. Runnels before that?  
20 A. No.  
21 Q. Okay. You said -- when is it you asked him a  
22 question? You said you had asked him a question.  
23 A. I asked him a question when I seen him on the wall  
24 with a broom in his hand, and I asked him, "You all right?"  
25 And he said -- he was kind of mumbling, like, "Yeah, yeah, I'm

Page 99

1 all right." And I walked off.  
 2 Q. Is this before or after you saw him walking away  
 3 from Mr. Wiley?  
 4 A. This was before.  
 5 Q. Okay. Approximately how much earlier before?  
 6 A. Maybe like 20 minutes, 20 or 30 minutes.  
 7 Q. And when you saw the defendant ask Mr. Blue for the  
 8 knife --  
 9 MR. DURHAM: That's a leading question and also  
 10 calls for a hearsay response because he doesn't --  
 11 THE COURT: Please lower your voice, and your  
 12 objection is sustained.  
 13 MR. DURHAM: Well, I'm sorry. It's just --  
 14 THE COURT: Do not --  
 15 MR. DURHAM: -- the same question that was  
 16 asked before.  
 17 THE COURT: Do not lead the witness, please.  
 18 Q. (BY MR. SIMS) How much time elapsed from the time  
 19 you saw the defendant talking to Mr. Blue until -- let me  
 20 rephrase that.  
 21 How much time elapsed from the time you saw  
 22 Mr. Wiley and the defendant having their discussion to the  
 23 time you saw the defendant talking to Mr. Blue?  
 24 A. About 15 -- about 15 to 20 minutes.  
 25 Q. And then after that is when you talked to

Page 100

1 Mr. Runnels again?  
 2 A. Right.  
 3 Q. After having that conversation with him, then when  
 4 is the next time you saw the defendant?  
 5 A. When he was walking away with the knife.  
 6 Q. Where was -- where was he walking from?  
 7 A. From behind me, because I had my head down and I was  
 8 putting --  
 9 MR. DURHAM: Objection, nonresponsive after  
 10 "from behind."  
 11 THE COURT: Sustained.  
 12 Q. (BY MR. SIMS) What were you doing at the time that  
 13 you saw him?  
 14 A. I was putting insoles on the racks, getting ready to  
 15 come to the heel last, and I was -- had my head down, but I  
 16 was putting the soles on the bottom of the molds.  
 17 Q. Okay. On this chart, where would that put you?  
 18 A. Right there where you've got the "WG" at.  
 19 Q. There at your work station?  
 20 A. Right.  
 21 Q. And you're facing which way?  
 22 A. I'm facing toward the lasting area, facing this way.  
 23 (Indicating)  
 24 Q. Facing this way? (Indicating)  
 25 A. Right.

Page 101

1 Q. Is this the lasting area here?  
 2 A. Yeah.  
 3 Q. Okay. So you were facing out this way?  
 4 (Indicating)  
 5 A. Yes, sir.  
 6 Q. And when you raised up, you saw what?  
 7 A. I saw -- well, I heard a noise --  
 8 Q. Okay.  
 9 A. -- and I turned.  
 10 MR. DURHAM: Nonresponsive. The question was  
 11 what he saw.  
 12 THE COURT: Sustained.  
 13 Q. (BY MR. SIMS) You heard a noise, what did you do?  
 14 MR. DURHAM: Leading question.  
 15 THE COURT: Approach the bench, please.  
 16 (At the bench, on the record)  
 17 THE COURT: I'm going to instruct you to quit  
 18 leading the witness. You're putting me in a position to  
 19 sustain the objection every single time you do it.  
 20 MR. SIMS: To repeat what the answer said and  
 21 then ask what -- what did you do after that, is leading?  
 22 THE COURT: Yes, sir. If you repeat the answer  
 23 that is given, that is an act of bolstering the witness.  
 24 That's another objection.  
 25 Just ask a question and let the guy answer it,

Page 102

1 please.  
 2 MR. DURHAM: Also, Your Honor, his -- what you  
 3 heard was an objectionable, nonresponsive answer that he based  
 4 a question on.  
 5 THE COURT: Well --  
 6 MR. SIMS: That's fine. I understand, Your  
 7 Honor.  
 8 (Open court)  
 9 Q. (BY MR. SIMS) You had your head down and were  
 10 working. What happened then?  
 11 A. Say it again.  
 12 Q. You had your head down and you were working. What  
 13 happened then?  
 14 A. I heard a noise behind me.  
 15 Q. What did you do then, sir?  
 16 A. I turned to face Mr. Wiley.  
 17 Q. About how far was Mr. Wiley from you?  
 18 A. About as close as he is right there in the black  
 19 shirt.  
 20 Q. Okay. Say ten feet?  
 21 A. Yes, sir.  
 22 Q. Would that be a fair enough estimate?  
 23 A. Yes, sir.  
 24 Q. Were you facing Mr. Wiley?  
 25 A. When I turned around, yeah, I was facing Mr. Wiley.

Page 103

1 Q. And what else did you see at that point?  
2 A. I saw -- Mr. Wiley was holding his neck. And you  
3 know how when you scratch yourself you see white, and then all  
4 of a sudden blood start coming.  
5 Q. Where did you see that? Where did you see that  
6 incident that day?  
7 A. Behind me in the lasting area, right there.  
8 (Indicating)  
9 Q. No, the white and then the blood coming, where was  
10 that at?  
11 A. In that area right there where you got "WG" at.  
12 Q. On whom, sir? On whom? On whom?  
13 A. From whom? I don't know because I -- I don't  
14 understand the question, what you're trying to say.  
15 Q. You said you saw white and you saw somebody  
16 bleeding. Who did you see bleeding?  
17 A. Mr. Wiley.  
18 Q. Okay. What else -- did you see anything else around  
19 Mr. Wiley at that point?  
20 A. Not at the time, until I followed Mr. Wiley's eyes.  
21 That's when I turned back this way. (Indicating)  
22 Q. Turned back to your left?  
23 A. Turned back to my left.  
24 Q. Which would be turning --  
25 A. Towards 24 right there. (Indicating)

Page 104

1 Q. Turning down this way? (Indicating)  
2 A. Right.  
3 Q. Okay. What did you see then?  
4 A. Mr. Runnels was walking away with the knife.  
5 Q. This defendant?  
6 A. Yes, sir.  
7 Q. Could you tell what kind of knife it was?  
8 A. The kind of knife that we have in the boot factory.  
9 I don't know the name of it. It's the regular knife that they  
10 use.  
11 Q. It was one of the equipment --  
12 A. Right.  
13 Q. -- pieces of equipment used in the boot factory?  
14 A. Yes, sir.  
15 Q. You recognized it as that?  
16 A. Yes, sir.  
17 MR. SIMS: May I approach, Your Honor?  
18 THE COURT: Sure.  
19 Q. (BY MR. SIMS) I'll show you State's Exhibit No. 51.  
20 Are you able to recognize that, sir?  
21 A. Yes, sir.  
22 Q. Okay. Did the instrument you saw look like --  
23 MR. DURHAM: Leading question, Your Honor.  
24 THE COURT: Sustained.  
25 Q. (BY MR. SIMS) Are you able to recognize what these

Page 105

1 are?  
2 A. Yes, sir.  
3 Q. Do they fairly and accurately show what they are --  
4 A. Yes, sir.  
5 Q. -- in this photograph?  
6 A. Yes, sir.  
7 MR. SIMS: Your Honor, I'll offer State's  
8 Exhibit 51.  
9 MR. DURHAM: No objection.  
10 THE COURT: Exhibit is received.  
11 Q. (BY MR. SIMS) What is State's Exhibit No. 51?  
12 A. Those are the -- those are the knives that they give  
13 us in the boot factory. We check them out when we first get  
14 there. We have to turn in our ID and get one of these knives.  
15 Q. Are there only a certain number of those that are --  
16 MR. DURHAM: Leading question.  
17 THE COURT: Go ahead.  
18 I'm not going to rule on that at this time. I  
19 will have a discussion with the lawyers during the lunch hour.  
20 Thank you.  
21 Q. (BY MR. SIMS) How do you wind up with one of those?  
22 A. You have to go by the maintenance room. There's  
23 going to be an officer -- well, one of the people that's in  
24 free world clothes that work in the boot factory, they're  
25 going to ask you what you want. You can either get a knife, a

Page 106

1 staple gun, a staple puller, any kind of instrument that  
2 you're using in the boot factory.  
3 You have to turn in your ID and then they will  
4 hand you your equipment.  
5 Q. Can anyone just go get one of those?  
6 A. Yes, sir.  
7 Q. But you have to do the ID process to get it?  
8 A. Yes, sir.  
9 Q. Is the instrument that you saw the defendant with  
10 similar to those?  
11 A. Yes, sir.  
12 Q. What happened next?  
13 A. Next on what?  
14 Q. After you saw Mr. Wiley bleeding -- as a matter of  
15 fact, where did you see him bleeding from, what part of his  
16 body?  
17 A. His neck.  
18 Q. And then you said you had seen Mr. Runnels walking  
19 away?  
20 A. Yes, sir.  
21 Q. Then what happened?  
22 A. Mr. Wiley ran toward the office area and I ran  
23 toward the boxing area.  
24 Q. Why did you go towards the boxing area?  
25 A. That was my only line of flight.

Page 107

1 Q. What happened after that, sir?  
 2 A. I talked to a couple of dudes, told them what had  
 3 happened, and I grabbed my coat, my cup, and started  
 4 proceeding to the door area because I knew the officers was  
 5 coming eventually.  
 6 MR. SIMS: Pass the witness, Your Honor.  
 7 THE COURT: Okay. Let's recess for lunch at  
 8 this point.  
 9 Folks, I'll ask you to be back here in the jury  
 10 room at 1:15, please.  
 11 (Jury left the courtroom)  
 12 MR. DURHAM: Randall, can you approach for a  
 13 moment?  
 14 THE COURT: I want the jury out of here before  
 15 any discussion.  
 16 MR. DURHAM: Well, this was about --  
 17 THE COURT: Just wait five seconds.  
 18 MR. DURHAM: I was going to request that he  
 19 review his statement during the recess and save us some time.  
 20 THE COURT: Oh, sure, okay.  
 21 MR. DURHAM: He has two statements.  
 22 THE COURT: Okay. Let him have a copy of  
 23 those. Who's got a copy of those two statements?  
 24 MR. SIMS: If you don't mind it being marked  
 25 up, I'll give him mine.

Page 108

1 MR. DURHAM: It's for him to read, not for me.  
 2 I'm not going to read your notes.  
 3 There are two statements, correct?  
 4 MR. GILCHRIST: Yes, sir.  
 5 THE COURT: All right. During lunch,  
 6 Mr. Gilchrist, if you would look over those so that they can  
 7 visit with you about them afterwards.  
 8 (Pause)  
 9 THE COURT: Okay. When we come back from  
 10 lunch, please stop leading the witness.  
 11 MR. SIMS: Your Honor, my understanding, I'm  
 12 not trying to argue with the Court, but repeating part of the  
 13 answer, I don't think makes the question leading.  
 14 THE COURT: I don't care what you think, then,  
 15 Mr. Sims, if I tell you not to do it, then it's objectionable,  
 16 and you can talk to the appellate court about it, okay? So if  
 17 I say something, whether you agree or disagree, you've got to  
 18 follow my rules while we're in here, and that's the way we're  
 19 going to try the case.  
 20 MR. SIMS: I understand that, Your Honor.  
 21 THE COURT: Thank you.  
 22 (Recess)  
 23 (At the bench, on the record)  
 24 MR. DURHAM: Your Honor, during the noon  
 25 recess, the State has indicated they plan to be through by

Page 109

1 noon tomorrow. Our subpoenas were issued for Monday and most  
 2 of them -- or all of them at this point in time are in Dallas.  
 3 We do have one subpoena that we're trying to serve locally.  
 4 But we can't be prepared to proceed until Monday.  
 5 MR. SIMS: And I don't know that we'll be  
 6 through by noon, Judge, but I really think we will be through  
 7 by 5:00 tomorrow, without any problem.  
 8 THE COURT: Are there any that you can move up?  
 9 I mean, this whole deal is necessitated by your tactical  
 10 move --  
 11 MR. DURHAM: I thought it would surely take  
 12 them three days with the -- with the future dangerousness  
 13 testimony they were going to put on, Your Honor, even assuming  
 14 the plea of guilty.  
 15 MS. HAMILTON: We might be able to --  
 16 THE COURT: Well, Mr. Sims works quickly.  
 17 MS. HAMILTON: -- get the one that --  
 18 MR. SIMS: I'm trying. I cut out about ten  
 19 witnesses.  
 20 MR. DURHAM: That's the -- he hasn't been  
 21 served yet.  
 22 MS. HAMILTON: Right, but he should be --  
 23 THE COURT: What's his name?  
 24 MR. SIMS: Do you want me to step away from --  
 25 THE COURT: No, no.

Page 110

1 MR. DURHAM: He's - he was the warden at  
 2 Clements --  
 3 THE COURT: Oh. I thought you said --  
 4 MS. HAMILTON: He should be easy to serve.  
 5 MR. DURHAM: -- at the time this happened.  
 6 THE COURT: -- doctor somebody.  
 7 MR. DURHAM: Well, he is a doctor. He's got  
 8 his doctorate in --  
 9 THE COURT: Okay.  
 10 MR. DURHAM: -- penology or --  
 11 THE REPORTER: In what, I'm sorry?  
 12 MS. HAMILTON: Penology.  
 13 MR. SIMS: Have you got the spelling on that  
 14 word, Jill?  
 15 THE COURT: Okay.  
 16 THE REPORTER: Penology.  
 17 MR. DURHAM: P-e-n-a-l-o-g-y. (sic)  
 18 THE COURT: Okay. Well, what we'll do is -- I  
 19 mean, try to get him moved up here.  
 20 MR. DURHAM: We'll try and get him served and  
 21 get him here. I'll make it instanter.  
 22 THE COURT: Okay. And what we'll do is, we'll  
 23 just -- we'll just mosey as far as we can.  
 24 MR. DURHAM: Okay. I just wanted to alert you.  
 25 I didn't want to stand up when they quit and say, "Oh."

Page 111

1 THE COURT: I gotcha.  
 2 MS. HAMILTON: And I'm going to call Kathy  
 3 and see if she can get them here.  
 4 MR. SIMS: And we let them know that as soon as  
 5 we sat down and kind of figured out what --  
 6 THE COURT: Yeah. Okay.  
 7 MR. SIMS: Because we did, we dropped a bunch  
 8 of people.  
 9 THE COURT: We'll get as far as we can, then  
 10 we'll come back.  
 11 (Open court)  
 12 THE COURT: Bring the jury in.  
 13 (Jury entered the courtroom)  
 14 THE COURT: Okay, Mr. Durham.  
 15 CROSS-EXAMINATION  
 16 BY MR. DURHAM:  
 17 Q. Mr. Gilchrist, you've had an opportunity during the  
 18 noon recess to review your two statements, have you not?  
 19 A. Yes, sir.  
 20 Q. Well, they're really pretty different, aren't they?  
 21 A. More or less.  
 22 Q. Well, in your first statement on the 29th, which was  
 23 the same day the incident occurred, you don't say anything  
 24 whatsoever about Travis, do you?  
 25 A. No, I don't.

Page 112

1 Q. And you didn't see anything or hear anything that  
 2 day, according to your statement of the 29th; is that correct?  
 3 A. That's true.  
 4 Q. But overnight, you remembered a lot of stuff  
 5 apparently?  
 6 A. Not necessarily. I just didn't want to say it the  
 7 first time.  
 8 Q. Oh, you didn't want to say it the first time. Well,  
 9 what -- what inducement did you get to say it the second time?  
 10 A. I just thought about what had happened.  
 11 Q. And -- well, did you go to the officials and say, "I  
 12 remembered some stuff"?  
 13 A. No. They called me out.  
 14 Q. They called you out and interrogated you again?  
 15 A. Yes, sir.  
 16 Q. Uh-huh. Speaking of officials, I noticed during the  
 17 noon recess we had some new spectators come. Do you recognize  
 18 those people as being guards at the penitentiary?  
 19 A. Yes, sir.  
 20 Q. And they're the ones staring at you now. What did  
 21 they promise you for your testimony?  
 22 A. They didn't promise me nothing.  
 23 Q. Nothing? Are you still at the Clements Unit?  
 24 A. Yes, sir.  
 25 Q. Uh-huh. And how long have you known Travis?

Page 113

1 A. Some months.  
 2 Q. And you knew Mr. Wiley how long?  
 3 A. For some years.  
 4 Q. You knew him years?  
 5 A. Yes, sir.  
 6 Q. Okay. And how long have you been at the Clements  
 7 Unit?  
 8 A. Since '94.  
 9 Q. Okay. And you're serving how long a sentence?  
 10 A. Fifty-nine years.  
 11 Q. And that was for what?  
 12 A. Aggravated robbery.  
 13 Q. What is aggravated robbery?  
 14 A. With a deadly weapon. I tried to rob somebody with  
 15 a deadly weapon.  
 16 Q. What was the deadly weapon?  
 17 A. A shotgun.  
 18 Q. A shotgun?  
 19 A. Yes, sir.  
 20 Q. Okay. Now, during the time you knew Travis -- when  
 21 you say "months," would that be a month, two months, four  
 22 months, or just how long did you know him?  
 23 A. About nine months, ten months.  
 24 Q. Nine months or ten months. And you knew him well  
 25 enough that he trusted you and confided all this stuff in you?

Page 114

1 A. Yes, sir.  
 2 Q. Okay. During that time, did you ever see him engage  
 3 in any violent act?  
 4 A. No, sir.  
 5 Q. Did you ever hear him threaten anyone?  
 6 A. No, sir.  
 7 Q. Okay. So did he seem to be a good prisoner?  
 8 A. Yes, sir.  
 9 Q. Okay. Do you know what his classification was?  
 10 A. We was both on minimum custody.  
 11 Q. He was on minimum custody?  
 12 A. Yes, sir.  
 13 Q. Which meant he -- the authorities considered him  
 14 trustworthy?  
 15 A. Yes, sir.  
 16 Q. So apparently he didn't have a history, as far as  
 17 you knew, of any violent acts?  
 18 A. Yes, sir.  
 19 Q. Okay. Now, in your second statement -- do you have  
 20 a copy of it there with you? That's the statement of the  
 21 30th.  
 22 A. Yes, sir.  
 23 Q. Okay. In that statement, you relate word for word a  
 24 conversation, don't you?  
 25 A. Yes, sir.



Page 115

1 Q. Okay. And would you share that with me and the  
2 jury? When he took out the trash and he came back and he  
3 stopped where you were, and what do you in your statement say  
4 he said?  
5 A. He said -- you want it word for word?  
6 Q. Yes, sir. Do you find that?  
7 A. Yeah. "He walked up to me and said, 'I don't know  
8 why he keeps fucking with me. When I get through, I'm going  
9 to ask him.' When he came back, he walked up to Mr. Wiley and  
10 said, 'Why do you keep fucking with me? All those white boys  
11 are standing there doing nothing and you pick me out.'"  
12 Q. Okay. And did you hear him say anything else to  
13 Wiley later on in your statement?  
14 A. No, sir.  
15 Q. You didn't say -- did you hear what Wiley's response  
16 was?  
17 A. Yes, sir.  
18 Q. And what did he tell him?  
19 A. Mr. Wiley said, "You just do what I say." Runnels  
20 said, "You need to quit fucking with me," and Mr. Wiley said  
21 again, "Just do what I say." Runnels said, "Okay, I'll do  
22 what you say," and he walked off.  
23 Q. Okay. They had some problems, didn't they?  
24 A. Well, from what I -- from what I heard, that  
25 Mr. Wiley had messed with him the day before.

Page 116

1 Q. All right. Messed with him the day before?  
2 A. That's what I heard. I didn't see that.  
3 Q. Okay. And -- now, these knives, they're just loose  
4 there in the place?  
5 A. No. Each individual is assigned to a knife when he  
6 turns in his ID.  
7 Q. Okay. And they pass them from hand to hand as they  
8 need to?  
9 A. Yes, sir.  
10 Q. So if I sign -- if I'm a prisoner and I sign out for  
11 a knife, I can let another prisoner use it or just whatever?  
12 I'm not responsible for that knife?  
13 A. You're not supposed to, but they do.  
14 Q. They do it all the time?  
15 A. (Witness nods head up and down)  
16 Q. Is that true or untrue?  
17 A. That's true.  
18 Q. Okay. And the knife that --  
19 MR. DURHAM: Was that exhibit admitted?  
20 MR. SIMS: Pardon?  
21 MR. DURHAM: The picture of the knives?  
22 MR. SIMS: Yes. It's up on the counter,  
23 Mr. Durham.  
24 MR. DURHAM: Where?  
25 MR. SIMS: It's up on the counter.

Page 117

1 MR. DURHAM: Okay. May I approach --  
2 THE COURT: Sure.  
3 MR. DURHAM: -- to look at this?  
4 Q. (BY MR. DURHAM) And this -- this is the type knife  
5 that's used out there?  
6 A. Yes, sir.  
7 Q. You don't know which one if any of these were used?  
8 A. No, sir.  
9 Q. No, you don't. It's just the type of knife that's  
10 used out there?  
11 A. Yes, sir.  
12 Q. It doesn't seem to have a sharp point on it?  
13 A. No, sir.  
14 Q. How are they sharpened?  
15 A. With a sharpening stone.  
16 Q. Who sharpens them?  
17 A. The inmate who has it.  
18 Q. There at the work station?  
19 A. Yes, sir.  
20 MR. DURHAM: May I publish this to the jury,  
21 Your Honor?  
22 THE COURT: Sure.  
23 MR. DURHAM: I want to look at those things,  
24 please.  
25 Your Honor, we need to approach for me to ask a

Page 118

1 question regarding something.  
2 (At the bench, on the record)  
3 MR. DURHAM: A motion in limine was filed about  
4 change in procedures. I want to ask what they do with the  
5 knives now.  
6 THE COURT: Okay. I don't recall when we heard  
7 that. What did I rule?  
8 MR. DURHAM: You ruled there was -- the motion  
9 in limine was granted. That's the reason I'm coming up to ask  
10 now.  
11 THE COURT: Okay. All right. Well, that's  
12 fine.  
13 MR. SIMS: Why would a change of procedure on  
14 what they do with the knives now be relevant in this  
15 particular case?  
16 THE COURT: What?  
17 MR. SIMS: He's wanting to ask him about the  
18 change in procedure on how they handle the knives. I don't  
19 see how that's relevant to this case.  
20 THE COURT: Well, it's probably relevant in  
21 that there was something wrong and Mr. Wiley got killed.  
22 MR. DURHAM: Yeah.  
23 (Open court)  
24 Q. (BY MR. DURHAM) Okay. Mr. Gilchrist, do you still  
25 work in the shoe factory?

Page 119

1 A. No, sir.  
2 Q. Have you been in there since the incident?  
3 A. Sir?  
4 Q. Have you been in there since the incident?  
5 A. Well, after the incident happened, I stayed in there  
6 for some more months.  
7 Q. Okay. Well, that's -- that's what I mean. So did  
8 they change the procedure --  
9 MR. YONTZ: Objection, Your Honor. May we  
10 approach?  
11 MR. SIMS: That's what we just did, Jim.  
12 MR. YONTZ: Okay.  
13 THE COURT: Go ahead.  
14 Q. (BY MR. DURHAM) Did they change the procedure with  
15 the issuance of the knives?  
16 A. Yes, sir.  
17 Q. How are the knives issued now?  
18 A. They made a -- they made a -- kind of like a tube or  
19 something like out of metal to where the knives go inside, and  
20 you've got a perimeter on the outside to where that's only as  
21 far as the knife will reach, is to that perimeter.  
22 Q. Oh, are they tethered now?  
23 A. Yes, sir.  
24 Q. They weren't tethered before?  
25 A. No, sir.

Page 120

1 Q. So that opportunity no longer exists?  
2 A. Yes, sir.  
3 Q. Okay. And Mr. Wiley had just transferred to the  
4 shoe department; is that correct, or did I --  
5 A. No, he went from second shift to first shift.  
6 Q. All right. So he had transferred shifts and had  
7 been on the new shift just a week?  
8 A. Yes, sir.  
9 Q. Okay. And Travis had been on that shift just two or  
10 three days?  
11 A. Yes, sir.  
12 Q. So did you notice a clash in personalities then?  
13 A. No, not from my -- what I saw, no, sir.  
14 Q. You didn't see them having words?  
15 A. No, sir.  
16 Q. You don't think what you just read was a  
17 confrontation of words?  
18 A. Well, not before then. I hadn't ever seen them have  
19 no conflict before that day.  
20 Q. Well, why do you think that Travis -- do you have an  
21 opinion as to why Travis said to you what he said, "He's  
22 fucking with me"?  
23 A. Well, that's up to him. I don't -- I didn't see it,  
24 so I can't answer that question. I don't know what was going  
25 through his mind.

Page 121

1 Q. You said something about --  
2 MR. DURHAM: Just a moment, Your Honor.  
3 Q. (BY MR. DURHAM) That some other guy told you about  
4 something that Travis told him when he was coming out of the  
5 chow hall; is that right?  
6 A. Yes, sir.  
7 Q. Who was that person?  
8 A. I do not remember.  
9 Q. You don't remember?  
10 A. No, sir.  
11 Q. Well, this statement was given -- this is the second  
12 statement. You didn't remember it on the 29th, apparently,  
13 did you?  
14 A. No, sir.  
15 Q. And you didn't remember it on the 30th?  
16 A. A lot of people walked up to me, so I can't remember  
17 exactly who it was.  
18 Q. You heard a lot of stories about what had happened?  
19 A. No. I knew what happened. I just didn't say the  
20 first time.  
21 Q. Well -- all right. Why did you not say it the first  
22 time?  
23 A. You know, being in the penitentiary, you know, we  
24 live by codes. Certain things, you don't say. You know what  
25 I'm saying? And at that time, I was in that mode to where I

Page 122

1 didn't want to say nothing.  
2 Q. Well, what took you out of that mode?  
3 A. I thought about what happened. It dawned on me,  
4 really, what happened. You know what I'm saying? This man  
5 did something that he wasn't supposed to do. My conscience  
6 played a big part of it.  
7 Q. Pardon? Your --  
8 A. My conscience played a big part of it.  
9 Q. And you've been in how long?  
10 A. I'm -- February, I'll have 13 years.  
11 Q. All right. When did you develop a conscience?  
12 A. I've been having one.  
13 Q. Well, you didn't have one when you pulled armed  
14 robberies with shotguns, did you?  
15 A. We all make mistakes.  
16 MR. SIMS: Objection, argumentative.  
17 THE COURT: Sustained.  
18 Q. (BY MR. DURHAM) I'll rephrase.  
19 Did you have a conscience at the time of your  
20 conviction?  
21 A. Yep.  
22 Q. But you violated your conscience then?  
23 A. More or less.  
24 Q. Okay. So have you snatched off other people for  
25 violations that have done wrong things?

Page 123

1 A. No, sir.  
 2 MR. SIMS: Objection, not relevant, Your Honor.  
 3 THE COURT: Sustained.  
 4 Q. (BY MR. DURHAM) You didn't actually see what  
 5 happened?  
 6 A. No, sir.  
 7 Q. And you do admit that you have two different  
 8 statements that don't tell the -- the first one tells a  
 9 partial story in which Travis is not even mentioned, correct?  
 10 A. Right.  
 11 Q. And you left out the part about the problems that he  
 12 and Mr. Wiley were having?  
 13 A. Right.  
 14 Q. Do you feel under any pressure to testify?  
 15 A. Yeah, it's kind of hard sitting here looking in his  
 16 face telling you what happened, yeah.  
 17 Q. Do you feel any pressure from the guards sitting  
 18 back there for you to testify?  
 19 A. No, sir.  
 20 Q. And you don't feel any pressure from the other  
 21 inmates for getting what's sometimes called a snitch jacket?  
 22 A. Well, I look at it like this here: If --  
 23 Q. That's a yes-or-no question, sir. Do you feel  
 24 pressure or not?  
 25 A. No, sir, I do not.

Page 124

1 MR. DURHAM: I have no further questions of  
 2 this witness, Your Honor.  
 3 MR. SIMS: I don't think I have any other  
 4 questions, Your Honor.  
 5 THE COURT: Okay, Mr. Gilchrist, you can step  
 6 down. Thank you, sir.  
 7 Call your next witness.  
 8 MR. SIMS: Jimmy Jordan.  
 9 THE COURT: Jimmy Jordan?  
 10 MR. SIMS: Yes, sir, Jimmy Jordan.  
 11 THE COURT: Mr. Jordan, if you would come right  
 12 around here and take a seat up there on the witness stand,  
 13 please, sir.  
 14 MR. JORDAN: All right.  
 15 THE COURT: Okay. Kind of speak into that  
 16 microphone. You don't have to get right up to it.  
 17 MR. JORDAN: Okay.  
 18 THE COURT: Sort of generally there. Thank  
 19 you.  
 20 MR. JORDAN: Yes, sir.  
 21 JIMMY JORDAN,  
 22 having been first duly sworn, testified as follows:  
 23 DIRECT EXAMINATION  
 24 BY MR. SIMS:  
 25 Q. Would you state your name, please, sir?

Page 125

1 A. Jimmy Jordan.  
 2 Q. Where are you residing, sir?  
 3 A. At this -- at this present time?  
 4 Q. Yeah.  
 5 A. Clements Unit.  
 6 Q. Now, is that the normal prison unit that you are  
 7 assigned to?  
 8 A. No, I'm on Smith Unit.  
 9 Q. And where is that located?  
 10 A. Lamesa. Lamesa, Texas.  
 11 Q. You've been transported up here --  
 12 A. Yes, sir.  
 13 Q. -- as a witness in this case; is that correct?  
 14 A. Yes, sir.  
 15 Q. Has anyone promised you anything in regards to your  
 16 testimony here?  
 17 A. No, sir.  
 18 Q. Been threatened in any way?  
 19 A. No, sir.  
 20 Q. Do you know Travis Trevino Runnels?  
 21 A. Yes, sir.  
 22 Q. Do you see him in the courtroom today?  
 23 A. Yes, sir.  
 24 Q. How long have you known the defendant?  
 25 A. Just about a week or two before he came -- when he

Page 126

1 started to work out in the factory.  
 2 Q. So you were once housed in the Clements Unit,  
 3 correct?  
 4 A. Yes, sir.  
 5 Q. When was that, sir?  
 6 A. January -- well, November up to January -- up to  
 7 February.  
 8 Q. Of --  
 9 A. Two thousand --  
 10 Q. November of 2002 until February of 2003?  
 11 A. Three, right.  
 12 Q. You got shipped off after something happened at the  
 13 prison, correct?  
 14 A. Right, yes, sir.  
 15 Q. Now, you're in prison for aggravated robbery and a  
 16 failure to stop and render aid; is that correct?  
 17 A. Yes, sir.  
 18 Q. How did you get to know Mr. Runnels?  
 19 A. Well, just by, you know -- I didn't really get a  
 20 chance, you know, to know him. I just seen him out there, you  
 21 know. He was a janitor out there in -- in the factory.  
 22 Q. Okay. Now, had you always been on the first shift?  
 23 A. Yes, sir.  
 24 Q. -- out at the boot factory?  
 25 A. Yes, sir.

Page 127

1 Q. At one point, they closed the second shift and moved  
2 in with y'all; is that correct?  
3 A. Right, moved it up to the front, first shift.  
4 Q. Prior to that happening, had you worked with  
5 Mr. Runnels?  
6 A. Well, you know, he -- you know, he didn't -- you  
7 know, he was out there every day, you know, sweeping, you  
8 know. I worked on the canvas machine, you know. I had spoke  
9 to him, you know, but as far as just knowing him, I didn't  
10 know him, you know.  
11 Q. What about Mr. Wiley, did you know Stan Wiley?  
12 A. Yes, sir.  
13 Q. How did you know him, sir?  
14 A. Well, I had talked to him, you know. He had served  
15 a case to me one day. I had got a -- they had wrote me up by  
16 mistake. He was on the evening shift, and he came and brought  
17 the case to me, to serve me the case, said they said I wasn't  
18 at work that day, and I talked to Mr. William about it and  
19 Mr. William verified to Mr. Wiley that I -- that I was at  
20 work.  
21 MR. DURHAM: Hearsay response, Your Honor,  
22 objection.  
23 THE COURT: Sustained.  
24 Q. (BY MR. SIMS) Once you called it to Mr. Wiley's  
25 attention, did he fix the problem?

Page 128

1 A. Yes, it was taken care of. He told me he was sorry.  
2 MR. DURHAM: Objection. What he told him would  
3 be hearsay.  
4 THE COURT: Sustained.  
5 Q. (BY MR. SIMS) Just try to answer.  
6 A. Okay.  
7 Q. Did you have any problems with Mr. Wiley?  
8 A. No, sir.  
9 Q. How would you describe him, sir?  
10 A. Well, he was fair, you know. I never had a problem  
11 out of him and I was out there -- you know, I worked with him  
12 out there, you know. I never did have a confrontation with  
13 him, you know.  
14 Q. Now, you've given three different statements in  
15 regards to what happened out --  
16 A. Right.  
17 Q. -- there; is that correct?  
18 A. Right.  
19 Q. Are all three of them the same?  
20 A. Yes, sir, all but one. You know, when it -- when it  
21 first happened, you know, I seen Mr. Wiley when he -- when he  
22 came from -- from the position where he was over -- over by  
23 the box area, and he walked across. And that morning when all  
24 this took place, they -- you know, they -- they -- they -- I  
25 seen him when he walked from the box area over to the office

Page 129

1 straight across, and he had his hand in front up under his  
2 neck, and --  
3 Q. Let me ask you something.  
4 A. Okay.  
5 Q. Now, did you tell -- on the first statement you  
6 gave, did you tell the people you were giving the statement to  
7 all this?  
8 A. No. I didn't even know -- you know, I didn't even  
9 know he had been cut, you know. I just seen the blood. I  
10 didn't know, you know, he had been cut.  
11 Q. In the first statement that you gave, did you, in  
12 fact, tell them basically you didn't know anything --  
13 A. I didn't know anything.  
14 Q. -- about anything?  
15 A. Right. He asked me, he said -- he asked me did I  
16 see anything that had happened out there and I told him no,  
17 you know, which I didn't see anything, you know, that had --  
18 you know, the incident that had took place.  
19 Q. Now, the next time they got you out -- or did they  
20 get you out again and talk to you?  
21 A. Yeah, gang intelligence officer.  
22 Q. Okay.  
23 A. STG.  
24 Q. Okay. Came and talked to you, and you gave them  
25 another statement; is that correct?

Page 130

1 A. Right.  
2 Q. Would it be fair to say there's more in that  
3 statement than there was in the first one?  
4 A. Yes, sir.  
5 Q. Okay. When you got -- what time did you turn out  
6 for work that day?  
7 A. Normal time I think is about 6:00, 6:30 in the  
8 morning.  
9 Q. What did you do when you first got out there to  
10 work, do you remember?  
11 A. I went and -- I went to the tool -- where they  
12 shake -- where they pat shake you when you first go in. And  
13 went to the tool room and got my -- got my knife and gave them  
14 my ID card.  
15 Q. Now, before you went to work that day, did you have  
16 any kind of feeling that there might be something going to  
17 happen?  
18 A. Well, you know -- you know, it was --  
19 MR. DURHAM: Objection, nonresponsive. It's a  
20 yes-or-no question.  
21 A. No, sir, not that day.  
22 Q. (BY MR. SIMS) I'm sorry?  
23 A. No, sir, not that day.  
24 Q. Did you have any kind of feeling that something  
25 might be fixing to happen at the system sometime soon?

1 A. Right.  
 2 MR. DURHAM: The question is --  
 3 A. Yes, sir.  
 4 MR. DURHAM: -- leading, Your Honor.  
 5 THE COURT: Sustained.  
 6 Q. (BY MR. SIMS) Prior to going to work that day, what  
 7 was your feeling in regards to the system out there at the  
 8 farm?  
 9 MR. DURHAM: Irrelevance.  
 10 THE COURT: Well, rephrase the question,  
 11 please.  
 12 Q. (BY MR. SIMS) Prior to going to work that day, did  
 13 you develop any kind of impression in regards to the farm  
 14 being different than what it normally was?  
 15 A. Yeah. You know, it had been -- you know --  
 16 MR. DURHAM: Objection to anything after "yes."  
 17 A. Yes.  
 18 THE COURT: Sustained.  
 19 Q. (BY MR. SIMS) How so?  
 20 A. Well, they was talking about, you know --  
 21 MR. DURHAM: Okay. I'm going to object to  
 22 hearsay response.  
 23 THE COURT: Sustained.  
 24 Q. (BY MR. SIMS) Don't tell me anything that was said.  
 25 A. Okay.

1 THE COURT: Objection is sustained. The jury  
 2 is instructed to disregard the last answer.  
 3 Q. (BY MR. SIMS) At that time, how long had you been  
 4 at the Clements Unit?  
 5 A. From November to February.  
 6 Q. How long had you been in the prison system?  
 7 A. About 20 -- about 20 some months. No --  
 8 Q. Plus the time before -- before you made parole?  
 9 A. Twenty-one -- 21 years.  
 10 Q. Twenty-one years?  
 11 A. Yes, sir.  
 12 Q. That you've been incarcerated at that point?  
 13 A. Yes.  
 14 Q. Through that, are you familiar with -- do you feel  
 15 like you are familiar with the prison system and the units  
 16 that you're at?  
 17 A. Yes, sir.  
 18 Q. Have to deal with a lot of inmates on a daily basis?  
 19 A. Yes, sir.  
 20 Q. As well as the supervision staff; is that correct?  
 21 A. Yes, sir.  
 22 Q. Now, in regards to you being back on the Clements  
 23 Unit at that time, on January 29th of 2003, prior to that  
 24 time, had you been back on that farm sufficient enough in time  
 25 to feel like what you felt like was a normal occurrence in the

1 Q. What, if anything, was going on as far as the  
 2 inmates?  
 3 MR. DURHAM: Your Honor, that calls for a  
 4 hearsay response.  
 5 THE COURT: Well, it kind of depends on what  
 6 the answer is, but -- so rephrase the question to -- the  
 7 "what's going on" is a little vague.  
 8 Q. (BY MR. SIMS) Did you observe inmates doing  
 9 anything in particular out of the ordinary prior to going to  
 10 work that day, any time earlier that week?  
 11 A. Yeah, trying to make commissary.  
 12 Q. What's making commissary?  
 13 A. You know, you know something going to take place,  
 14 you know, you're trying to get your groceries, trying to make  
 15 store, you know, because you're fixing to go on lockdown.  
 16 MR. DURHAM: That's speculation and I'll object  
 17 to the answer, and it's not responsive to the question.  
 18 THE COURT: Come up just a second, please.  
 19 (At the bench, on the record)  
 20 THE COURT: Now, carefully -- and you may be  
 21 able to qualify him to testify to this sort of thing, but at  
 22 this point, I've got to sustain that objection to what he just  
 23 said.  
 24 MR. SIMS: Okay.  
 25 (Open court)

1 prison?  
 2 MR. DURHAM: -- on qualification, Your Honor?  
 3 THE REPORTER: I'm sorry, I didn't hear your  
 4 objection.  
 5 MR. DURHAM: That's a leading question and an  
 6 attempt to qualify.  
 7 THE COURT: Rephrase the question, please.  
 8 Q. (BY MR. SIMS) In the amount of time you had been  
 9 back to the Clements Unit, do you feel like you were or were  
 10 not familiar with basically a normal, if you want to call it  
 11 normal, situation at the prison?  
 12 A. No, no, it's not normal.  
 13 Q. Pardon me?  
 14 A. No, sir.  
 15 Q. You weren't familiar with what the normal situation  
 16 was at the prison?  
 17 MR. DURHAM: Asked and answered.  
 18 THE COURT: Did you understand the question you  
 19 were asked?  
 20 THE WITNESS: No, sir, no, sir.  
 21 THE COURT: Repeat the question, please.  
 22 Q. (BY MR. SIMS) In January of 2003, you had been back  
 23 on -- in the Clements Unit for several months, correct?  
 24 A. On the Clements Unit?  
 25 Q. Yes. In January of 2003 --

1 A. Right, right, right, right.  
 2 Q. -- you were at the Clements Unit --  
 3 A. Right.  
 4 Q. -- correct?  
 5 A. Right, right.  
 6 Q. And you had been there for several months?  
 7 A. Right. I was on -- I was there from November to --  
 8 up until February, February the 3rd.  
 9 Q. And based on all your time involved in being in the  
 10 prison system, plus the time that you were there at the  
 11 Clements Unit then, okay, do you feel you had an understanding  
 12 as to what was normal for being going on around that farm?  
 13 A. No, not really.  
 14 Q. Okay. All right.  
 15 If something unusual that was not day-to-day  
 16 routine activity was happening, would you be able to notice  
 17 that?  
 18 A. Yes, sir.  
 19 Q. Did you, in fact, notice that sometime before  
 20 January 29th of 2003?  
 21 MR. DURHAM: Your Honor, he's not qualified to  
 22 answer that question.  
 23 THE COURT: Sustained.  
 24 Q. (BY MR. SIMS) Did you -- well -- did you see  
 25 Mr. Runnels with any kind of weapon or anything on January

1 went to the Clements Unit on a hardship transfer. I don't  
 2 remember the date. But it was right before -- right before  
 3 Thanksgiving.  
 4 Q. So it was toward the end of November?  
 5 A. Right.  
 6 Q. So around the 25th --  
 7 A. Right, right.  
 8 Q. -- 26th, would be about right?  
 9 A. Right.  
 10 Q. And you -- so you were there all of December?  
 11 A. Right.  
 12 Q. And the incident happened January the 29th, right?  
 13 A. Yes, sir.  
 14 Q. So you were really there about two months?  
 15 A. Right.  
 16 Q. Before the incident, right?  
 17 A. Right.  
 18 Q. And then you transferred out pretty soon after the  
 19 incident?  
 20 A. Right.  
 21 Q. The 5th of February, you transferred out?  
 22 A. That's what I just said. I just told him that I was  
 23 there from November to February. I just made that statement.  
 24 Q. I'm not arguing with you --  
 25 A. Right.

1 29th?  
 2 A. No, sir.  
 3 Q. When is the first time you saw Mr. Wiley on January  
 4 29th of 2003?  
 5 A. When he came across from where he was working from  
 6 going to the office.  
 7 Q. Describe him as you saw him at that point.  
 8 A. I was working right at the canvas machine at the  
 9 front, that's where I work at. And I was right across from --  
 10 direct where Mr. Wiley work at. He came across with his hand  
 11 up under his neck and blood was running down his hand. Went  
 12 to the office and he got a jacket and put up under his neck.  
 13 He come back around by the shoe canvas machine and went around  
 14 by the tool room and up to the front, up to the exit door, up  
 15 to the front.  
 16 Q. Had you been assigned a knife on that day, sir?  
 17 A. Yes, sir.  
 18 Q. Did you ever let anybody else have it?  
 19 A. No, sir.  
 20 MR. SIMS: I'll pass the witness, Your Honor.  
 21 CROSS-EXAMINATION  
 22 BY MR. DURHAM:  
 23 Q. Mr. Jordan, I'm a little confused. You went to the  
 24 Clements Unit when in November?  
 25 A. I can't -- I can't -- I can't actually recall. I

1 Q. -- Mr. Jones, I'm just -- Mr. Jordan, I'm sorry.  
 2 A. Right, right.  
 3 Q. I'm sorry, sir.  
 4 A. Right.  
 5 Q. I'm just -- I'm trying to get some time sequence in  
 6 here. Why did you transfer?  
 7 A. I got into an incident with some Crypt dudes.  
 8 Q. You got in an incident with a crippled person?  
 9 A. With some --  
 10 THE COURT: Mr. Jordan --  
 11 A. I got into an incident with some gang members.  
 12 Q. (BY MR. DURHAM) Oh. Had you had incidents with  
 13 gang members before?  
 14 A. No, I hadn't.  
 15 Q. That's the only time you had an incident?  
 16 A. Right.  
 17 Q. Okay. Is that the only incident you have had in  
 18 your 21 years in prison?  
 19 A. No, I'm -- you asked me on -- on -- I'm talking  
 20 about this here happened on the Clements Unit.  
 21 Q. Okay. But you have had a lot of incidents while  
 22 you've been in prison?  
 23 A. Oh, yeah, I've been into some -- you know, I've been  
 24 into some things.  
 25 Q. Incidents involving violence? Is that correct or

Page 139

1 incorrect?  
2 A. That's incorrect.  
3 Q. You have not been in any incident that involved any  
4 violence?  
5 A. I've had some fistfights, you know, other than --  
6 Q. Well, sir, generally, most people think that being  
7 hit with a fist is a violent thing. Do you disagree with that  
8 concept?  
9 A. Well, you know, back in the -- you know, when I was  
10 doing time back in the game (sic), you know, you know, you  
11 could, you know, you could tell a boss - an officer, you  
12 know, I've got one over here, and they would let you fight,  
13 you know, as long as you're fighting with your fists.  
14 Q. It's okay to fight with your fist?  
15 A. Right.  
16 Q. Is that your testimony?  
17 A. Yeah, you know -- you know, back, you know, when I  
18 was doing time back in the early '70s, you know, and, you  
19 know, you could -- you know, you could tell, you know, if you  
20 had a problem with an inmate or something, y'all -- you know,  
21 y'all had different concepts of things, you could tell the  
22 officer, well, I -- you know, I got -- you know, we got some  
23 business we need to take care of. They would let you fight  
24 with your fists, you know.  
25 Q. Okay. Then when did that change?

Page 140

1 A. You know, they got -- you know, right now, you know,  
2 you assault somebody, you know, you can get -- you know, you  
3 can get charged for it.  
4 Q. All right. But when did that start being charged  
5 for fistfighting?  
6 A. You know, you're talking about recently or --  
7 Q. No, sir, I'm talking about when it changed. I mean,  
8 at some point --  
9 A. Oh, you still --  
10 Q. -- in time --  
11 A. -- you know, you know --  
12 Q. Pardon?  
13 A. You know, you still fight. If you get -- if you get  
14 caught, you know, you're going to have disciplinary, you know,  
15 procedures.  
16 Q. All right. Well, see, I'm having a little trouble  
17 following your time line here.  
18 A. Right.  
19 Q. You said back in the '70s, you can say to the  
20 supervisors or guards, or whoever, "I'm having trouble with  
21 John Doe over there" --  
22 A. Right.  
23 Q. -- and he said, "Well, y'all -- y'all work it --  
24 y'all duke it out?"  
25 A. Right.

Page 141

1 Q. And y'all would?  
2 A. Right.  
3 Q. And that was the end of it?  
4 A. That was the end of it.  
5 Q. Okay. But at some point in time, the system changed  
6 where if there was a fight, the people got written up and  
7 there was disciplinary action taken, correct?  
8 A. Right. That's what I just said, you know.  
9 Nowadays, you know, if you get wrote up --  
10 Q. Okay. Well, I'm asking you when did that change?  
11 When did -- when did you quit fighting at will and you got  
12 written up? About when did that change --  
13 A. In the '80s.  
14 Q. In the '80s?  
15 A. Right.  
16 Q. Sometime in the '80s?  
17 A. Right.  
18 Q. Okay. And that disciplinary procedure would consist  
19 of what? I mean, if you're caught -- if you fight, what is  
20 the procedure for disciplining you?  
21 A. You're liable to go to solitary for 15 days, lose  
22 amount of time of good time.  
23 Q. Okay. What is solitary, please, sir?  
24 A. You know, you're isolated off into -- off into a  
25 cell to yourself, you know, with no commissary, no radio,

Page 142

1 no -- you know, you don't have no appliances.  
2 Q. Have you been in solitary?  
3 A. No, I haven't -- back in the '80s.  
4 Q. Well, then you have been in solitary --  
5 A. Right, right.  
6 Q. -- right?  
7 A. I've been in solitary once.  
8 Q. Okay. And how did you find it?  
9 A. How did -- well, you know, it -- you know -- you  
10 know, you're just doing without, you know. It's a regular  
11 thing, you know, you're doing -- you know, still, you're doing  
12 your time, you just don't have no, you know, appliances and  
13 things in there, you know.  
14 Q. No appliances like coffee makers or --  
15 A. Right, radio.  
16 Q. -- TVs, radios?  
17 A. Right.  
18 Q. You're just sitting on steel?  
19 A. Right.  
20 Q. Is that the same as administrative segregation or  
21 different?  
22 A. Seg, it's different, you know.  
23 Q. All right, sir. Now, let's talk -- have you had an  
24 opportunity today to review your statements you made?  
25 A. No, sir.

Page 143

1 Q. Pardon?

2 A. No, sir.

3 Q. Do you have those with you?

4 A. Yes, sir.

5 Q. Okay. Do you want to take a moment and start with

6 the statement of January the 29th that you made and review it,

7 please?

8 THE COURT: Is that your statement, Mr. Jordan,

9 or somebody just left it up there?

10 THE WITNESS: No, this is not none of mine.

11 This is William. This is William.

12 THE COURT: Okay.

13 MR. DURHAM: Well, that's the reason I asked

14 him, because there was some up there.

15 Do you have -- may I approach the witness, Your

16 Honor?

17 THE COURT: Sure, sure.

18 Q. (BY MR. DURHAM) You have got three statements you

19 made, correct?

20 A. Yes, sir.

21 Q. Do you read well?

22 A. Yes, sir.

23 Q. All right. And you -- these statements were written

24 by you?

25 A. Yes, sir.

Page 144

1 Q. Your handwriting?

2 A. Yes, sir.

3 Q. Okay. Then look at the one of January 29th, review

4 it and get yourself familiar with it. I have a few questions

5 about it, please, sir.

6 A. (Witness reading) Okay.

7 Q. All right. That's a one-page -- one-page and four-

8 line statement, correct?

9 A. Right.

10 Q. All right. And in that statement, you essentially

11 say that you -- you didn't see or hear what happened, don't

12 you, sir?

13 A. Right.

14 Q. And you also say that you hadn't heard about

15 anything before you did your statement; is that correct?

16 A. That's not in here.

17 Q. You didn't say in there that you did not see the

18 events nor --

19 A. Oh, no, I didn't --

20 Q. -- hear about them --

21 A. -- see the event. No, I didn't see the event.

22 Q. And you didn't hear about it before your statement?

23 A. No.

24 Q. Right. Okay. And that was your statement on the

25 day of the incident --

Page 145

1 A. Right.

2 Q. -- correct?

3 A. Right.

4 Q. All right. And then on the 30th, you made a new

5 statement, didn't you?

6 A. Right.

7 Q. Do you have that statement with you, sir?

8 A. Yes.

9 Q. Review it quickly, please, sir. It's about a page

10 and ten lines.

11 A. All right.

12 Q. Nine lines.

13 A. (Witness reading)

14 (Pause)

15 Q. Please let me know when you're through.

16 A. Okay. (Witness reading)

17 (Pause)

18 Okay.

19 Q. Okay. In the first statement of the 29th, you

20 didn't mention Mr. Runnels at all, did you?

21 A. No, sir.

22 Q. But on the second statement, you make the

23 observation that on the 28th, that Mr. Wiley got into it with

24 Mr. Runnels, do you not?

25 A. Yes, sir.

Page 146

1 Q. All right. Exactly what -- you don't elaborate in

2 your statement on what you mean by "got into it." Could you

3 tell the jury what kind of confrontation there was between

4 Mr. Runnels -- now, that was on the 28th that happened, the

5 day before the incident --

6 A. I think it was on the 28th.

7 Q. -- that that confrontation occurred; is that

8 correct?

9 A. Right.

10 Q. All right. Can you enlighten us on what happened on

11 that occasion?

12 A. It was about him, you know, working. You know, he

13 was telling him, you know, about going to work, you know,

14 about being in his area and not working. And he had told him

15 that, you know, he was tired of him messing with him, just to

16 leave him alone.

17 Q. So they had, at least in your observation, some type

18 of confrontation --

19 A. Right.

20 Q. -- and personality conflict?

21 A. Right.

22 Q. Did it continue?

23 A. No, I didn't -- no, not after then.

24 Q. Okay. And then later in your statement, you

25 remember that you did not see Runnels with a weapon?



1 A. No, I didn't see him with a weapon.  
 2 Q. And you did not see him by Wiley?  
 3 A. No, I didn't.  
 4 Q. But you did hear Wiley scream in the second  
 5 statement, correct?  
 6 A. I heard somebody scream, yeah. I don't know if it  
 7 was him, but I heard somebody scream.  
 8 Q. Well, but, you see, in the first statement --  
 9 A. Right, right.  
 10 Q. -- you didn't see --  
 11 A. Right, right.  
 12 Q. -- that.  
 13 A. Right.,  
 14 Q. Right?  
 15 A. Right.  
 16 Q. What happened overnight that you remembered it?  
 17 A. I didn't -- you know, I didn't -- I didn't even know  
 18 Mr. Wiley was cut at first until he walked past -- he  
 19 wasn't -- he wasn't in no -- no -- no -- you know, no fast  
 20 moving or nothing. He just had his hand up under his neck,  
 21 you know. You know, if you had just looked at him, you  
 22 wouldn't have never thought, you know, something was wrong  
 23 with him, you know, because --  
 24 Q. You mean you're accustomed to seeing people with  
 25 coats around their neck and blood running down their hands?

1 transferred to another unit. What unit were you transferred  
 2 to?  
 3 A. Smith Unit.  
 4 Q. Pardon?  
 5 A. Smith Unit.  
 6 Q. Was that an upgrade or a downgrade; how was that? I  
 7 mean, better -- better, did you have a better job there or  
 8 what?  
 9 A. No, I went straight back to a factory job. It  
 10 wasn't no better.  
 11 Q. Okay. Where is the Smith Unit?  
 12 A. Lamesa, Texas.  
 13 Q. All right. Why were you transferred to Clements in  
 14 the first place?  
 15 A. On a hardship.  
 16 Q. All right. What was the hardship?  
 17 A. Concerning my family.  
 18 Q. Where does your family live?  
 19 A. Lubbock.  
 20 Q. Okay. So Lamesa is closer to the Smith Unit than  
 21 Amarillo?  
 22 A. Right.  
 23 Q. Where were you before the Clements Unit?  
 24 A. Michael Unit.  
 25 Q. Pardon?

1 A. I didn't see -- I didn't see nobody -- I didn't see  
 2 nobody cut him.  
 3 Q. No, sir, but you said in your second statement you  
 4 saw blood running down his hands?  
 5 A. I did. That's what I said, I seen blood, but I  
 6 didn't see nobody harm him.  
 7 Q. And on that day, on the 29th -- on the statement of  
 8 the 30th, you stated that you did not see Runnels until he was  
 9 taken out the door; is that correct or incorrect?  
 10 A. No, I -- in the statement, I said I seen Mr. --  
 11 Mr. -- are you talking about Mr. Wiley?  
 12 Q. No, Runnels, Travis.  
 13 A. Right, right.  
 14 Q. You said, "I did not see" --  
 15 A. Right, that's --  
 16 Q. -- "Travis until" --  
 17 A. Right.  
 18 Q. -- "he was taken out the door," --  
 19 A. Right.  
 20 Q. -- right?  
 21 A. Right.  
 22 Q. That day, you didn't see him until he was taken out  
 23 the door, right?  
 24 A. Right.  
 25 Q. And then on the 5th of February, you were

1 A. Michael Unit.  
 2 Q. Where is that?  
 3 A. Tennessee Colony.  
 4 Q. Which is?  
 5 A. Palestine.  
 6 Q. All right. Which is some distance from here --  
 7 A. Right.  
 8 Q. -- I take it?  
 9 Okay. Were you transferred quite often during  
 10 your 21 years?  
 11 A. I went to -- three times, I think. I -- about three  
 12 times, three or four times.  
 13 Q. Well, now, I got the impression from what you  
 14 testified to -- and correct me if I'm wrong --  
 15 A. Right.  
 16 Q. -- that at some point in time, you made parole?  
 17 A. Yeah. Yes, sir.  
 18 Q. Well, if you made parole, why were you back in the  
 19 penitentiary?  
 20 A. I had -- I had a wreck. I'm on a parole violation.  
 21 Q. What was the parole violation?  
 22 A. Failure to stop and render aid.  
 23 Q. Okay. And were you charged in that case?  
 24 A. Yes, sir.  
 25 Q. Did you plead guilty?

Page 151

1 A. Yes, sir.  
2 Q. Did you get a sentence?  
3 A. Yes, sir.  
4 Q. For how much?  
5 A. Twenty-five -- 25 years.  
6 Q. Was that on top of your prior sentence?  
7 A. No, it was run concurrent.  
8 Q. Run concurrent?  
9 A. Right.  
10 Q. And your original sentence was what?  
11 A. Ninety years.  
12 Q. For what?  
13 A. Armed robbery.  
14 Q. And you served 20 -- how many years did you serve  
15 before you made parole?  
16 A. Twenty years.  
17 Q. Okay. And you made parole on 90 years?  
18 A. Right.  
19 Q. And you got out and -- and got the stop to render  
20 aid. (sic) Was someone hurt in that?  
21 A. No, sir. They enhanced my punishment.  
22 Q. Because of the armed robbery?  
23 A. Right.  
24 Q. But no one was hurt?  
25 A. No, sir.

Page 152

1 Q. Okay. Then you're transferred down to Lamesa?  
2 A. Right.  
3 Q. Which is much closer to Lubbock?  
4 A. Right, yes, sir.  
5 Q. How far is it from Lubbock?  
6 A. Fifty-nine miles.  
7 Q. Okay. And Amarillo is roughly 120 miles?  
8 A. A hundred and -- 120, 110.  
9 Q. A hundred and 20, 110. So you get transferred where  
10 you're much closer to your family. And you remember a lot  
11 more in your third statement than you did in your first or  
12 second statement; is that correct?  
13 A. Yes, sir.  
14 Q. What refreshed your memory, the transfer?  
15 A. No, it didn't.  
16 Q. Well, why did you remember it?  
17 A. Well, I -- just like I told you while ago, you know,  
18 I didn't know that Mr. Wiley was cut until -- until the OGI  
19 called me out and talked to me about it, you know. I  
20 didn't -- I didn't know that he had got cut, you know, until  
21 that day when I went in his office. He asked me did I see  
22 Mr. Wiley, and I told him, I said, "Yeah," I said, "I seen him  
23 with some blood running down his hand up under his neck." But  
24 just like I told you while ago, if you had've seen Mr. Wiley  
25 walking, you wouldn't have never thought nothing was wrong

Page 153

1 with him.  
2 Q. That's fine, except what I have reference to, sir,  
3 in your third statement, you recite the confrontation as being  
4 more confrontational and which you say that Runnels and Wiley  
5 were arguing.  
6 A. Right.  
7 Q. And Runnels told Wiley --  
8 A. He needed, you know, to stop --  
9 Q. Told him what?  
10 A. That he needed to stop fucking with him.  
11 Q. Or?  
12 A. He was going to do something to his ass.  
13 Q. Okay. So they had a pretty -- pretty violent  
14 confrontation, didn't they?  
15 A. Right.  
16 Q. And that was on the 28th, the day before this  
17 incident happened?  
18 A. It was that -- I think it was that -- that -- that  
19 Friday or that -- it was that Friday or that Monday, it was  
20 one of them.  
21 Q. Well, Friday would have been long before the 29th.  
22 The 29th was on a Tuesday, wasn't it?  
23 A. Yeah, 20 -- yeah, that Monday, I think it was that  
24 Monday.  
25 Q. You think it was that Monday?

Page 154

1 A. Right.  
2 Q. And had they had any problems before that?  
3 A. Not that I knows of.  
4 Q. Well, Travis had only been working with him --  
5 A. Three days.  
6 Q. -- three or four days, hadn't he?  
7 A. Three days, three days.  
8 Q. Three days. And right away, there was -- there was  
9 friction between the two of them right away. Would that be a  
10 fair statement?  
11 A. All I know -- the only thing I can say is Mr. Wiley  
12 had told him to go to work, you know, about being in his area  
13 and not working, told him to go to work. I was --  
14 Q. But you saw they had a confrontation?  
15 A. Right, yes, sir.  
16 Q. Okay. And Travis, in fact, told you in a subsequent  
17 conversation that he was going to do something if he didn't  
18 quit fucking with him?  
19 A. Right.  
20 Q. But he didn't say what he was going to do?  
21 A. Right.  
22 Q. And that conversation and that incident you  
23 remembered in your third statement of the 14th. Were you  
24 given a transfer based on your revived memory?  
25 A. No, I wasn't transferred on no memory. I was -- I

Page 155

1 had got into it with some gang members.  
 2 Q. That's the only reason you were transferred?  
 3 A. Right.  
 4 Q. All right. When you got into it with the gang  
 5 members, were you disciplined?  
 6 A. No. No, sir, no, sir, no, I wasn't.  
 7 Q. You were transferred for your safety?  
 8 A. Right.  
 9 Q. Okay. It's unusual to be at one unit just three  
 10 months, isn't it?  
 11 A. No, I wasn't on the Clements -- the Michael Unit but  
 12 90 days. I was there three months.  
 13 THE REPORTER: I'm sorry, what unit?  
 14 THE WITNESS: Michael Unit. I was there three  
 15 months.  
 16 Q. (BY MR. DURHAM) And before that, where were you?  
 17 A. Middleton Unit, private facility.  
 18 Q. Private facility?  
 19 A. Right, transfer facility.  
 20 Q. Okay. For how long were you there?  
 21 A. Seven days.  
 22 Q. And before that, where were you?  
 23 A. Byrd Unit.  
 24 Q. How long were you there?  
 25 A. Twenty-some days.

Page 156

1 Q. How many times have you been written up?  
 2 A. Since I've been back on this violation?  
 3 Q. No, sir, in your 22 -- 21-plus years in the  
 4 penitentiary.  
 5 A. I can't recall.  
 6 Q. Too many to remember?  
 7 A. Right. Could be, I don't know.  
 8 Q. Pardon?  
 9 A. I can't say.  
 10 Q. And fighting was involved in many of those?  
 11 A. Right.  
 12 Q. And they keep a pretty close eye on somebody that  
 13 gets into trouble and is a violent person, don't they?  
 14 A. I -- I couldn't -- I couldn't -- I wouldn't.  
 15 Q. Well, sir, you've been written up many, many times,  
 16 haven't you?  
 17 A. But all of them wasn't for fighting, though.  
 18 Q. Well, you don't consider fighting violence?  
 19 A. I said all of them wasn't for fighting.  
 20 Q. Well, back when -- what are you now, about 54?  
 21 A. I'm 57.  
 22 Q. Fifty-seven years old?  
 23 A. Right.  
 24 Q. And 20 years ago, you were 37. You went to the  
 25 penitentiary -- how old were you when you first went to the

Page 157

1 penitentiary?  
 2 A. Twenty-three.  
 3 Q. Twenty-three, a young man?  
 4 A. Right.  
 5 Q. And you were a little more prone to take offense  
 6 than you are when you get to be 57. Would that be a fair  
 7 statement?  
 8 A. Well, you know, when you're young, you know, you  
 9 do -- you do -- you do stupid stuff.  
 10 Q. And you do stupid stuff, and as you get older --  
 11 A. You get wiser.  
 12 Q. -- you realize it was stupid stuff?  
 13 A. You get wiser.  
 14 Q. You get wiser?  
 15 A. Yeah.  
 16 Q. Okay. Now, during the three months that you were at  
 17 Clements, you never saw Travis involved in any fights with  
 18 anyone, did you?  
 19 A. I wasn't on the building with him. I didn't stay on  
 20 the building with him.  
 21 Q. Well, sir, did you see him involved in any fights,  
 22 was my question.  
 23 A. No, I didn't.  
 24 Q. All right. Did you see him having words with anyone  
 25 other than Mr. Wiley?

Page 158

1 A. No.  
 2 Q. Thank you, sir, for being here.  
 3 MR. DURHAM: Pass the witness.  
 4 REDIRECT EXAMINATION  
 5 BY MR. SIMS:  
 6 Q. What are the boot knives or the shop knives used  
 7 for --  
 8 A. Trimming.  
 9 Q. -- that you had?  
 10 A. Trimming.  
 11 Q. What are you trimming?  
 12 A. Leather, leather and rubber.  
 13 Q. And what's the leather used for?  
 14 A. Boots.  
 15 Q. What about the rubber?  
 16 A. For canvas shoes.  
 17 Q. Are those knives dull or sharp?  
 18 A. No, we got our own whet rocks. We keep them sharp,  
 19 just like a razor.  
 20 Q. How sharp?  
 21 A. Sharp.  
 22 Q. Got to to cut that leather and rubber?  
 23 A. Sharp.  
 24 MR. DURHAM: Objection, leading.  
 25 THE COURT: Sustained.

Page 159

1 Q. (BY MR. SIMS) On January 29th of 2003, did anyone  
2 ask you for your knife?  
3 A. Yes, sir.  
4 Q. Who? The defendant?  
5 A. Right.  
6 Q. Did you let him use it?  
7 A. No, I didn't.  
8 MR. SIMS: Pass the witness, Your Honor.  
9 RE-CROSS-EXAMINATION  
10 BY MR. DURHAM:  
11 Q. Okay. That's in your third statement, right?  
12 A. Right.  
13 Q. Is that correct?  
14 A. That's right.  
15 Q. You made that known on the 14th, after you were  
16 transferred after you had the trouble with the Crypts?  
17 A. Right.  
18 Q. Right? You didn't tell anyone that the 29th. You  
19 knew absolutely nothing on the 29th, correct?  
20 A. No, he had asked me for that knife, but --  
21 Q. Sir --  
22 A. Right.  
23 Q. -- in your statement of the 29th, you knew  
24 absolutely nothing about anything, correct?  
25 A. I'm not --

Page 160

1 Q. Looking at the statement, sir, isn't that what your  
2 statement says?  
3 A. Right. But he had asked me for a knife --  
4 Q. Well, sir, I'm just talking about --  
5 A. Right, right.  
6 Q. -- what you told --  
7 A. Right.  
8 Q. The story you told on the 29th is what I'm asking  
9 about.  
10 A. Right.  
11 Q. And then the next day you told another story and you  
12 didn't tell them about the knife, did you?  
13 A. No, I didn't.  
14 Q. All right. So it was two weeks later, after you  
15 have this altercation with the gang members and you're  
16 transferred closer to your family that you remembered about  
17 the knife --  
18 A. The knife --  
19 Q. -- is that correct?  
20 A. The knife, he asked me for the knife. You know,  
21 I'm --  
22 Q. Sir --  
23 A. Yeah.  
24 Q. -- is it after you were transferred that you  
25 remembered about the knife and gave the statement?

Page 161

1 A. No, no, it wasn't -- it -- it was before the  
2 transfer.  
3 Q. Okay. Why didn't you give a statement before you  
4 were transferred?  
5 A. Well, I didn't -- I didn't -- I didn't realize, you  
6 know, that -- that, you know, that he had asked -- you know,  
7 he had asked me for that knife at the present time.  
8 Q. Oh, you didn't realize he had asked you for the  
9 knife, but you realized it in time to remember it for the  
10 14th?  
11 A. I remembered it.  
12 Q. You remembered it. Okay. Did you go to the  
13 authorities and say, "I remember something"?  
14 A. I went to the STG.  
15 Q. Okay. Was that before or after the transfer?  
16 A. That was before.  
17 Q. Before the transfer, you remembered it, they  
18 transferred you, and then you gave a new statement, correct?  
19 A. I gave a -- I gave a -- I gave a statement before  
20 they -- before they transferred me.  
21 Q. The third statement you gave before you were  
22 transferred?  
23 A. Right.  
24 Q. Well, the third statement is dated 14th of February  
25 and you said you were transferred the 5th of February.

Page 162

1 Which -- I'm really confused here. Please help me out. Which  
2 was it?  
3 A. I was on this unit in seg.  
4 Q. Pardon?  
5 A. I was in seg. I was housed in transit, in seg on  
6 this unit in 11 Building.  
7 Q. All right.  
8 A. I hadn't left this unit.  
9 Q. Okay. On what date?  
10 A. I don't remember the date.  
11 Q. Okay. Well, you testified to this jury a moment ago  
12 you were transferred on the 5th of February to the Lamesa  
13 Unit?  
14 A. Right.  
15 Q. Okay. This statement is dated the 14th of February?  
16 A. I was on -- I was still on -- I was on this unit. I  
17 talked to the STG on this unit right here.  
18 Q. While you were in segregation or before you went to  
19 segregation?  
20 A. I was in 11 Building.  
21 Q. What's 11 Building?  
22 A. That's solitary.  
23 Q. You were in solitary?  
24 A. Right.  
25 Q. And you remembered?

Page 163

1 A. Right.  
 2 MR. DURHAM: Okay. No further questions.  
 3 REDIRECT EXAMINATION  
 4 BY MR. SIMS:  
 5 Q. Why were you in solitary?  
 6 A. That's where they had me placed on trans.  
 7 Q. Tell them what "trans" is.  
 8 A. Just like they got me housed right now on a -- it's  
 9 just like segregation or Ad Seg, you know, where you don't --  
 10 you know --  
 11 Q. What does "trans" mean? Tell them -- tell them what  
 12 that means.  
 13 A. Trans is you're going to be transferred.  
 14 Q. Okay. Anybody tell you what to say here today?  
 15 A. No, they didn't.  
 16 Q. We talked before you testified, haven't we?  
 17 A. Right.  
 18 Q. What's the most important thing I told you you could  
 19 do in here?  
 20 A. Tell the truth.  
 21 Q. Is that what you've done?  
 22 A. That's what I have did.  
 23 MR. SIMS: Pass the witness, Your Honor.  
 24  
 25

Page 164

1 RE-CROSS-EXAMINATION  
 2 BY MR. DURHAM:  
 3 Q. Tried to? Is that what you just said?  
 4 A. I said I did.  
 5 Q. I thought you used the word "tried"?  
 6 A. No, I didn't. You're trying to put words in my  
 7 mouth.  
 8 Q. No, sir, I just asked you if I heard you correctly.  
 9 A. Right.  
 10 Q. And if I didn't, I didn't.  
 11 A. Yeah.  
 12 Q. And I apologize --  
 13 A. Right.  
 14 Q. -- because -- I'm not trying to put words in your  
 15 mouth because I'm not taking your statement.  
 16 A. Right.  
 17 MR. DURHAM: No further questions.  
 18 MR. SIMS: Nothing further, Your Honor.  
 19 THE COURT: Okay, you can step down.  
 20 Call your next witness.  
 21 MR. SIMS: William Elkins.  
 22 THE COURT: William who?  
 23 MR. SIMS: Elkins.  
 24 THE COURT: Mr. Elkins, if you would come right  
 25 up there in the middle, please, right up to the front of the

Page 165

1 courtroom there, take a seat on the witness stand, please,  
 2 sir.  
 3 Mr. Elkins, once you get comfortable, kind of  
 4 pull that microphone there towards you a little bit so that  
 5 you -- you don't have to have it right up close to you, but  
 6 just so you can speak into it.  
 7 MR. ELKINS: Yes, sir.  
 8 WILLIAM ELKINS,  
 9 having been first duly sworn, testified as follows:  
 10 DIRECT EXAMINATION  
 11 BY MR. SIMS:  
 12 Q. State your name, please, sir.  
 13 A. William Elkins.  
 14 Q. Where are you living at right now, sir?  
 15 A. My assigned unit?  
 16 Q. Where are you living at right now?  
 17 A. Bill Clements Unit.  
 18 Q. And that's a prison unit in regards to the Texas  
 19 Department of Criminal Justice; is that correct?  
 20 A. Yes, sir.  
 21 Q. And you're there on transport from another unit; is  
 22 that correct?  
 23 A. Yes, sir.  
 24 Q. Where is your normal house at?  
 25 A. Ellis One.

Page 166

1 Q. Where is that, sir?  
 2 A. In Huntsville, Texas.  
 3 Q. And currently, you're in prison on a life sentence  
 4 for aggravated rape; is that correct?  
 5 A. Yes, sir.  
 6 Q. How long have you been in, sir?  
 7 A. Twenty-three.  
 8 Q. Twenty-three years?  
 9 A. Yes, sir.  
 10 Q. Now, previously, back in January of 2003, were you  
 11 an inmate at the Clements Unit?  
 12 A. Yes, sir.  
 13 Q. How long had you been at the Clements Unit at that  
 14 time?  
 15 A. Ten years.  
 16 Q. Did you have any job assignment at that time?  
 17 A. Yes, sir, at that time --  
 18 Q. What did you do?  
 19 A. I was a cooking officer dining room, and then I went  
 20 to the boot factory.  
 21 Q. In January -- or January 29th --  
 22 A. No, January, I was working in the boot factory, sir.  
 23 Q. In January of 2003, how long had you been working in  
 24 the boot factory?  
 25 A. Well, on and off about five years, I think it was.

Page 167

1 Q. On January 29th of 2003, what was your job at the  
2 boot factory?  
3 A. I was side laster.  
4 THE REPORTER: I'm sorry?  
5 A. I was side laster, machine operator.  
6 Q. (BY MR. SIMS) Now, did you know an inmate by the  
7 name of Travis Runnels from the Clements Unit at that time?  
8 A. I knew of him from working out there, sir.  
9 Q. Do you see him here in the courtroom today, sir?  
10 A. Yes, sir.  
11 Q. Can you please point him out and describe the  
12 clothing he's wearing?  
13 A. Shirt and tie, brownish shirt and tie.  
14 Q. Can you point in his direction, please, sir?  
15 A. (Witness complies)  
16 Q. Okay. Thank you.  
17 About -- at that time, about how long had you  
18 known this defendant?  
19 A. Well, from just working out there because about -- I  
20 think he had been out there a week or two, I think, somewhere  
21 around there.  
22 Q. Now, did you also know a Stanley Wiley?  
23 A. Mr. Wiley, yes, sir.  
24 Q. Mr. Wiley. How did you know him, sir?  
25 A. Well, he was my supervisor and I knew him quite

Page 168

1 well.  
2 Q. How long had you been under his direction as a  
3 supervisor?  
4 A. Right at -- a little better than a year, I think it  
5 was, or better, probably. He took another officer's place.  
6 Another officer had retired and he took his place.  
7 Q. Describe Mr. Wiley for us, please.  
8 A. Mr. Wiley was probably like about five -- five nine,  
9 five ten, somewhere about my height, somewhere around there.  
10 Q. What kind of person was he, sir?  
11 A. Mr. Wiley was a good man. He was -- he was like --  
12 well, he was my supervisor.  
13 Q. Did you get along with him?  
14 A. Yes, sir.  
15 Q. There are some tissues right there by you if you  
16 need one.  
17 Mr. Elkins, can you see this or do I need to  
18 move it up closer?  
19 A. Bring it up a little closer, please.  
20 Q. Yes, sir.  
21 A. All right.  
22 Q. Are you able to recognize that, sir?  
23 A. Yes, sir. That's the -- that's a diagram of the  
24 boot factory.  
25 Q. And it's marked as State's Exhibit No. 50 for

Page 169

1 identification purposes.  
2 Now, you said you were working on some  
3 equipment; is that correct?  
4 A. Yes, sir.  
5 Q. Tell me approximately where you were working that  
6 day.  
7 A. Well, I -- I was --  
8 Q. I'm just going to start over here and I'll start  
9 moving across and you tell me when to stop.  
10 A. This over -- well, see over there, that's the side  
11 lasting area there.  
12 Q. The laster is right there?  
13 A. Yes, sir.  
14 Q. Okay.  
15 A. And I was behind the side laster working, trimming  
16 the boots.  
17 Q. Okay. You see that No. 27 there?  
18 A. Yes, sir. It should be right in there.  
19 Q. There's a No. 26 there. Which one?  
20 A. Where was the table?  
21 Q. Eighteen, the table is 18 -- 17, 18, 19.  
22 A. Okay. I was working right there -- right there --  
23 right there by my machine, right in that area right there.  
24 Q. Right in here somewhere? (Indicating)  
25 A. Yes, sir.

Page 170

1 Q. Okay. I'm going to put "E" right there and mark  
2 approximately where you were working, okay? Is that fair  
3 enough?  
4 A. Yes, sir.  
5 Q. Okay. Was Mr. Runnels working that day?  
6 A. Yes, sir.  
7 Q. What was he doing that day, sir?  
8 A. Well, he was janitor, I think it was, on the broom.  
9 Q. Okay. Had he been out there very long, Mr. Runnels?  
10 A. Well, he -- he was assigned out there. I think he  
11 had been out there every day, I think it was.  
12 Q. I'm sorry, I didn't understand you.  
13 A. I think he was out there every day. He was assigned  
14 out there to the boot -- I mean boot factory.  
15 Q. Do you know how long he had been out there?  
16 A. I would say maybe a couple of weeks, two weeks,  
17 somewhere around there.  
18 Q. Okay. That particular morning, when you first got  
19 out there, did you talk to anybody or just went to work?  
20 A. Just your regular people that associate -- that work  
21 in that area with us. We be sitting around kicking and  
22 drinking coffee and, you know, shooting -- shooting the bull,  
23 you know, until time to go to work.  
24 So Mr. -- so -- so --  
25 MR. DURHAM: It became --

1 A. -- Mr. Wiley --  
 2 MR. DURHAM: -- nonresponsive at some point in  
 3 time, I'll object.  
 4 A. Mr. Wiley --  
 5 Q. (BY MR. SIMS) Okay. Let me ask you --  
 6 THE COURT: Okay. Ask another question.  
 7 Q. (BY MR. SIMS) Did you see Mr. Wiley having any kind  
 8 of discussion with anyone?  
 9 A. No, not right offhand. He had told Mr. Runnels to  
 10 go to work or get on the wall.  
 11 Q. Okay. What happened at that point?  
 12 A. At that time, Mr. Runnels went to work.  
 13 Q. What was the defendant, Mr. Runnels, doing at that  
 14 point?  
 15 A. Sweeping.  
 16 Q. What's the next thing you remember happening that  
 17 day?  
 18 A. Well, went on back -- I went on back trimming my  
 19 boots and stuff, trying to -- because I was in vocational  
 20 training and I was trying to get through with my work and then  
 21 go to school. And so a few minutes later, Mr. Runnels, he  
 22 came to me about cutting some sleeves out of this shirt,  
 23 thermal shirt, so I was so far stuck out on the boots so I  
 24 didn't have time to let him go down there by himself and use  
 25 my knife, so I go down there and I cut the sleeves out of this

1 there and wanted to use my knife where he can cut some Vs in  
 2 his shirt. He was making a muscle shirt, he said. So I told  
 3 him, I say, "Well, look here, man, as soon as I get caught up,  
 4 I'll let you use it."  
 5 And then I give him the knife and he -- he  
 6 didn't -- he wasn't mad. He had a smile on his face, so I  
 7 give him the knife, and he goes down --  
 8 Q. Let me ask you, what did you think he was going to  
 9 do with the knife when you gave it to him?  
 10 A. Well, I was thinking he was going to --  
 11 MR. DURHAM: Objection. It calls for  
 12 speculation, Your Honor.  
 13 THE COURT: Sustained.  
 14 Q. (BY MR. SIMS) Did Mr. Runnels tell you what he  
 15 wanted the knife for?  
 16 A. No, sir, other than to cut the Vs in his shirt, make  
 17 a muscle shirt.  
 18 Q. You gave him the knife. What happened?  
 19 A. I give him the knife, he went down there, and that's  
 20 what I assumed that's what he was going to do.  
 21 MR. DURHAM: Objection, nonresponsive. Assumed  
 22 is not a proper response. It's speculation.  
 23 THE COURT: Objection sustained.  
 24 MR. DURHAM: May I have an instruction to  
 25 disregard?

1 shirt and I come back.  
 2 Q. Y'all went together?  
 3 A. Yes, sir.  
 4 Q. Okay. What was Mr. Runnels' attitude at that time?  
 5 A. He was --  
 6 MR. DURHAM: Objection. There's no proper  
 7 predicate for that question.  
 8 THE COURT: Sustained.  
 9 Q. (BY MR. SIMS) What happened next?  
 10 A. He had a -- he was -- he had a smile on his face.  
 11 He didn't act like he was mad or nothing like that there. He  
 12 had a smile on his face like all the other times I had seen  
 13 him, you know.  
 14 MR. DURHAM: That's not responsive to the  
 15 question, Your Honor.  
 16 THE COURT: Sustained.  
 17 MR. DURHAM: I'm going to object to it. Could  
 18 he ask a question and get a response?  
 19 Q. (BY MR. SIMS) Once you got back from cutting the  
 20 sleeves out, what happened?  
 21 A. I went back at the table to sit down and went to  
 22 kicking it with my friend, and then I went on -- fixing to  
 23 knocking some of the racks out because they were coming in  
 24 kind of regular on me, so I went back to work.  
 25 So shortly later, Mr. Runnels come back down

1 THE COURT: Mr. Elkins, here's what I need you  
 2 to do. Listen carefully to the question that you're asked --  
 3 THE WITNESS: Yes, sir.  
 4 THE COURT: -- and answer that question.  
 5 THE WITNESS: All right.  
 6 THE COURT: Okay, thanks.  
 7 MR. DURHAM: Thank you, Your Honor.  
 8 Q. (BY MR. SIMS) So you -- what do you do after you  
 9 give the defendant the knife?  
 10 A. I stayed over there sitting down at the table  
 11 drinking coffee.  
 12 Q. You couldn't do any work without your knife?  
 13 A. No, sir.  
 14 Q. You couldn't do your assigned job, correct?  
 15 A. Yes, sir.  
 16 Q. Did you see where Mr. Runnels went?  
 17 A. He went down there by boxing area, somewhere down in  
 18 there.  
 19 Q. I guess we need to get that back up here.  
 20 THE COURT: Gary, just take it off the easel,  
 21 take the easel away, and we can just lean it against the  
 22 table.  
 23 Okay. Thank you.  
 24 Q. (BY MR. SIMS) On State's Exhibit No. 50 for  
 25 identification purposes, you had indicated that you were

Page 175

1 approximately right here; is that correct?  
 2 A. Yes, sir.  
 3 Q. Now, where is the boxing area here?  
 4 A. Boxing area is down there by the warehouse. Where  
 5 is the warehouse area?  
 6 Q. Okay. Here's the lasters.  
 7 A. Uh-huh.  
 8 Q. Do I need to get closer so you can see?  
 9 A. Yes. It's further back down this way somewhere.  
 10 Q. Okay.  
 11 A. Right there. (Indicating)  
 12 Q. Right there? Right here? (Indicating)  
 13 A. Yes, sir, right in the boxing area.  
 14 Q. So you saw the defendant going from here toward this  
 15 area here which is marked -- actually, it's got a No. 30 over  
 16 there on it.  
 17 A. Yes, sir.  
 18 Q. Is that correct?  
 19 A. Yes, sir.  
 20 Q. What happened then, sir?  
 21 A. That's the last thing I seen.  
 22 Q. Okay. Did Mr. Runnels ever come back to you, sir?  
 23 A. He brought -- when he brought my knife back, he  
 24 brought my knife back to me. That's the only time he come  
 25 back.

Page 176

1 Q. About how long was he gone from the time he got your  
 2 knife until he came back to you, sir?  
 3 A. Seemed no more than about -- well, about ten  
 4 minutes, sir.  
 5 Q. About how many?  
 6 A. About ten, 15 minutes, sir. It wasn't that long,  
 7 wasn't gone that long, just --  
 8 Q. What's the next thing you recall happening at the  
 9 boot shop after that?  
 10 A. Well, I got my knife, I started knocking out the  
 11 racks, got ready for vocational school, then I seen Mr. Wiley  
 12 going toward the office holding his neck.  
 13 Q. And what happened then?  
 14 A. When he get up in the office, they wrapped his  
 15 jacket around his neck. About this time, Mr. Runnels come  
 16 back up that way by -- by the -- by the stair, blue stair, the  
 17 iron metal staircase we had out there in the floor, and he's  
 18 standing there.  
 19 Mr. Boomer --  
 20 Q. Who is Mr. Boomer?  
 21 A. The other supervisor that was out there. Mr. Bolin,  
 22 and I think it was Mr. Askins, they walking -- walking to --  
 23 toward the door to get him to the hospital.  
 24 So about this time, Mr. Wiley point. He can't  
 25 talk, but he point, let them know that he hurt him.

Page 177

1 Q. Who did he point at, sir?  
 2 A. Mr. -- Mr. --  
 3 Q. The defendant, Mr. Runnels?  
 4 A. Yes, sir.  
 5 Q. And then what happened?  
 6 A. Then Mr. Boomer told him, said, "Man" --  
 7 MR. DURHAM: Objection. That would be hearsay,  
 8 Your Honor.  
 9 THE COURT: Sustained.  
 10 Q. (BY MR. SIMS) After -- skip what was said. What's  
 11 the next thing that happened?  
 12 A. About that time, people came in, told us to get on  
 13 the floor, put our hands behind our backs, some laws from the  
 14 Neal Unit.  
 15 Q. What did they have you do with your knives?  
 16 A. They -- they made us put our knives on the desk. We  
 17 put our knives on the desk, and they took -- took them. I  
 18 guess they did a DNA --  
 19 Q. When you got your knife back, did you look at it,  
 20 when you got your knife first back from Mr. Runnels?  
 21 A. When I got it back, see what -- ain't nothing on it,  
 22 so that's the reason why I never did think that Mr. Runnels  
 23 had did anything --  
 24 MR. DURHAM: I don't think --  
 25 A. -- to Mr. Wiley.

Page 178

1 MR. DURHAM: -- that's responsive to a question  
 2 and I object.  
 3 THE COURT: Sustained.  
 4 MR. DURHAM: May I have an instruction to the  
 5 jury to disregard some of these nonresponsive answers?  
 6 THE COURT: Disregard the last answer, please.  
 7 MR. DURHAM: Thank you.  
 8 MR. SIMS: I'll pass the witness, Your Honor.  
 9 CROSS-EXAMINATION  
 10 BY MR. DURHAM:  
 11 Q. Mr. Elkins, you gave two statements and they are  
 12 quite different, aren't they?  
 13 A. Sir?  
 14 Q. Pardon? Did you understand the question?  
 15 A. No, sir.  
 16 Q. Okay. You gave two statements?  
 17 A. Yes, sir.  
 18 Q. All right. Have you reviewed those statements prior  
 19 to coming to court today?  
 20 A. My -- my first statement that I gave, I -- I -- I  
 21 gave --  
 22 Q. It's a yes-or-no question, sir.  
 23 Let me explain responsiveness to you. You  
 24 listen to the question --  
 25 THE COURT: Mr. Durham --



Page 179

1 MR. DURHAM: Pardon me, Your Honor.  
 2 THE COURT: Mr. Elkins, did you hear the  
 3 question? The question he asked you was: Did you review your  
 4 two statements before you came here today?  
 5 THE WITNESS: No, sir.  
 6 THE COURT: Did you look at them?  
 7 THE WITNESS: Not today.  
 8 THE COURT: Did you read them?  
 9 THE WITNESS: No, sir.  
 10 THE COURT: Okay. Would you like an  
 11 opportunity to do that?  
 12 THE WITNESS: Yes, sir.  
 13 THE COURT: Okay. You read those over,  
 14 Mr. Elkins, and then we'll continue.  
 15 (Witness reading)  
 16 (Pause)  
 17 THE WITNESS: This was my first statement, sir.  
 18 THE COURT: Okay. Read them -- there should be  
 19 two there.  
 20 THE WITNESS: Yeah.  
 21 THE COURT: Read them both.  
 22 THE WITNESS: I can't read that good. Can I  
 23 get someone to help me, please?  
 24 MR. SIMS: May we approach the bench?  
 25 THE COURT: Yeah, sure.

Page 180

1 (At the bench, on the record)  
 2 MR. SIMS: They have all seen their statements.  
 3 They have even seen them today.  
 4 THE COURT: Okay.  
 5 MR. SIMS: And then he doesn't read well --  
 6 somebody is going to have to read it to him.  
 7 (Open court)  
 8 THE COURT: Okay. Just go through it the best  
 9 you can, Mr. Elkins, and when Mr. Durham gets back, we'll  
 10 start asking some questions about it.  
 11 THE WITNESS: Well, on my first statement that  
 12 I gave --  
 13 THE COURT: Okay. Wait until Mr. Durham gets  
 14 back here. Well, I guess you don't know who he is. He's the  
 15 guy that walked out the door.  
 16 (Mr. Durham returns to the courtroom)  
 17 THE COURT: Okay, Mr. Durham, Mr. Elkins said  
 18 he can't read and write very well, so if you'll kind of go --  
 19 as you have questions, go up and show him what you're talking  
 20 about and read it to him.  
 21 MR. DURHAM: I'll let Ms. Hamilton. She can  
 22 read it and I probably -- she can see it and I probably can't.  
 23 THE COURT: Okay. All right.  
 24 Q. (BY MS. HAMILTON) Mr. Elkins, could you read any of  
 25 your statements? Did you write them or --

Page 181

1 A. No, someone else wrote them for me.  
 2 Q. Someone wrote them for you? Okay. Well, you gave  
 3 your first statement on January 29th; is that right?  
 4 A. Yes, ma'am.  
 5 Q. Okay. And in that statement, that statement, you  
 6 just talked about being -- would it -- would it -- would it be  
 7 better if I read to you --  
 8 A. Yes, ma'am.  
 9 Q. Okay. It says, "On January 29th" --  
 10 MS. HAMILTON: I'm going to approach the  
 11 witness, Judge.  
 12 Q. (BY MS. HAMILTON) Let me make sure that we're on  
 13 the same page, okay?  
 14 A. Okay.  
 15 Q. Now, have you read that? Can you read any of that,  
 16 sir?  
 17 A. No.  
 18 Q. Okay. Starting with that handwriting down there,  
 19 that's not your handwriting, is it?  
 20 A. No, ma'am.  
 21 Q. Okay. You -- and in that statement, you just talked  
 22 about that you heard -- you say, "I heard Mr. Wiley telling an  
 23 inmate, 'I told you if you're not going to clean up, get on  
 24 the wall.'"  
 25 A. Yes, ma'am.

Page 182

1 Q. Okay. What -- that just means to just kind of stand  
 2 aside?  
 3 A. No, ma'am. They got a -- up there toward the  
 4 office, that's what they call the wall. If you're not going  
 5 to work, you get on -- stand on the wall and they call for  
 6 security to come get you.  
 7 Q. Okay. And you heard that, but then did you see  
 8 Mr. -- did you see Mr. Wiley after that?  
 9 A. No, he went on down to the other work area, you  
 10 know -- you know, because, you know, everybody have certain  
 11 jobs to do.  
 12 Q. Okay. But in that statement, you don't say  
 13 anything -- later in that statement, you say, "I -- I had my  
 14 knife when Mr. Wiley was cut," but there's nothing in this  
 15 statement about what you testified to about what you saw. You  
 16 didn't put that in this statement, did you?  
 17 A. I didn't see anything.  
 18 Q. Okay. You just heard -- you just heard?  
 19 A. I just heard -- I know I had gave Mr. Runnels my  
 20 knife, and I never thought that he did anything because there  
 21 wasn't no blood or nothing on my knife, so I felt like he  
 22 hadn't hurt nobody because I couldn't say that he hurt  
 23 anybody.  
 24 Q. Okay. And then you gave another statement, I  
 25 believe, the next day?

Page 183

1 A. Yes, ma'am.

2 Q. Okay. And then you gave another statement; is that

3 right?

4 A. The second statement.

5 Q. Did you give three statements --

6 A. No, ma'am.

7 Q. -- or two statements?

8 A. Two statements.

9 Q. Okay. How long had you known Mr. Runnels?

10 A. I hadn't known Mr. Runnels that long. I just know

11 him from working around him, seeing him out there. He always

12 had a smile on his face, always -- we suspected that he had --

13 a pretty cool fellow.

14 Q. You had only seen him a few times?

15 A. Yes, ma'am.

16 Q. Okay. And you said he always had a smile on his

17 face, seemed good-natured?

18 A. He always had a -- seemed like he was a great guy.

19 Q. Okay. And you had known Mr. Wiley how long?

20 A. Well, on and off probably about five years,

21 somewhere around there. I knowed him when he was in gray.

22 THE REPORTER: I'm sorry, knowed him when he

23 was in what?

24 A. When he was in gray -- gray uniform.

25 Q. (BY MS. HAMILTON) Isn't it true that there are --

Page 184

1 sometimes there are disagreements between supervisors and

2 inmates?

3 A. Sometime there is.

4 Q. And, in fact, there are times when -- when an inmate

5 might not want to work?

6 A. Yes, ma'am, there's quite a bit of that.

7 Q. Sorry?

8 A. Yes, ma'am.

9 Q. There's quite a bit of that, is that what you said?

10 A. Yes, ma'am.

11 Q. Okay. And sometimes people just don't get along out

12 there, like the supervisors and the inmates?

13 A. Well, I -- I wouldn't say don't get along, because,

14 I mean, you know, if you don't want to work, a lot of them

15 come out there that don't want to work, so they cause a

16 problem for themselves, you know, and --

17 Q. And that's happened to you in the past?

18 A. Yes, ma'am, I've had -- you know, I went through --

19 Q. You've had days you didn't want to work --

20 A. Yes --

21 Q. -- in the past?

22 A. Yes, ma'am.

23 Q. Okay. And you get written up for it?

24 A. Well, I never got written up. I got a warning.

25 Q. Oh, okay, got a warning, okay.

Page 185

1 What unit are you in now?

2 A. Ellis, Ellis One, Huntsville, Texas.

3 Q. And where were you before that?

4 A. Before Ellis One?

5 Q. Yes, sir.

6 A. Bill Clements Unit, Amarillo, Texas.

7 Q. Okay. When did you go from Clements to Ellis?

8 A. In 2003.

9 Q. When in 2003, sir?

10 A. In February. I think it was February the 7th --

11 February the 7th.

12 Q. February 7th? Why were you transferred?

13 A. Because I had a hit on my life.

14 Q. Okay. What does that mean to you, sir?

15 A. Ma'am?

16 Q. What does that mean?

17 A. That they threatened to kill me.

18 Q. Who?

19 A. I don't have the faintest idea. There was a note

20 under my -- a letter was -- well, a piece of paper was under

21 my door. We was on lockdown. And it told me, "Nigger, you

22 dead."

23 Q. Okay. Was it Mr. Runnels? He wasn't there, was he?

24 A. No, ma'am.

25 Q. You hadn't seen him since -- since that day?

Page 186

1 A. No, ma'am. Wasn't no inmates out, ma'am.

2 Q. Sorry?

3 A. Wasn't no -- no inmates out that day. We was all on

4 lockdown.

5 Q. So all the inmates were in lockdown, but a note got

6 slipped under your door threatening your life?

7 A. Yes, ma'am. An officer put it under there.

8 Q. Okay. Did you see the officer put it under there?

9 A. No, ma'am.

10 Q. Okay. But there was no inmates out walking around

11 the halls?

12 A. Wasn't no inmates out. We was all locked down.

13 Q. So when you were fed your food during the day, an

14 officer delivered it?

15 A. Yes, ma'am. We ate johnnies.

16 Q. I'm sorry?

17 A. We ate johnnies.

18 Q. That's the officer's name?

19 A. No, ma'am, that's what they fed us.

20 Q. What did they feed you?

21 A. Johnnies.

22 Q. Okay.

23 A. Sack lunches.

24 Q. Sack lunches, okay.

25 And what did the note say?

1 A. "Nigger, you dead."  
 2 Q. "Nigger, you're dead?"  
 3 A. That's right.  
 4 Q. Okay. What did you do with that note, sir?  
 5 A. My cellie woke me up and said, "You need to look at  
 6 this." So I got up, and he read it.  
 7 Q. Okay. Did -- did the note -- do you know -- was  
 8 your cell mate black also?  
 9 A. No, he was Spanish.  
 10 Q. Okay. So you felt like the note was obviously  
 11 directed towards you, based on the words in the note?  
 12 A. Yes, ma'am, it was based towards me.  
 13 Q. Okay. And the note -- you said that after you got  
 14 the note, you felt like a guard had put it there?  
 15 A. (Witness nods head up and down)  
 16 Q. Now, was that before or after you gave your second  
 17 statement?  
 18 A. That was after I gave my second statement.  
 19 Q. That was after you gave your second statement?  
 20 A. Yes.  
 21 Q. Okay. And where is the note?  
 22 A. I flushed it down the toilet. I didn't pay --  
 23 really pay it no attention.  
 24 Q. Okay. But then you -- but then you said that you  
 25 were transferred because of it?

1 THE COURT: Don't talk to each other.  
 2 MR. DURHAM: I think we're entitled to that.  
 3 THE COURT: You're entitled to what?  
 4 MR. DURHAM: Their investigation into the  
 5 threat on his life.  
 6 THE COURT: Okay. All right. Have somebody  
 7 find out where it is and we'll continue with this exploration,  
 8 then.  
 9 MR. SIMS: I'll send Jack to go get somebody  
 10 started.  
 11 THE COURT: Okay.  
 12 (Open court )  
 13 Q. (BY MS. HAMILTON) Who did you talk to at AID?  
 14 A. I seen -- I forget. I really forgot the name. It  
 15 was a black officer and a white officer.  
 16 Q. So two officers came to speak with you?  
 17 A. Well, they send -- they was -- they was in -- they  
 18 wasn't in uniform, they was in suits.  
 19 Q. Plain clothes?  
 20 A. I think it was Wilson.  
 21 Q. Might be Wilson?  
 22 A. Something like that, yeah. I forget the name.  
 23 Q. Okay. And --  
 24 A. They on the Bill Clements Unit.  
 25 Q. And they worked on the Clements Unit?

1 A. That's why I was transferred. I told -- and they  
 2 already knew.  
 3 Q. How -- they already knew?  
 4 A. Yes, ma'am.  
 5 Q. Who did you tell?  
 6 A. I told AID.  
 7 Q. AID?  
 8 A. Internal affairs, yes, ma'am.  
 9 Q. Okay. When did you tell them?  
 10 A. That same -- that day they came and got me. They  
 11 came and picked me up that Tuesday morning.  
 12 Q. Did they take a statement from you about that?  
 13 A. Yes, ma'am.  
 14 Q. And where is that statement?  
 15 A. I don't have the vaguest idea. All I know, they  
 16 told me not to contact anyone, not to talk to anyone, and  
 17 don't even contact nothing. I told them, I said, "Well, I  
 18 need to talk to my mother." Said, "You can't even talk to  
 19 your mother." Said, "We're going to put you on a train -- on  
 20 a -- on a bus."  
 21 MR. DURHAM: May we approach?  
 22 THE COURT: Sure.  
 23 (At the bench, on the record)  
 24 MR. DURHAM: I think we're entitled to that.  
 25 MR. SIMS: News to me.

1 A. Yes, ma'am.  
 2 Q. Okay. And -- okay. Now, if this deal in the boot  
 3 factory with Mr. Wiley, if that occurred on January 29th, you  
 4 said this was a few days later that this note got --  
 5 A. Well, you know, what -- when they locked -- they  
 6 came and got me the second day -- about the second day after  
 7 the death and took me to question me.  
 8 Q. When you gave the second statement?  
 9 A. Yes, ma'am.  
 10 Q. That was on January 30th?  
 11 A. Yes, ma'am.  
 12 Q. Do you agree with me?  
 13 A. Yes, ma'am.  
 14 Q. Okay. Then after you gave the second statement, how  
 15 soon after that was that note left for you?  
 16 A. I think it was like the -- we still on lockdown. I  
 17 think it was like the following day or the next day or  
 18 somewhere around there. I really -- I really done forgot.  
 19 But I -- you know, just -- you know --  
 20 Q. Last day of January, beginning of February?  
 21 A. No, it was still in January.  
 22 Q. How soon after -- you told me that you were  
 23 transferred out on February 7th?  
 24 A. Yes, ma'am.  
 25 Q. How soon after you told them about the note were you

1 transferred out?  
 2 A. About three days after -- three days before they  
 3 transferred me.  
 4 Q. So it was probably around February 4th?  
 5 A. Somewhere around there, yeah, somewhere. February  
 6 the 4th or February the 7th, somewhere around there.  
 7 Q. Okay. And as soon as you found that note, how soon  
 8 after you found that note did the AID officer come see you?  
 9 A. Law came and got me that same day.  
 10 Q. That day, okay.  
 11 A. And I told them about it and --  
 12 Q. Did you show them the note?  
 13 A. No, I had threw it away.  
 14 Q. Okay. Did you recognize the handwriting on the  
 15 note?  
 16 A. No, ma'am, I didn't recognize the handwriting  
 17 because I didn't know who it was and, you know, I couldn't  
 18 ever figure out why would anybody want to hurt me and I hadn't  
 19 did anything.  
 20 Q. What kind of paper was it written on?  
 21 A. Looked like typing paper.  
 22 Q. Like just plain --  
 23 A. Yes, ma'am.  
 24 Q. -- paper? Okay. And was it handwritten or was it  
 25 typed?

1 A. When I was --  
 2 Q. -- about this?  
 3 A. When I was coming through Huntsville to come over  
 4 here, Sunday before last, I went to breakfast --  
 5 Q. Who threatened you, sir, or what happened that made  
 6 you feel like it was a threat?  
 7 A. Well, when they came to me and said --  
 8 MR. DURHAM: I'm going to object to the hearsay  
 9 nature of this statement.  
 10 THE COURT: Well, if everybody will let the  
 11 witness answer the question. We're talking over each other.  
 12 Ask your question again, please, sir.  
 13 Q. (BY MR. SIMS) You said you were threatened again.  
 14 Where at?  
 15 A. At the wall in Huntsville on transit.  
 16 Q. How did that come about, sir?  
 17 A. I was coming back from breakfast, this inmate ran up  
 18 behind me, rammed my head into the wall and busted my eye on  
 19 the side.  
 20 Q. What happened then?  
 21 A. I don't know nothing about no disciples, but he just  
 22 said he was a disciple and he was a friend.  
 23 MR. DURHAM: I'm going to object to the hearsay  
 24 nature of the response.  
 25 THE COURT: Overruled. I don't believe it's

1 A. Well, it was a fancy handwriting. It wasn't typed,  
 2 it was real nice handwriting.  
 3 Q. Okay. Did you believe --  
 4 A. Ma'am?  
 5 Q. Did you believe the note?  
 6 A. Did I believe in it?  
 7 Q. Did you believe in what it said?  
 8 A. Yes, ma'am, I truly believed it.  
 9 Q. You felt that your life was being threatened?  
 10 A. Yes, ma'am.  
 11 MS. HAMILTON: Your Honor, we would ask to  
 12 reserve further examination of this witness.  
 13 THE COURT: Okay. You pass the witness?  
 14 MS. HAMILTON: Yes.  
 15 THE COURT: Okay.  
 16 REDIRECT EXAMINATION  
 17 BY MR. SIMS:  
 18 Q. Now, this note you got, you don't know where it came  
 19 from?  
 20 A. No.  
 21 Q. Could have even been your bunkie that put it there?  
 22 A. I doubt it, but -- it could have, but I don't think  
 23 so.  
 24 Q. Sure. Have you received any other threats since  
 25 then --

1 being offered for the truth. It's offered for the fact that  
 2 the man thought he was threatened.  
 3 Okay. Go ahead.  
 4 A. So I asked the officer that was standing there, I  
 5 said, "Did you see that?" And he just turned his back. So --  
 6 "Go on in your cell." So I went on in my cell. So I'm  
 7 bleeding, so I asked him, I said, "Will you take me to the  
 8 hospital" --  
 9 MR. DURHAM: At some point in time, he quit  
 10 answering the question --  
 11 THE COURT: Sustained.  
 12 MR. DURHAM: -- and he's giving a narrative.  
 13 THE COURT: Ask another question.  
 14 Q. (BY MR. SIMS) An inmate did it -- did it to you,  
 15 but there was a correctional officer there that turned their  
 16 back. Am I understanding you correctly?  
 17 A. Yes, sir.  
 18 Q. Did you report that incident to anyone else?  
 19 A. I told that -- called for a captain or some -- where  
 20 I can talk to somebody, but he never did do it. So when I did  
 21 get out to go to the hospital, I had to wait until they called  
 22 chow for me to go, they let transit go out to eat. So I went  
 23 to the infirmary and they -- I was scared, so I never -- never  
 24 did -- so they asked me, said, "Well, you're going to get a  
 25 case if you don't tell me what happened to you." So I told

Page 195

1 them, I said, "Well, I just bumped my head." So I was afraid  
2 to say --  
3 Q. You told somebody else you just bumped your head  
4 when asked about it?  
5 A. Told the nurse.  
6 Q. Any other thing happen that made you feel like you  
7 were threatened?  
8 A. No, sir. I've -- see, it's like this: I've been  
9 there a long time, but just listen to me, that's all I ask,  
10 just listen, please. I've been there a long time. And  
11 whatever I did, I did my crime -- I did time on it and I'm  
12 sorry about that. But I didn't have no part to none of this.  
13 I had a lot of respect for Mr. Wiley. He  
14 treated me like a friend and he was my supervisor. I didn't  
15 have no dealing with him getting killed. That's all I'm --  
16 MR. DURHAM: Nonresponsive --  
17 A. Just listen to me.  
18 MR. DURHAM: -- objection.  
19 THE COURT: Ask another question, please, sir.  
20 Q. (BY MR. SIMS) In regards to what you've testified  
21 to here today, have you said that because of any kind of  
22 threats?  
23 A. No, sir.  
24 MR. DURHAM: Bolstering, objection.  
25 THE COURT: Sustained.

Page 196

1 MR. DURHAM: Instruction?  
2 THE COURT: Jury is instructed to disregard.  
3 Q. (BY MR. SIMS) What do you feel is the most  
4 important thing you could do here today?  
5 A. The most important --  
6 MR. DURHAM: Your Honor, that's an open-ended  
7 question. By its very nature, it invokes --  
8 THE COURT: Okay. It's global. Sustained.  
9 Q. (BY MR. SIMS) In regards to what you have told  
10 these jurors here today, what have you tried to do, sir?  
11 MR. DURHAM: That's bolstering.  
12 THE COURT: Sustained.  
13 MR. SIMS: I'll pass the witness, Your Honor.  
14 RE-CROSS-EXAMINATION  
15 BY MS. HAMILTON:  
16 Q. Mr. Elkins, do you feel that the threat from the  
17 guards was valid, was real?  
18 A. Yes, ma'am.  
19 MR. SIMS: I would object, Your Honor. He just  
20 speculated it was from a guard, he didn't say for sure that it  
21 was.  
22 THE COURT: Sustained.  
23 Q. (BY MS. HAMILTON) Mr. Elkins, do you feel that the  
24 threat that you received was real?  
25 A. I truly believe it was real, madame.

Page 197

1 Q. Okay. Do you feel that when the guard turned his  
2 back on you at the wall unit (sic), did that cause you some  
3 fear?  
4 A. Well, let me put it like this here, I imagine you  
5 would probably feel the same way if someone slammed your head  
6 up against the wall and busted your head open. Yes, I feel  
7 like that was fear, but I can't understand why. I ain't hurt  
8 no one.  
9 Q. Okay. I'm not talking about the inmate that you  
10 said did that to you. You said that after the inmate did  
11 that, then the guard turned his back on you. Is that what he  
12 did, sir?  
13 A. He turned away. I guess he wasn't -- he wasn't  
14 concerned, or either he would let him die in there or what.  
15 Q. Did that cause you further fear?  
16 A. For someone to just -- I -- I said -- I said because  
17 he -- for someone to just walk up that you don't know, and  
18 just walk up and slam your head in there against the wall or  
19 against the door, you know, it's pretty fear because --  
20 Q. Do you recognize any of these people in the back of  
21 the courtroom?  
22 A. They was some of my supervisors, yes.  
23 Q. Some of the guards, or supervisors?  
24 A. Supervisors.  
25 Q. Okay.

Page 198

1 MS. HAMILTON: I'll pass the witness.  
2 REDIRECT EXAMINATION  
3 BY MR. SIMS:  
4 Q. Do you feel threatened by them being here today?  
5 A. No, sir.  
6 Q. Do you feel threatened at all being in here today  
7 and testifying in front of this jury?  
8 A. No, sir.  
9 Q. Were you ever afraid that you might be in trouble  
10 because possibly it was your knife that was used?  
11 MR. DURHAM: That's a leading question, Your  
12 Honor.  
13 THE COURT: Overruled.  
14 MR. DURHAM: Objection. It's not been  
15 established that it was his knife used, so the question  
16 assumes facts not in evidence.  
17 THE COURT: That is sustained.  
18 MR. DURHAM: Thank you.  
19 Q. (BY MR. SIMS) Because of the events of January 29th  
20 of 2003, did you ever feel concerned that you might be in  
21 trouble?  
22 A. Yes, sir.  
23 Q. Why?  
24 A. Because I feel like Mr. Wiley was hurt with my tool.  
25 Q. How do you feel about that, sir?

1 MR. DURHAM: Objection, global question, Your  
2 Honor.  
3 THE COURT: Sustained.  
4 MR. SIMS: Pass the witness, Your Honor.  
5 THE COURT: Ms. Hamilton?  
6 MS. HAMILTON: Pass, Judge.  
7 THE COURT: Okay, you can step down, sir.  
8 Do any of you folks want a break?  
9 (No response)  
10 Okay. Call your next witness.  
11 MR. SIMS: Tony Irvine, Your Honor.  
12 THE COURT: Mr. Irvine, if you would come right  
13 around here, please, sir, and take a seat on the witness  
14 stand.  
15 Mr. Irvine, once you're comfortable, if you  
16 would just sort of straighten that mike out, pull it to you a  
17 little bit so that you can speak into it.  
18 Okay, thanks.  
19 TONY IRVINE,  
20 having been first duly sworn, testified as follows:  
21 DIRECT EXAMINATION  
22 BY MR. SIMS:  
23 Q. Would you state your name, please, sir?  
24 A. Tony Irvine.  
25 Q. Where are you currently residing?

1 Q. I'm sorry, I didn't catch the last part.  
2 A. March of 2004.  
3 Q. Okay. Just the general category of who you felt  
4 threatened by, who was that?  
5 MR. DURHAM: Pardon me, Your Honor. I'm going  
6 to object to that as calling for a hearsay response and  
7 speculation.  
8 THE COURT: Rephrase the question, please.  
9 Q. (BY MR. SIMS) Well, I'll just -- did you know the  
10 individual that threatened you?  
11 A. No, I didn't know them, other than what they told  
12 me.  
13 Q. What was that individual's status at -- I'm  
14 assuming -- you said it happened at the unit, so I'm assuming  
15 it happened inside the unit?  
16 A. Yes, sir. He -- to my knowledge, he was a gang  
17 member of the gang called the Crypts.  
18 MR. DURHAM: Speculation, Your Honor, and also  
19 hearsay.  
20 THE COURT: Overruled.  
21 MR. DURHAM: May I be heard on that?  
22 THE COURT: Sure. The reason I overruled it,  
23 and I'll tell you, is because the first words out of the  
24 witness's mouth were "to my knowledge, he is a member."  
25 MR. DURHAM: That who is a -- that the person

1 A. Bill Clements Unit.  
2 Q. And that is --  
3 A. Amarillo.  
4 Q. -- your residence; is that correct?  
5 A. Yes, sir.  
6 Q. You're not on transport anywhere, transfer? You're  
7 not on transfer from another unit?  
8 A. Yes, I came from another unit.  
9 Q. Okay. What unit did you come from?  
10 A. Huntsville Unit.  
11 Q. And you're currently in the prison system for a  
12 credit card abuse conviction, a theft from person conviction,  
13 an aggravated robbery, a robbery, and another aggravated  
14 robbery and obstruction; is that correct?  
15 A. No, sir, the first three charges you read out were  
16 old charges. I'm currently in for two counts of aggravated  
17 robbery, one robbery, and obstruction.  
18 Q. Okay. Has anyone threatened you about your  
19 testimony today?  
20 A. Yes, sir.  
21 Q. When did that happen, sir?  
22 A. It happened in Huntsville at the Wynne Unit.  
23 Q. When did that occur, sir?  
24 A. Around March of 2003 -- 2004, I meant to say, excuse  
25 me.

1 who threatened him is a member?  
2 THE COURT: Yes, sir. Would you like to take  
3 the witness on voir dire?  
4 MR. DURHAM: Yes, I would.  
5 THE COURT: Go right ahead.  
6 VOIR DIRE EXAMINATION  
7 BY MR. DURHAM:  
8 Q. Do you know this person to be a member of the  
9 Crypts?  
10 A. This is something that I learned while --  
11 Q. Sir, do you know this person to be a member of the  
12 Crypts? It's a yes-or-no --  
13 A. Not beforehand, no.  
14 MR. DURHAM: That's my point, Your Honor. I ask  
15 the testimony be stricken and jury instructed.  
16 THE COURT: Overruled. Go ahead.  
17 DIRECT EXAMINATION - Cont'd  
18 BY MR. SIMS:  
19 Q. When did you arrive to the Bill Clements Unit this  
20 time?  
21 A. This time here?  
22 Q. Yes, sir.  
23 A. I've been on the Clements Unit approximately 30 days  
24 now, I would say. I got there on the 28th, I believe.  
25 Q. You were previously housed on that farm; is that

Page 203

1 correct?  
 2 A. Yes, sir.  
 3 Q. When was that, sir?  
 4 A. I would say I got there around September --  
 5 September or October of 2002.  
 6 Q. When were you shipped off that farm?  
 7 A. I would say January the 30th of 2003, the day after  
 8 the incident happened.  
 9 Q. What was your work assignment?  
 10 A. I worked in the boot factory. I ran a toe lasting  
 11 machine.  
 12 Q. Are you able to see what's been marked for  
 13 identification purposes as State's Exhibit No. 50 from where  
 14 you're at, sir?  
 15 A. Yes, sir.  
 16 Q. Are you able to recognize that, sir?  
 17 A. Yes, sir.  
 18 Q. What does that represent to you, sir?  
 19 A. It's a graph of the boot factory.  
 20 Q. Now, you said you were working in lasting; is that  
 21 correct?  
 22 A. Yes, toe lasting.  
 23 Q. Where is that on this particular diagram, sir? I'll  
 24 come up here and I'll just let you point it to me, and then  
 25 I'll back away from you again.

Page 204

1 A. I was right here between 6 and 7, I would say.  
 2 Q. Between 6 and 7?  
 3 A. Yes, sir.  
 4 Q. Here, right in here? (Indicating)  
 5 A. Yes, sir.  
 6 Q. If it's all right with you, I'm going to put your  
 7 initials there.  
 8 Would that be the correct place, sir, where I  
 9 put "TI"?  
 10 A. Yes, sir.  
 11 Q. What was your job there, sir?  
 12 A. My job was to take boots off the rack and put them  
 13 in the toe lasting machine and to -- the machine brought the  
 14 toe of the boot together and glued the end of it together.  
 15 Q. Who does the work there in the boot factory?  
 16 A. Inmates.  
 17 Q. Okay. Are there other people there?  
 18 A. Yes, sir.  
 19 Q. Who else is there besides inmates?  
 20 A. Security, supervisors.  
 21 Q. Now, do you know Stan Wiley or Mr. Wiley?  
 22 A. Yes, sir.  
 23 Q. Where is that from? Where do you know him from?  
 24 A. From the Bill Clements Unit in the boot factory.  
 25 Q. About how long had you known Mr. Wiley, sir?

Page 205

1 A. I would say maybe three or four days at the most.  
 2 Q. And why is that, sir?  
 3 A. To my knowledge, Mr. Wiley was on second shift and I  
 4 worked first shift, and he had just been transferred to the  
 5 first shift boot factory when I met him. I had heard of him  
 6 before then, but I -- I had just met him when he came to first  
 7 shift.  
 8 Q. So he -- to your knowledge, he had just been down  
 9 there for three or four days on the first shift?  
 10 A. Yes, I would say three or four days.  
 11 Q. Now, do you know Travis Runnels?  
 12 A. Yes, sir.  
 13 Q. See him here in the courtroom today?  
 14 A. Yes, sir.  
 15 Q. Would you please point him out and describe what  
 16 he's wearing?  
 17 A. He's wearing a maroon shirt, a yellow and black tie,  
 18 tan khaki pants.  
 19 Q. How do you know this defendant?  
 20 A. I know him from the boot factory.  
 21 Q. There at the Clements Unit?  
 22 A. Yes, at the Bill Clements Unit.  
 23 Q. How long had you known the defendant at that time?  
 24 A. About the same as I know Mr. Wiley.  
 25 Q. Why is that, sir?

Page 206

1 A. Mr. Runnels hadn't -- he wasn't there when I first  
 2 got there. He previously had come to work around the same  
 3 time Mr. Wiley had started.  
 4 Q. Do you know where Mr. Runnels came from?  
 5 A. No, sir, I do not.  
 6 MR. DURHAM: Based on hearsay. I object.  
 7 THE COURT: Well, his answer was no.  
 8 Q. (BY MR. SIMS) Were you working around 7:30 on  
 9 January 29th, 2003, in close proximity to some other inmates?  
 10 A. Yes, I was.  
 11 Q. Who were they, sir?  
 12 A. I don't know any real names, but there was a guy  
 13 named J.R., Mr. Elkins, and J.J.  
 14 Q. Now, while you were standing there, or working there  
 15 with Mr. Elkins about that time of day, what, if anything, do  
 16 you recall happening?  
 17 A. That particular morning, me and Mr. Elkins and a  
 18 couple of more other guys that I just named were all standing  
 19 around having cups of coffee, speaking of the football game,  
 20 as I recall.  
 21 Q. What happened then?  
 22 A. We all split up and went to our work areas, as the  
 23 one I showed you on the poster there. And prior to that, the  
 24 boots that we work on in the factory had got like behind, so  
 25 in the process, a lot of times when the boots get behind,

Page 207

1 other inmates may help to catch up, catch the line back up.  
 2 Q. You've kind of got an assembly line out there for  
 3 putting the boots and shoes together; is that correct?  
 4 A. That's correct.  
 5 Q. And so what happened when you got behind?  
 6 A. Well, when we got behind, me, myself, I was looking  
 7 for a supervisor to get some help in the area. And while I  
 8 was doing that, I observed Mr. Runnels speaking to Mr. Elkins.  
 9 And Mr. Elkins gave him a knife that we use to cut the boots  
 10 with.  
 11 So at that time, I felt like Mr. Runnels was  
 12 going to come to the -- the line where we was working and help  
 13 us to catch up on the boots.  
 14 Q. Now, at the time that that happened, did you know --  
 15 the inmate that got the knife from Mr. Elkins, did you know  
 16 him by name?  
 17 A. No, sir, I didn't.  
 18 Q. Not at that time?  
 19 A. No, sir.  
 20 Q. Do you see that inmate in the courtroom here today?  
 21 A. Yes, sir.  
 22 Q. Point him out, please.  
 23 A. (Witness complies)  
 24 Q. The same one you previously identified earlier; is  
 25 that correct?

Page 208

1 A. Yes, sir.  
 2 Q. The defendant, Mr. Runnels.  
 3 Okay. Got the knife, what happens then?  
 4 A. Well, prior to that, after I observed Mr. Elkins  
 5 giving Mr. Runnels the knife --  
 6 MR. DURHAM: I'm sorry, nonresponsive. The  
 7 question was: What happens then? He said "Prior to that," so  
 8 that would not be a responsive answer.  
 9 THE COURT: Sustained.  
 10 Q. (BY MR. SIMS) Had you seen what the defendant was  
 11 doing earlier that day, what kind of job he had?  
 12 A. He was a janitor, to my knowledge. He was pushing a  
 13 broom around.  
 14 Q. Once you had seen Mr. Elkins give the knife to the  
 15 defendant, what happened?  
 16 A. Once I seen Mr. Elkins give the knife to the  
 17 defendant, I observed the defendant walking around to the  
 18 right side of the trimming tables that we have behind me. And  
 19 upon that --  
 20 Q. Okay. Let me interrupt you. You said the trimming  
 21 table is behind you. We've got -- I'm going to stand up and  
 22 hold it up, I guess, so you can point to it.  
 23 We've got you working in this area, correct?  
 24 (Indicating)  
 25 A. Yes, sir.

Page 209

1 Q. Okay. Now, where are you referring to the trimming  
 2 tables?  
 3 A. Okay. We had trimming tables like ran up here, all  
 4 the way around here. (Indicating)  
 5 Q. From where 26 is on up toward 30?  
 6 A. Right.  
 7 Q. Okay. What else were you going to tell us?  
 8 A. Well, upon that time, I was -- I turned my attention  
 9 to Mr. Wiley to ask -- to go and ask him about getting some  
 10 help for the assembly line.  
 11 Q. Where was Mr. Wiley when you did that, sir?  
 12 A. He was on the edge of one of the tables, at the end,  
 13 towards No. 30.  
 14 Q. One of the trimming tables --  
 15 A. Yes, sir.  
 16 Q. -- that you indicated was in through here?  
 17 (Indicating)  
 18 A. Yes, sir.  
 19 Q. And you said back up here toward this No. 30?  
 20 A. Yes, sir.  
 21 Q. Okay. What happened then?  
 22 A. As I turned to go to Mr. Wiley, I seen Mr. Runnels  
 23 headed towards him also, so out of respect, I slowed up to let  
 24 Mr. Runnels go ahead and approach Mr. Wiley. And as he  
 25 approached him, I seen him raise the knife up and tilt

Page 210

1 Mr. Wiley's head back and cut his throat.  
 2 Q. What happened at that point, sir?  
 3 A. At that point, Mr. Wiley grabbed his neck and he  
 4 turned and looked at Mr. Runnels, and then he immediately  
 5 started walking towards the main office.  
 6 Q. And from this location here around the 30, where is  
 7 that main office on this diagram, sir?  
 8 MR. SIMS: I'm sorry, I'm doing that and you  
 9 folks can't see.  
 10 Q. (BY MR. SIMS) From here where -- this is where you  
 11 say the incident happened?  
 12 A. Yeah, this area here.  
 13 Q. Where is the --  
 14 A. The main office is up here. Mr. Wiley came between  
 15 the machines and went up towards the office.  
 16 Q. Okay. Then what happened?  
 17 A. I gave my attention back to Mr. Runnels at the time,  
 18 and I observed him taking a white rag and wiping the knife off  
 19 and walking back towards the tables.  
 20 Q. Walking back toward where, sir?  
 21 A. Towards the trimming tables.  
 22 Q. Okay. Now, where is that on the diagram here?  
 23 A. The trimming tables was here, and I observed him  
 24 walking back this way. (Indicating)  
 25 Q. Back toward No. 24 on the diagram?



Page 211

1 A. Yes, sir.

2 Q. What's the next thing you remember about that day?

3 A. After Mr. Runnels was wiping the knife off, I kind

4 of took my eyes off of him for a second. I was looking back

5 up to see where -- what was going on with Mr. Wiley, and then

6 I observed Mr. Wiley had a -- by that time, he had got a --

7 one of the green inmate jackets that we wear on the unit and

8 he had it underneath his neck and he was speaking to another

9 supervisor and he was bleeding pretty bad.

10 So I turned to look back to see where

11 Mr. Runnels was, and at that time, I observed him sitting down

12 on a blue ladder that was over by No. 24 on the board.

13 Q. And what did you do at that point, sir?

14 A. At that point, I -- I got out of the -- I moved out

15 of the way, came back up towards, I would say by No. 12

16 machine. And then I observed --

17 Q. Which is down toward the end?

18 A. Yes, sir.

19 Q. I'm sorry again. Down toward the end down here

20 (indicating) --

21 A. Yes, sir.

22 Q. -- is that correct?

23 A. Yes, sir.

24 Q. Okay.

25 A. Then I observed Mr. Wiley at the time, and two of

Page 212

1 the other supervisors, or maybe more, escorted him towards

2 the -- the exit door. But as he got to the exit door, he came

3 back over towards the work area where we was at first, which

4 is -- I would say between 10 and 7, as like he was looking

5 around for Mr. Runnels or whoever, you know. That's what I

6 took it to be.

7 MR. DURHAM: Then I'm going to object to

8 speculation, Your Honor, what Mr. Runnels (sic) was doing.

9 THE COURT: Sustained.

10 Q. (BY MR. SIMS) He walked back up into the shop,

11 Mr. Wiley did, correct?

12 A. Yes, sir. He walked back over to the work area

13 where the incident almost took place.

14 Q. What, if anything, did he do when he got there?

15 A. He just stared around. He looked at several

16 inmates, looked at me, several other inmates that was there.

17 And then at the time, the other supervisor came and got him

18 and told him - led him, get him out of here and get him some

19 help.

20 MR. DURHAM: Objection, that's nonresponsive to

21 the question, it's also hearsay.

22 THE COURT: Sustained.

23 Q. (BY MR. SIMS) Without saying what was told, what

24 happened then?

25 A. Mr. Wiley was escorted out the exit door by a

Page 213

1 supervisor.

2 Q. Did you ever have any further communications with

3 Mr. Elkins or anyone regarding this right then?

4 A. No, sir.

5 MR. SIMS: Pass the witness, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. DURHAM:

8 Q. Mr. Irvine, your original statement said you did not

9 want to make a statement if you had to testify in court,

10 correct?

11 A. Yes, sir.

12 Q. Okay. Now, Mr. Runnels didn't -- has not threatened

13 you, has he?

14 A. No, sir.

15 Q. There's no question that he's the person you saw who

16 attacked and killed Mr. Wiley, is there?

17 A. No, sir.

18 Q. Okay. And he made no attempt to escape; is that

19 correct or incorrect?

20 A. No, sir.

21 Q. He just sat and waited for the authorities to come?

22 A. Yes, sir.

23 Q. Did you ever hear any confrontation between

24 Mr. Wiley and Mr. Runnels?

25 A. No, sir.

Page 214

1 Q. Would it surprise you if there had been?

2 A. No, sir, it wouldn't.

3 Q. Wouldn't surprise you. Okay. Have you ever had any

4 trouble with Mr. Runnels -- you didn't know him as Travis

5 Runnels, did you?

6 A. No, sir.

7 Q. You just knew him as another inmate?

8 A. Yes, sir.

9 Q. And there's a bunch -- there's several out there,

10 many people out there at the Clements Unit?

11 A. Yes, sir.

12 Q. And you don't know all of them?

13 A. Yes, sir.

14 Q. Okay. And you're not trying to tell this jury that

15 he's associated with the Crypts, are you?

16 A. I couldn't say he was associated with them, but I --

17 I was --

18 Q. That was my question. Are you trying to make that

19 impression to them? You have not seen him wearing gang

20 colors, have you?

21 A. No, sir.

22 Q. You didn't know him well enough to even know who he

23 was, did you?

24 A. No, sir.

25 Q. So you would have no -- absolutely no idea about his

Page 215

1 character for violence before that, would you?  
2 A. No, sir.  
3 Q. You would have no idea about his character for being  
4 peaceable with other prisoners, would you?  
5 A. No, sir.  
6 Q. You would have no idea about his character for  
7 getting along with other guards and supervisors, would you?  
8 A. No, sir.  
9 Q. All you're doing is testifying what you saw, and you  
10 saw this man kill another man, didn't you?  
11 A. Yes, sir.  
12 Q. And it was unfortunate and you have a hard time  
13 testifying to it, as any of us would; is that correct?  
14 A. Yes, sir.  
15 MR. DURHAM: I have no further questions of the  
16 witness.  
17 MR. SIMS: No further questions, Your Honor.  
18 THE COURT: Okay, Mr. Irvine, you can step  
19 down, sir. Thank you.  
20 Break?  
21 (No reponse)  
22 THE COURT: Okay. Call you next witness.  
23 MR. DURHAM: I think the lawyers need one if  
24 they don't.  
25 MS. HAMILTON: Please.

Page 216

1 THE COURT: Okay. Ten minutes.  
2 (Break)  
3 THE COURT: Okay. Let's proceed.  
4 MR. SIMS: Eugene Johnson.  
5 THE COURT: Eugene Johnson.  
6 If you would come right up here, Mr. Johnson,  
7 and take a seat there on the witness stand.  
8 All right. Mr. Johnson, pull that microphone  
9 up a little bit so it's sort of aimed at you. There you go.  
10 And just kind of speak -- you don't have to get right up to  
11 it, but speak sort of toward it.  
12 All right. Thank you.  
13 MR. SIMS: Thank you, Judge.  
14 EUGENE JOHNSON,  
15 having been first duly sworn, testified as follows:  
16 DIRECT EXAMINATION  
17 BY MR. SIMS:  
18 Q. Would you state your name, please?  
19 A. Eugene Johnson.  
20 Q. Where are you currently residing?  
21 A. Hughes Unit. Hughes Unit.  
22 Q. And currently right now, you're being kept at the  
23 Clements Unit, right?  
24 A. Clements Unit, yes.  
25 Q. You're on transfer from the Hughes Unit; is that

Page 217

1 correct?  
2 A. Correct.  
3 Q. Previously, you were housed, and your permanent  
4 housing was at the Clements Unit; is that correct?  
5 A. Yes.  
6 Q. Back in January of 2003, would that be correct?  
7 A. Yes.  
8 Q. How long had you been at the Clements Unit at that  
9 time?  
10 A. Probably about four years.  
11 Q. Now, you're currently serving a sentence in the  
12 prison system for murder?  
13 A. Yes.  
14 Q. And also for burglary of a habitation; is that  
15 correct?  
16 A. Yes.  
17 Q. On the habitation, you received a seven-year  
18 sentence, and on the murder conviction you received a life  
19 sentence; is that correct?  
20 A. Ninety-nine.  
21 Q. Ninety-nine, okay.  
22 Those are the two sentences you're being housed  
23 for; is that correct?  
24 A. Yes.  
25 Q. Now, back in January 29th of 2003, were you assigned

Page 218

1 a particular work duty there at the Clements Unit?  
2 A. Yes, I was.  
3 Q. What was it that you were doing at that time, sir?  
4 A. I was nailing on -- stapling on insoles for the  
5 boots.  
6 Q. So you were working in the boot factory?  
7 A. Yes.  
8 Q. Approximately how long had you been working in the  
9 boot factory?  
10 A. Probably two and a half years.  
11 Q. Now, they had done some rearranging of shifts at the  
12 boot factory; is that correct?  
13 A. Yes.  
14 Q. On that particular day, what shift did you work?  
15 A. First shift, A.M.  
16 Q. What shift had you been working prior to that?  
17 A. P.M.  
18 Q. Did you know -- at that time, did you know a Travis  
19 Runnels?  
20 A. Not personally, no.  
21 Q. Okay. Did you know a Stan Wiley, or Mr. Wiley?  
22 A. Yes, I did.  
23 Q. How do you know Mr. Wiley?  
24 A. I worked for him at the factory.  
25 Q. In what capacity, sir, did he serve?

Page 219

1 A. Did he serve?  
 2 Q. Yes.  
 3 A. He was line boss over the -- over the lasting  
 4 machines out there.  
 5 Q. For approximately how long had you worked for  
 6 Mr. Wiley?  
 7 A. Most all the time I was there.  
 8 Q. Okay. So most of your four years, he had been a  
 9 supervisor to you in some --  
 10 A. No, for the time I worked at the -- at the factory,  
 11 for about two and a half years, I guess.  
 12 Q. What happened to the P.M. shift on the boot factory?  
 13 A. They just decided to end it and just do first shift  
 14 only.  
 15 Q. So that's how you wound up on the first shift that  
 16 morning, correct?  
 17 A. Yes, sir.  
 18 Q. Did Mr. Wiley make that transfer also?  
 19 A. Yes, he did.  
 20 Q. About what time do you remember starting work that  
 21 day, sir?  
 22 A. Oh, 5:30 or six o'clock.  
 23 Q. Was that pretty much a typical morning of what time  
 24 you would start?  
 25 A. Yes, it is.

Page 220

1 Q. At some point during that morning shift, did you  
 2 observe Mr. Wiley having a conversation with another inmate?  
 3 MR. DURHAM: Leading question, objection.  
 4 THE COURT: Overruled.  
 5 Q. (BY MR. SIMS) Did you see Mr. Wiley having a  
 6 conversation with another inmate?  
 7 A. Yes, sir.  
 8 Q. Let's pick up with that. Where was this taking  
 9 place? Where did you see Mr. Wiley and the other inmate?  
 10 A. There's a table that was right there where I was  
 11 working that I put the -- put the staples and gun on and stuff  
 12 like that. So at the end of the table, between it and a row  
 13 of racks is where they were speaking.  
 14 MR. SIMS: May I approach, Your Honor?  
 15 THE COURT: Sure.  
 16 Q. (BY MR. SIMS) I'm going to show you what's been  
 17 marked for identification purposes as State's Exhibit No. 50,  
 18 and I'll ask you if you're able to recognize that, sir?  
 19 A. Yes, I am. That's the factory.  
 20 Q. That's the boot factory?  
 21 A. Yes, sir.  
 22 Q. While I'm up here, why don't you, if you will, point  
 23 so the ladies and gentlemen of the jury can see -- sorry if I  
 24 blocked your view -- approximately where on this diagram it  
 25 was that you were working.

Page 221

1 A. Right about here. (Indicating)  
 2 Q. Along in here? (Indicating)  
 3 A. Yes, sir.  
 4 Q. And you said you were at a table?  
 5 A. Yes. There was a long table right here and racks  
 6 running along this wall right here, and racks running right  
 7 here. (Indicating) And --  
 8 Q. So you've got the table between running between 26  
 9 and 30 and the racks along 24 to 31; is that correct?  
 10 A. Yes, sir.  
 11 Q. Okay. If it's all right with you, I'm going to put  
 12 your initials, "EJ," right here. Would that be approximately  
 13 the place that you were working?  
 14 A. Yes, sir.  
 15 Q. Okay. Now, you indicated to the jury where you saw  
 16 Mr. Wiley and the other inmate talking. What was happening at  
 17 that point?  
 18 A. Well, what roughly it was, I just heard Mr. Wiley  
 19 said -- saying something like -- he said, "I don't really  
 20 care, just go on over there and do what I asked."  
 21 Q. Had you seen that particular inmate before?  
 22 A. Yes, on the unit. We was in -- I was moved several  
 23 times, and he was in a section I was at one time, and just,  
 24 you know, casual -- seeing each other casually, you know,  
 25 offhand.

Page 222

1 Q. So you didn't know him from work, you knew him from  
 2 where your housing area was at one point?  
 3 A. Right. And like I didn't know him personally.  
 4 Q. Do you see that same person here in the courtroom  
 5 today?  
 6 A. Yes, I do.  
 7 Q. Would you please point him out and describe what  
 8 he's wearing?  
 9 A. Yes. He's at the defendant's table. He's wearing a  
 10 red shirt, glasses, and spotted tie.  
 11 Q. What happened at that point with the inmate and  
 12 Mr. Wiley?  
 13 A. I guess he went on over to where he was supposed to  
 14 go and --  
 15 Q. What did you do?  
 16 A. I turned around and continued working and --  
 17 Q. What's the next thing you recall that day besides  
 18 working?  
 19 A. All right. I had my -- slightly to the side,  
 20 nailing on the insole -- stapling on the insoles, and then Mr.  
 21 Wiley kind of made a lunging motion back off beside me like  
 22 that, and it caught my attention. I turned around and looked  
 23 and he like kind of bounded two or three steps. He turned  
 24 around and he had his hand like this (indicating), and just  
 25 was blood coming all out like that. And he kind of turned

Page 223

1 like that and then he looked back -- I looked the direction he  
2 was looking at and I saw Mr. Runnels standing there with the  
3 blade by his hand -- by his side. And then --  
4 Q. Was there anyone else standing around there?  
5 A. Not where Mr. Wiley or Mr. Runnels was.  
6 Q. Did you see anyone else in close proximity to  
7 Mr. Wiley with a knife?  
8 A. No, sir.  
9 Q. Once he jumped up, Mr. Wiley, what happened?  
10 A. Well, the first thing I did, I moved out of the way.  
11 I didn't know what was going on. I didn't know if something  
12 else was going to happen or what, you know. I kind of moved  
13 over to an area by myself.  
14 And then when I looked back, I saw Mr. Wiley  
15 heading towards the office area, and then I saw Mr. Runnels  
16 over by the lavatory, and then a -- he was I believe washing  
17 his hands, and then he went and got a drink of water.  
18 Q. And then what's the next thing you saw happen?  
19 A. Mr. Wiley, they was escorting him back by the tool  
20 room area, and then several of us just kind of got, you know,  
21 gathered up in groups, you know, and just said, "You see  
22 that?", and stuff, you know.  
23 MR. DURHAM: Objection. Your Honor, the  
24 conversation would be hearsay.  
25 THE COURT: Sustained.

Page 224

1 Q. (BY MR. SIMS) Approximately how far were you from  
2 Mr. Wiley when he jumped off this table?  
3 A. Seven foot.  
4 Q. So was it a table that's about the size that we're  
5 using for counsel tables, a little bit bigger?  
6 A. It would be -- it would be maybe two or three foot  
7 longer than the counsel tables.  
8 Q. You were on one end and Mr. Wiley was on the other?  
9 A. Yes.  
10 MR. SIMS: Pass the witness, Your Honor.  
11 CROSS-EXAMINATION  
12 BY MR. DURHAM:  
13 Q. Mr. Johnson, I just have a few questions for you,  
14 but then I'm sure you've heard lawyers say that before,  
15 haven't you?  
16 A. Yes, sir.  
17 Q. And it proved to be more than a few, at least more  
18 than you thought were a few. Would that be a fair statement?  
19 A. Yes.  
20 Q. I'm going to try and keep it short and get to the  
21 point here.  
22 The fact -- is it or is it not a fact that  
23 Mr. Wiley and Mr. Runnels had some type of verbal altercation,  
24 they raised their voices at each other?  
25 A. I did not hear them raise their voices.

Page 225

1 Q. But you -- you used the word "argument" in your  
2 statement. Did you or did you not?  
3 A. I only heard the one side. I only heard Mr. Wiley  
4 say what he said.  
5 Q. Then you don't know what -- what was -- you heard  
6 all of it or parts of it?  
7 A. I only heard Mr. Wiley reply, "I don't care, just go  
8 on over there and do your job."  
9 Q. Was that the only talk they had that day, or do you  
10 know?  
11 A. I don't know.  
12 Q. You weren't around close enough to hear all of it,  
13 were you?  
14 A. No, sir.  
15 Q. It wasn't -- at least they weren't screaming and  
16 shouting and waving their fists at each other?  
17 A. No, sir.  
18 Q. But something was going on?  
19 A. Obviously.  
20 Q. Obviously. Okay. Now, there's something in your  
21 statement that kind of puzzled me. You said that you were the  
22 only white guy there, so you moved away to a safe area.  
23 A. Yes.  
24 Q. What did you mean by that, please, sir?  
25 A. Well, there's -- I didn't know what was going down.

Page 226

1 There's a lot of animosity towards white people in general,  
2 and I -- I didn't know if it was an isolated thing or maybe  
3 something going down. I just got over out of the way.  
4 Q. How is there a lot of animosity towards white  
5 people?  
6 A. In prison, that is, not out -- I didn't say out  
7 here, in prison.  
8 Q. And how is that expressed?  
9 A. Well, you mean in general or --  
10 Q. Yeah, in general. I mean, do the blacks and whites  
11 just not get along?  
12 A. No. I have several black friends.  
13 Q. Okay. Speaking of black friends, you had just been  
14 moved to Mr. Runnels' unit?  
15 A. No, I've -- I've been here --  
16 Q. You had been on his unit for some period of time?  
17 A. Yes.  
18 Q. How long had you been on the same unit as Travis?  
19 A. Probably four years, maybe four and --  
20 Q. So you had known him for four years?  
21 A. I didn't know him, no.  
22 Q. Well, you had seen him around?  
23 A. Here and there, yes.  
24 Q. Yeah.  
25 A. You pass people in the hallway and around.

Page 227

1 Q. But you really do know -- if you're in prison very  
2 much, you really do know the troublemakers, don't you?  
3 A. You can tell a lot of the hardheads, you know.  
4 Q. They get in trouble, don't they?  
5 A. Yes.  
6 Q. They get written up for fighting?  
7 A. Yes.  
8 Q. Okay. And you kind of steer clear of them because  
9 you know that's the way they are?  
10 A. Yes.  
11 Q. Did you find Travis to be one of the hardheads?  
12 A. Like I say, I didn't know the gentleman enough to --  
13 to judge one way or the other.  
14 Q. But, sir, if he had been a troublemaker, you would  
15 have made it your business to know where you could avoid him,  
16 wouldn't you?  
17 MR. SIMS: Objection, Your Honor, asked and  
18 answered.  
19 THE COURT: Overruled.  
20 Q. (BY MR. DURHAM) If he had been one of the  
21 hardheads, you would have made it your business to know where  
22 you could avoid him; isn't -- is that a fair assumption?  
23 A. Yes, it is.  
24 Q. Okay. So as far as you know, he was not a  
25 troublemaker?

Page 228

1 A. Not that I know of.  
2 Q. Okay. You had never had any trouble with him?  
3 A. No, sir.  
4 Q. And you don't know what the trouble that he was  
5 having with Mr. Wiley exactly stemmed from, do you?  
6 A. No, sir.  
7 Q. And you heard parts of the conversation?  
8 A. Yes.  
9 Q. And you -- you actually didn't quote in your  
10 statement exactly what it was because you used the words --  
11 and correct me if I'm wrong on this -- you used the words,  
12 "Wiley said something like, 'I don't care, go over there and  
13 do it.'" Those were not his exact words. That's a paraphrase  
14 of what he said, correct?  
15 A. As far as I know, that's what he said.  
16 Q. Well, you used the word in your statement, you said,  
17 "something like that," as opposed to "he said." Do you see  
18 there's a difference?  
19 A. Well, he might not have phrased it word for word  
20 exactly like that.  
21 Q. That's exactly my point. That's not exactly what he  
22 said. You put down your impression of what he said, right?  
23 A. I know what he said, I was there.  
24 Q. Okay. Then that's an exact quote?  
25 A. Yes.

Page 229

1 Q. Okay. So when you used the word "he said something  
2 like," that was just a misstatement?  
3 A. Yes.  
4 Q. Okay. So the misstatement that was made two years  
5 ago on the same day of the incident is different today,  
6 correct?  
7 A. He said what he said.  
8 Q. Well, but two years ago, or three years ago, almost  
9 three years ago, your words was, "he said something like," and  
10 today it's an exact quote. It's changed in two years and nine  
11 months -- ten -- ten months from something like to exact,  
12 correct?  
13 A. I'll stand by my statement -- by my written  
14 statement.  
15 Q. You stand by your written statement, which says, "he  
16 said something like."  
17 A. Okay.  
18 Q. Is that correct?  
19 A. Yes.  
20 Q. Okay. All right. And Travis was walking away,  
21 washed his hands, sat down and waited; is that correct?  
22 A. I saw him go over and wash his hands and take a  
23 drink of water, and that was the last I saw of him.  
24 Q. All right. Did you -- you didn't see where he went  
25 from there?

Page 230

1 A. No, I didn't.  
2 Q. He didn't seem to be running toward the door to get  
3 away?  
4 A. He was very calm.  
5 Q. Didn't wave the knife that he had in his hand?  
6 A. No. The only time I saw the knife was when he was  
7 standing there with it by his side.  
8 Q. Okay. Did you see blood on the knife?  
9 A. No, I didn't.  
10 Q. Thank you, sir.  
11 MR. DURHAM: I'll pass the witness.  
12 MR. SIMS: Nothing else, Your Honor.  
13 THE COURT: Okay. You can step down,  
14 Mr. Johnson. Thank you.  
15 Call your next witness.  
16 MR. SIMS: Phillip Yow. He has not been sworn,  
17 Your Honor.  
18 THE COURT: Come right up here and take a seat  
19 on the witness stand, if you would, please, sir.  
20 Okay. Would you raise your right hand and take  
21 the oath of a witness, please?  
22 (Witness sworn)  
23 THE COURT: Okay. Thank you. Once you're  
24 comfortable and where you're going to be, sort of aim that  
25 microphone toward your mouth. You don't have to get right up

Page 231

1 to it or anything, just keep it in the general vicinity and  
 2 speak toward it. Thank you.  
 3 PHILLIP YOW,  
 4 having been first duly sworn, testified as follows:  
 5 DIRECT EXAMINATION  
 6 BY MR. SIMS:  
 7 Q. Would you state your name, please, sir?  
 8 A. My name is Phillip Yow.  
 9 Q. Mr. Yow, where are you currently residing?  
 10 A. At the Clements Unit.  
 11 Q. What is your status there?  
 12 A. As far as line class or what I'm there for?  
 13 Q. You're in transport; is that correct?  
 14 A. I'm in general population.  
 15 Q. You're in general population?  
 16 A. Yes, sir.  
 17 Q. Okay. My bad. How long have you been housed at the  
 18 Clements Unit, sir?  
 19 A. Since 2002.  
 20 Q. Prior to that, where were you housed, sir?  
 21 A. I was on the Robertson Unit.  
 22 Q. You've been in the penitentiary since 2000; is that  
 23 correct?  
 24 A. Yes, sir.  
 25 Q. For the felony offense of injury to a child; is that

Page 232

1 also correct?  
 2 A. Yes, sir.  
 3 Q. You're serving a 60-year sentence; is that also  
 4 correct?  
 5 A. Yes, sir.  
 6 Q. I want to take you back to January 29th of 2003.  
 7 You were living at the Clements Unit then, correct?  
 8 A. Yes, sir.  
 9 Q. Did you have a job at that time, sir?  
 10 A. Yes, sir.  
 11 Q. Where were you working?  
 12 A. The boot factory.  
 13 Q. How long had you been working at the boot factory at  
 14 that time?  
 15 A. I had been working there awhile. I don't know how  
 16 long.  
 17 Q. Now, had you always worked -- well, what shift were  
 18 you working?  
 19 A. I was working -- I was working, at the prior time  
 20 this take place, I was working second shift, but then that was  
 21 the first day, the day of the offense, that they put me on  
 22 first shift.  
 23 Q. Okay. Now, from being on second shift and then onto  
 24 the first shift, were you familiar with Stanley Wiley; I  
 25 believe y'all would refer to him as Mr. Wiley?

Page 233

1 A. Yes, sir.  
 2 Q. How long had you known Mr. Wiley?  
 3 A. He was my boss, my supervisor.  
 4 Q. For approximately how long?  
 5 A. Awhile.  
 6 Q. Describe Mr. Wiley for the jurors, please.  
 7 A. He was my supervisor.  
 8 Q. Did you also know a Travis Runnels --  
 9 A. Yes, sir.  
 10 Q. -- at the Clements Unit?  
 11 How did you know Mr. Runnels?  
 12 A. Stayed on the same section together, the same  
 13 building, stuff like that. Had interaction with each other in  
 14 the rec yard and stuff like that.  
 15 Q. So you had been around him for a while also; would  
 16 that be fair to say?  
 17 A. Yes, sir.  
 18 Q. Do you see him here in the courtroom today?  
 19 A. Yes, sir.  
 20 Q. Would you please point him out and describe the  
 21 clothing he's wearing?  
 22 A. Red shirt, yellow and black tie, black boots, look  
 23 like tan pants.  
 24 Q. Now, was he also working at the boot factory?  
 25 A. Yes, sir.

Page 234

1 Q. Now, specifically, on January 29th of 2003, before  
 2 you went to work, did you go anywhere?  
 3 A. Before I went to work?  
 4 Q. Uh-huh.  
 5 A. Well, when they called us out that morning --  
 6 Q. Yes, sir?  
 7 A. -- they called us to the multipurpose room where all  
 8 the workers go, and we wait to be transported to the boot  
 9 factory.  
 10 Q. What happened while you were in there, sir?  
 11 A. Travis Runnels, he told me to -- to go back to the  
 12 building, don't come to work today.  
 13 Q. At that point, did he give you any explanation as to  
 14 why?  
 15 A. He just said, "Don't go to work," and I -- I asked  
 16 him why. He just said, "Don't come." And I was like, "I'm  
 17 not fixing to get" --  
 18 MS. HAMILTON: Objection, it's nonresponsive,  
 19 Judge.  
 20 THE COURT: Sustained.  
 21 Q. (BY MR. SIMS) What did you say to him in response  
 22 to that, sir?  
 23 A. I told him that, "I'm not going to get a case, I'm  
 24 going to work." So he was like, you know, "All right," you  
 25 know. He was like, "All right."

1 Q. Did you eventually make it to work that day, sir?  
2 A. Yes, sir.  
3 Q. What duties were you assigned to do that day?  
4 A. I was on the toe lace.  
5 MR. SIMS: May I approach, Your Honor?  
6 Q. (BY MR. SIMS) I'll show you what's been marked for  
7 identification purposes as State's No. 50, and are you able to  
8 recognize that, sir?  
9 A. Where's the front door? Front door, front door --  
10 (sotto voce)  
11 I'm not exactly sure. I'm not exactly sure. I  
12 can't really understand the board.  
13 Q. Okay. Well, if I turn it this way, does it help you  
14 out any? I should have turned it that way to begin with.  
15 A. This is the front door? (sotto voce)  
16 Are these the machines part, the machines that  
17 they have? I'm trying to understand where I'm at. I can't  
18 really understand the board.  
19 Q. So what was it you were assigned to do, sir?  
20 A. Toe lace.  
21 Q. What's that?  
22 A. Where a person -- the person before me -- it's like  
23 an assembly line, the person before me put a deal -- a boot  
24 hoof on the deal, and they send it to where I'm at, the guys  
25 where I'm at, and we put it in a machine and we lace the top

1 A. Yes, sir.  
2 Q. -- about what happened that day?  
3 MR. SIMS: May I approach, Your Honor?  
4 (Witness reading)  
5 Q. (BY MR. SIMS) Does that help refresh your memory  
6 some, sir?  
7 A. Yes, sir.  
8 Q. Okay. Did Mr. Runnels talk to you about anything  
9 else at that point, sir?  
10 A. He was just saying that he going to do something,  
11 but he really wasn't giving any details what he was going to  
12 do.  
13 Q. Did you hear any kind of arguments involving  
14 Mr. Wiley or Mr. Runnels that day?  
15 A. Them two particular with each other or just any type  
16 of argument, period?  
17 Q. Between each other.  
18 A. I haven't -- I didn't hear Mr. Wiley and Mr. Runnels  
19 arguing with each other.  
20 Q. When is the next time you remember seeing  
21 Mr. Runnels; where was he at?  
22 A. The next time, he -- well, I see him, he was  
23 cleaning a knife with a tissue or a cloth. He was cleaning a  
24 knife. He had a cut on his hand.  
25 Q. Did you see Mr. Runnels prior to that, sir?

1 of it up, and then we pass it down.  
2 Q. Did you see this defendant, Mr. Runnels, out at the  
3 boot factory that morning?  
4 A. Yes, sir.  
5 Q. What was he doing the first time you remember seeing  
6 him?  
7 A. He was talking to me most of the time.  
8 Q. Do you recall what job duties he was assigned, if  
9 any?  
10 A. Janitor.  
11 Q. At some point that morning, after -- shortly after  
12 getting out there, did you have another conversation with  
13 Mr. Runnels?  
14 A. We was talking about -- we was talking about a book  
15 he had let me use.  
16 Q. I'm sorry?  
17 A. We was talking about a book he had let me look at  
18 and read.  
19 Q. Did he say anything else to you at that point, sir?  
20 A. Not that I can recall.  
21 Q. Did you give a statement in regards to what occurred  
22 that day?  
23 A. Yes, sir.  
24 Q. If you were to see that statement, would it -- would  
25 it help refresh your memory --

1 A. He was -- all I know is, he was behind me somewhere.  
2 He was behind me, or just motion in the area, walking back and  
3 forth. That's all I can remember, him being behind me.  
4 Q. Do you recall seeing Mr. Runnels do anything that  
5 day?  
6 A. I seen him -- I seen him walk by Wiley. Wiley was  
7 sitting like on the table. I was waiting on another rack to  
8 come, talking to a guy named Chris Fuller --  
9 THE REPORTER: Talking to a guy named what?  
10 A. Talking to another offender named Chris Fuller. And  
11 the next thing I know, I see Runnels go -- and Wiley's back is  
12 towards me, and Wiley turned around, I seen blood running out  
13 through his hands and stuff, and he started coming my way.  
14 Q. (BY MR. SIMS) Who started coming your way?  
15 A. Wiley, Officer Wiley.  
16 Q. Was there anyone else standing in the immediate  
17 vicinity of Mr. Runnels and Mr. Wiley at that time when you  
18 saw that?  
19 A. They was just right there by -- they was right there  
20 by each other by -- by the table, and we was a few feet away,  
21 me and some other guys.  
22 Q. Mr. Wiley starts towards you. What happens then?  
23 A. He started -- when he started towards me -- well, I  
24 didn't know what was going -- well, I didn't know exactly what  
25 was going on. I know he was holding his neck. And then when

1 I started seeing blood, it was like -- it was like he was  
 2 reaching towards me like for help, and I just moved out of the  
 3 way and stuff like that.  
 4 And then a guy named Christopher Fuller grabbed  
 5 my arm, tell me to keep on working, keep on working, just keep  
 6 on working. And I told him --  
 7 Q. What did you -- okay, go ahead.  
 8 A. I told him, "Man, folks getting their necks cut  
 9 around here, no, I'm not fixing to keep on working," you know  
 10 what I'm saying? So I grabbed --  
 11 Q. What did you do then?  
 12 A. I grabbed two of the -- the boot deals that they --  
 13 they heavy, like if -- they real heavy. I grabbed two of  
 14 those and I put my back up against the wall, because I really  
 15 didn't know if it was like one person doing it or a lot of  
 16 people, so I wanted to secure myself, so I put my back up  
 17 against the wall.  
 18 When I started seeing what was going on, I came  
 19 on back -- I came up towards the front and sat in the middle  
 20 of the table.  
 21 Q. Mr. Wiley goes by you. Now let's turn your  
 22 attention to Mr. Runnels. Do you start watching him some at  
 23 that point?  
 24 A. Yeah. He was washing -- he got a cloth or some  
 25 tissue or a towel or something, I don't know exactly what it

1 you know, he start -- and he followed me and he --  
 2 Q. Who is "he"?  
 3 A. Chris Fuller and Mr. Runnels followed me. And then  
 4 by that -- we took a couple of steps, like towards the back  
 5 where the incident happened, but going back this way by the  
 6 door (indicating), and then I think I seen the managers,  
 7 Mr. Williams, and I think it was Captain Davis, come in and  
 8 tell everybody, "Get on the floor, get on the floor," and  
 9 stuff like that.  
 10 Q. Everybody respond to that?  
 11 A. Yes, sir.  
 12 Q. Including yourself?  
 13 A. Yes, sir.  
 14 Q. Did you see Mr. Runnels do anything else after you  
 15 saw him wiping the knife off?  
 16 A. Put a jacket on, because -- just put a jacket on. I  
 17 think it -- I don't know if some blood was on his clothes or  
 18 not. I know he --  
 19 MS. HAMILTON: Objection, that's nonresponsive.  
 20 MR. YOW: Yeah.  
 21 THE COURT: Sustained.  
 22 Q. (BY MR. SIMS) What else, if anything, did you see  
 23 him do?  
 24 A. We all got on our knees and waited. And then they  
 25 told us to stick our hands out. The officers all came in,

1 was, he was washing the knife and stuff like that.  
 2 Q. Okay. What happened then after that?  
 3 A. Well, after that, after they got Mr. Wiley out,  
 4 everybody ran him out, the officer got on the intercom and  
 5 said, "Turn your knives in," and stuff like that. So after I  
 6 seen everybody going and turning their knives in, I sat -- I  
 7 sat in the middle in a chair, me and this guy was talking.  
 8 Then Mr. Runnels came over and sat with us and stuff like  
 9 that.  
 10 Q. Sat down with you?  
 11 A. Yes, sir.  
 12 Q. What happened then?  
 13 A. I asked him, you know, why -- you know, why he cut  
 14 Mr. Wiley, why he would do that. He said, "It could have been  
 15 any offender or inmate, you know, as long as they was white."  
 16 Q. What happened after that?  
 17 A. I said -- I told him if he die, that he going to --  
 18 you know, that he could get a death -- you know, he could get  
 19 the death penalty if he die, you know.  
 20 Q. What happened then?  
 21 A. He told me that a dead man can't talk.  
 22 Q. After that, what happened, Mr. Yow?  
 23 A. I got up, started -- because I seen everybody going  
 24 every which a way, and I'm just trying to make sure -- you  
 25 know, I'm trying to get away. I just got up, started moving,

1 told us to stick our hands out. They was looking at  
 2 everybody's hands and stuff like that.  
 3 Q. Okay. Did you see Mr. Runnels' hands?  
 4 A. Yes, sir.  
 5 Q. Tell us about those.  
 6 A. I don't know exactly which hand it was. I know he  
 7 had a cut because I gave him some tissue out of my pocket to  
 8 put on his cut. That's all I can remember exactly about his  
 9 hands.  
 10 MR. SIMS: Pass the witness, Your Honor.  
 11 CROSS-EXAMINATION  
 12 BY MS. HAMILTON:  
 13 Q. Mr. Yow, you -- did you say you're still in the  
 14 Clements Unit?  
 15 A. Yes, ma'am.  
 16 Q. Okay. And how long did you know Travis?  
 17 A. I'm not sure exactly how long I knew him.  
 18 Q. A day, a week?  
 19 A. Some months.  
 20 Q. Several months?  
 21 A. Several months. I'm not sure if it was quite a year  
 22 yet, but some months.  
 23 Q. Okay. How long had you known Mr. Wiley?  
 24 A. Since I've been working in the boot factory, and I'm  
 25 not sure how long I've been working in the boot factory.



1 Q. Longer than you've known Mr. Runnels, though?  
 2 A. Yes, ma'am.  
 3 Q. Okay. In the time that you had known Travis, had  
 4 you observed him to be in fights with other people?  
 5 A. Have I seen him fight anybody?  
 6 Q. Yes.  
 7 A. No, ma'am.  
 8 Q. Did he seem to get along with the people that you  
 9 saw him with? When you saw him, did he seem to be getting  
 10 along with people?  
 11 A. Inmate-wise, as far as -- he -- he wasn't getting in  
 12 any physical conflicts with anybody, but mentally, he was --  
 13 Q. Mentally, he was?  
 14 A. -- having conflict.  
 15 Q. Okay. Now, in your statement, you said that -- or  
 16 you -- you don't say that Mr. Runnels and Mr. Wiley were  
 17 arguing?  
 18 A. No, ma'am, I don't say that.  
 19 Q. But you do say that Mr. Wiley was arguing with  
 20 someone?  
 21 A. Yes, I did say that.  
 22 Q. Who was he arguing with?  
 23 A. I said -- I said an inmate was arguing with  
 24 Mr. Wiley and another officer, if I'm not mistaken.  
 25 Q. Okay.

1 (sic) When things happen in the penitentiary, you put your  
 2 wall against the back (sic) until you know what's going on.  
 3 Q. Okay. And he was trying to prevent you from doing  
 4 that?  
 5 A. Yes. It was like -- when he grabbed me, it was  
 6 like, you know, he probably knew what was going on. He -- he  
 7 was telling me, "Just keep working," because he seen the  
 8 officer grab me -- trying to grab for me. He was like, "Keep  
 9 working." But I didn't know exactly was it more than one  
 10 person or not, so I'm like trying to get away.  
 11 Q. Okay. After this occurred, you said that  
 12 Mr. Runnels put a jacket on?  
 13 A. No, I said -- no, I said Mr. Runnels put a jacket  
 14 on, like when we was headed, like -- just a little bit before  
 15 the officers came in.  
 16 Q. Yes, sir.  
 17 A. After I walked away.  
 18 Q. After Mr. Wiley had left the building?  
 19 A. After the other two officers was getting -- about a  
 20 second before they walked in.  
 21 Q. And Mr. Runnels put a jacket on?  
 22 A. Yes, ma'am.  
 23 Q. And then did he comply with what he was asked to do?  
 24 A. Yeah, he applied -- yeah, he complied.  
 25 MS. HAMILTON: I'll pass the witness, Judge.

1 A. But not Travis Runnels. It was another inmate, I  
 2 don't know his name.  
 3 Q. And how long before this incident -- before this did  
 4 you see Mr. Wiley arguing with the other inmate?  
 5 A. Excuse me, I couldn't hear you.  
 6 Q. I'm sorry. How long before this happened did you  
 7 see the inmate arguing with Mr. Wiley?  
 8 A. This particular -- it had been about, I guess five  
 9 or ten minutes, approximately five or ten minutes, because I  
 10 thought -- I thought the other inmate was going to fight one  
 11 of the officers that was arguing.  
 12 Q. And why did you think that?  
 13 A. Because he was cursing and stuff, the inmate was  
 14 cursing and saying all kinds of stuff.  
 15 Q. Okay. And -- but you didn't see Mr. Runnels doing  
 16 that?  
 17 A. No, ma'am.  
 18 Q. Okay. You said that Chris Fuller grabbed your arm?  
 19 A. Yes, ma'am.  
 20 Q. Okay. And what were -- when he grabbed your arm,  
 21 what were you trying to do?  
 22 A. "Let me go." I don't want him holding me.  
 23 Q. Okay. What -- where were you going when he grabbed  
 24 your arm?  
 25 A. I was going to get -- put my wall against the back.

1 MR. SIMS: No other questions, Your Honor.  
 2 THE COURT: Okay, Mr. Yow, you can step down.  
 3 Thank you very much, sir.  
 4 MR. SIMS: May we approach?  
 5 THE COURT: Sure.  
 6 (At the bench, on the record)  
 7 MR. SIMS: That's all the witnesses we have for  
 8 the guilt/innocence stuff. The rest of it's going to start  
 9 the punishment stuff, and we've got them lined up to be here  
 10 in the morning. I mean, with what they did --  
 11 THE COURT: He's out of witnesses for today.  
 12 MR. DURHAM: Okay. That's all right. I need  
 13 to get my afternoon nap in.  
 14 (Open court)  
 15 THE COURT: Okay, folks, this is one of those  
 16 times where, regardless of the planning we've done, we've run  
 17 short of witnesses for the day, so we're going to break early  
 18 today. I'll see you at nine o'clock in the morning.  
 19 Please remember what I told you about  
 20 television, radio, and the newspapers, or allowing anyone to  
 21 approach you and discuss anything with you.  
 22 I'll see you at 9:00 in the morning.  
 23 (10/26/05 proceedings adjourned)  
 24  
 25

THE STATE OF TEXAS        )

COUNTY OF POTTER         )

I, JILL ZIMMER, Official Court Reporter in and for the  
  
320th District Court of Potter County, State of Texas, do  
  
hereby certify that the above and foregoing contains a true  
and correct transcription of the proceedings in the above-  
styled and numbered cause, all of which occurred in open court  
or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record  
of the proceedings truly and correctly reflects exhibits, if  
any, offered by the respective parties.

WITNESS my hand this the \_\_\_\_ day of  
\_\_\_\_\_, 2006.

\_\_\_\_\_  
JILL ZIMMER  
Official Court Reporter  
Certificate Number 533  
Expiration Date: 12-31-2006  
Potter County Courts Building  
Amarillo, Texas 79101  
(806) 379-2372

THE STATE OF TEXAS            )  
  )  
COUNTY OF POTTER            )

I, JILL ZIMMER, Official Court Reporter in and for the 320th District Court of Potter County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of the proceedings in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record of the proceedings truly and correctly reflects exhibits, if any, offered by the respective parties.

WITNESS my hand this the 25<sup>th</sup> day of

April, 2006.



JILL ZIMMER  
Official Court Reporter  
Certificate Number 533  
Expiration Date: 12-31-2006  
Potter County Courts Building  
Amarillo, Texas 79101  
(806) 379-2372

75318

R E P O R T E R ' S R E C O R D  
VOLUME 16 of 19

TRIAL COURT CAUSE NO. 48,950-D

THE STATE OF TEXAS ) IN THE 320TH DISTRICT COURT  
)  
)  
VS. ) IN AND FOR  
)  
)  
TRAVIS TREVINO RUNNELS ) POTTER COUNTY, TEXAS

\*\*\*\*\*

TRIAL ON THE MERITS

OCTOBER 27, 2005

\*\*\*\*\*

**FILED IN**  
**COURT OF CRIMINAL APPEALS**  
MAY 02 2005  
**Louise Pearson, Clerk**

On the 27th day of October, 2005, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Don Emerson, Judge Presiding, held in Amarillo, Potter County, Texas:

Proceedings reported by Machine Shorthand.

**ORIGINAL**

## A-P-P-E-A-R-A-N-C-E-S:

FOR THE STATE:

MR. JAMES ALLEN YONTZ  
SBOT: 24044106  
MR. RANDALL C. SIMS  
SBOT: 18426650  
MR. JOHN L. "JACK" OWEN  
SBOT: 15369200  
47th District Attorney's Office  
501 Fillmore, Suite 5-A  
Amarillo, Texas 79101

FOR THE DEFENDANT:

MR. JAMES D. DURHAM  
SBOT: 06284000  
Attorney at Law  
1008 W. 10th  
Amarillo, Texas 79101

MS. LAURA D. HAMILTON  
SBOT: 20016450  
Attorney at Law  
215 W. 7th  
Amarillo, Texas 79101

## CHRONOLOGICAL INDEX

## VOLUME 16

## (TRIAL ON THE MERITS)

						Page
<b>OCTOBER 27, 2005</b>						
Caption and Appearances -----						1-2
Proceedings -----						3
STATE'S WITNESSES:	<b>DX</b>	<b>CX</b>	<b>RDX</b>	<b>RCX</b>	<b>VDX</b>	
<b>PATTY WILKINS</b>	4					
<b>CYNTHIA LUNA</b>	10					
<b>CALVIN ASKINS</b>	14	27	34	39		
<b>FRANCES M. MADIGAN</b>	43	46	51			
<b>TONIA L. BROWN</b>	54	57	64 77	65 78		
<b>CATHERINE N. MCKINNEY</b>	84	86				
<b>ROBERT THREADGILL</b>	90	92				
<b>MICHAEL CRANDELL</b>	95					
<b>A.P. MERILLAT</b>	101 117	121	125	126	114	
<b>CATHERINE NALL</b>	127	131				
<b>MICHAEL WRIGHT</b>	133	142				
State Rests -----						143
Defendant Rests -----						146
State Closes -----						146
Defendant Closes -----						146
Adjournment -----						149
Reporter's Certificate -----						150

## ALPHABETICAL INDEX

## VOLUME 16

	DX	CX	RDX	RCX	VDX
Askins, Calvin	14	27	34	39	
Brown, Tonia L.	54	57	64 77	65 78	
Crandell, Michael	95				
Luna, Cynthia	10				
Madigan, Frances M.	43	46	51		
McKinney, Catherine N.	84	86			
Merillat, A.P.	101 117	121	125	126	114
Nall, Catherine	127	131			
Threadgill, Robert	90	92			
Wilkins, Patty	4				
Wright, Mike	133	142			

## EXHIBIT INDEX

## VOLUME 16

EXHIBIT NUMBER	DESCRIPTION	OFFERED	ADMITTED
Sx. 6-A	Knife	98 145	98 145
Sx. 16	Diagram of boot factory	23	23
Sx. 21	Photographs	24	25
Sx. 26	Pen Packet	139	139
Sx. 27	Pen Packet	140	142
Sx. 27-A	Items redacted from Sx. 27 (For record only, not for jury)	145	145
Sx. 50	Diagram of boot factory	3	3
Sx. 60	Fingerprint card	136	136



Page 3

1                    PROCEEDINGS  
2                    OCTOBER 27, 2005  
3                    THE COURT: Okay. Bring the jury in.  
4                    (Open court, defendant and jury present)  
5                    THE COURT: Call your next witness.  
6                    MR. YONTZ: Your Honor, just prior to doing  
7 that, the State would move State's Exhibit 50 into evidence.  
8 That's the diagram.  
9                    MR. DURHAM: Which one?  
10                   MR. YONTZ: The one that's been used and marked  
11 by the inmates.  
12                   MR. DURHAM: That's an incorrect statement.  
13 The inmates did not mark it, the district attorney marked it.  
14 No inmate marked on it.  
15                   THE COURT: Do you have any objection to its  
16 introduction?  
17                   MR. DURHAM: No, I just wanted to correct the  
18 incorrect statement.  
19                   THE COURT: Okay. The exhibit is received.  
20                   MR. YONTZ: Your Honor, the State would call  
21 Patty Wilkins -- excuse me, Watkins.  
22                   THE COURT: Have you been sworn as a witness,  
23 ma'am?  
24                   MS. WILKINS: No.  
25                   THE COURT: Raise your right hand, please.

Page 4

1                    (Witness sworn)  
2                    THE COURT: All right. If you would take a  
3 seat right up here on the witness stand.  
4                    PATTY WILKINS  
5 having been first duly sworn, testified as follows:  
6                    DIRECT EXAMINATION  
7 BY MR. YONTZ:  
8                    Q. Would you state your name, please?  
9                    A. Patty Wilkins.  
10                   Q. Ms. Wilkins, could you pull that microphone, just  
11 reach up and grab it and pull it towards you? There you go.  
12                    Ms. Wilkins, how are you employed?  
13                    A. I'm a Licensed Vocational Nurse at the Clements  
14 Unit.  
15                    Q. And how long have you been licensed in nursing?  
16                    A. Almost ten years.  
17                    Q. Calling your attention back to the 29th day of  
18 January, 2003, where were you working that morning?  
19                    A. In the front clinic.  
20                    Q. I'm sorry?  
21                    A. I said I was working in the clinic area.  
22                    Q. And did anything unusual happen that morning?  
23                    A. Yes, it did.  
24                    Q. Can you explain to the ladies and gentlemen what  
25 occurred?

Page 5

1                    A. It was approximately around 7:00, there was a call  
2 on the radio saying that they needed medical to the boot  
3 factory. So me and a coworker grabbed a gurney and we headed  
4 to the front door. And at that time is when we met Officer  
5 Wiley at the front door of the infirmary.  
6                    Q. Okay. Did you know the nature of the call you were  
7 responding to?  
8                    A. Not exactly, they just said someone had been cut in  
9 the boot factory.  
10                   Q. And you indicated that you met him at the front  
11 door. Would that be the front door of the infirmary?  
12                    A. Right.  
13                    Q. Are you familiar with the layout of the  
14 penitentiary?  
15                    A. Yes.  
16                    Q. About how far is the infirmary from the boot  
17 factory?  
18                    A. Oh, I would say almost a quarter of a mile. It's  
19 quite a ways.  
20                    Q. When you met them at the front door, was it just  
21 Mr. Wiley who was there or were other people with him?  
22                    A. There was another officer with him.  
23                    Q. Okay. And what did you see when you opened the  
24 front door?  
25                    A. It was Officer Wiley with a coat wrapped around his

Page 6

1 neck.  
2                    Q. Okay. Did you -- were you able to observe anything  
3 about his physical condition at that time?  
4                    A. He was really pale, and at that time, no, just --  
5 just the coat, and he was real pale.  
6                    Q. What did you do?  
7                    A. We escorted him to the emergency room and we sat him  
8 down on the gurney.  
9                    Q. Did you begin care at that time?  
10                    A. Well, we took -- they removed the coat off and we  
11 could see that he had been sliced -- he had been cut.  
12                    MR. DURHAM: Excuse me, Your Honor. The  
13 characterization, "we moved the coat," "they removed the  
14 coat," "we," if she could testify to what she did personally  
15 unless she can name the people who were doing it later for  
16 cross-examination purposes.  
17                    THE COURT: Testify only from your personal  
18 knowledge, ma'am.  
19                    THE WITNESS: Okay.  
20                    Q. (BY MR. YONTZ) Were other people with you assisting  
21 at this time?  
22                    A. Yes.  
23                    Q. Were you acting as a team?  
24                    A. Yes.  
25                    Q. What did you do? You indicated you removed the

Page 7

1 coat. Who was involved with removing the coat?  
 2 A. It was me and another nurse.  
 3 Q. Okay. And when you removed the coat, what did you  
 4 see?  
 5 A. A cut from here to here on his neck. (Indicating)  
 6 Q. Let the record reflect she's indicated across her  
 7 neck from left to right, almost from under the right ear -- or  
 8 under the left ear to under the right ear.  
 9 MR. DURHAM: That's an incorrect statement.  
 10 That's totally incorrect. He said from the left ear to the  
 11 right ear and that's not consistent with the autopsy or what  
 12 she just said or indicated.  
 13 MR. YONTZ: It indicated her pointing on her  
 14 neck. If Mr. Durham wishes to cross-examine her, he can do  
 15 so.  
 16 THE COURT: Where did you point, ma'am?  
 17 THE WITNESS: It was a large cut just right --  
 18 THE COURT: Okay. Can you describe that for us  
 19 in words? Where did the cut begin and where did it end?  
 20 THE WITNESS: It was somewhere around here.  
 21 THE COURT: No, "here", we can't put down into  
 22 writing, see. That's what we're talking about. So that  
 23 everybody will know, where do you think it began?  
 24 THE WITNESS: Probably from ear to -- it was  
 25 from ear to ear.

Page 8

1 THE COURT: Okay.  
 2 THE WITNESS: Is that better?  
 3 THE COURT: Okay. That's fine.  
 4 Q. (BY MR. YONTZ) Did you make any phone calls or  
 5 request any phone calls be made?  
 6 A. I did not.  
 7 Q. Okay. Were any phone calls made for additional  
 8 help?  
 9 MR. DURHAM: Objection, unless --  
 10 A. Yes.  
 11 MR. DURHAM: She did not make them, how would  
 12 she know?  
 13 MR. YONTZ: She can have knowledge of what  
 14 other people did in an emergency treatment.  
 15 MR. DURHAM: That they made a phone call. What  
 16 the conversation was would be hearsay.  
 17 THE COURT: That question did not ask for the  
 18 substance of the conversation, if there was one.  
 19 MR. DURHAM: It asked -- it asked specifically,  
 20 was information requested.  
 21 THE COURT: Read it back, please.  
 22 MR. DURHAM: Withdrawn, withdrawn.  
 23 THE COURT: Read it back, please.  
 24 Okay. We can't find any glasses, so you can't  
 25 read anything back.

Page 9

1 MR. DURHAM: I'll withdraw the objection.  
 2 THE COURT: Okay.  
 3 Q. (BY MR. YONTZ) Was emergency help summoned?  
 4 A. Yes. A lot of people showed up in the ER.  
 5 Q. Okay. And at that time, what treatment were you  
 6 involved in providing to Mr. Wiley?  
 7 A. I had started an IV in his left arm.  
 8 Q. And did he indicate any other problems he was having  
 9 other than the blood that you observed?  
 10 A. Yeah, he had wrote a note that said --  
 11 Q. I'm sorry?  
 12 A. He had wrote a note. We couldn't understand him  
 13 because he couldn't talk. He was trying to lip that he  
 14 couldn't breathe because he had blood in his lungs.  
 15 Q. Were you able to maintain the IVs?  
 16 A. No. We had -- I had to end up restarting another  
 17 one in his left arm because he was jerking his arm back and  
 18 forth.  
 19 Q. Did he eventually leave the facility there?  
 20 A. Yes, he did.  
 21 Q. How did he leave?  
 22 A. He left -- he was intubated and unconscious at the  
 23 time.  
 24 Q. When you say "intubated," what do you mean?  
 25 A. We had to put a breathing tube down the cut in his

Page 10

1 neck. The laceration, you could -- we had to tube him that  
 2 way so we could breathe for him.  
 3 Q. Okay.  
 4 MR. YONTZ: I have no other questions.  
 5 MR. DURHAM: No questions.  
 6 THE COURT: Okay, you can step down, ma'am.  
 7 Call your next witness.  
 8 MR. YONTZ: Cynthia Luna.  
 9 THE COURT: Would you raise your right hand,  
 10 please, ma'am.  
 11 (Witness sworn)  
 12 CYNTHIA LUNA,  
 13 having been first duly sworn, testified as follows:  
 14 DIRECT EXAMINATION  
 15 BY MR. YONTZ:  
 16 Q. Ma'am, would you state your name, please?  
 17 A. My name is Cynthia Luna.  
 18 Q. How are you employed?  
 19 A. I'm a Registered Nurse for the Bill Clements Unit.  
 20 Q. Calling your attention back to the 29th day of  
 21 January, 2003, were you working that morning?  
 22 A. Yes, I was.  
 23 Q. What time did you start work?  
 24 A. 6:30.  
 25 Q. When you get to work at the unit, are there doctors

Page 11

1 on duty also?  
 2 A. Usually not at that time.  
 3 Q. When do they come in?  
 4 A. Usually somewhere between 8:30 and 9:00.  
 5 Q. About seven o'clock that morning, did anything  
 6 unusual happen?  
 7 A. They called for medical, and we had an emergency  
 8 come in the ER.  
 9 Q. Did you respond to that?  
 10 A. Yes, I did.  
 11 Q. And how far did you respond?  
 12 A. All the way into the ER.  
 13 Q. Okay. You met the emergency, then, at the ER; you  
 14 didn't go to where it was located?  
 15 A. No. I was in the infirmary, which is --  
 16 Q. How far is the infirmary from the ER?  
 17 A. Oh, probably about 50 feet.  
 18 Q. When you got to the ER, what did you see?  
 19 A. I saw Mr. Wiley sitting on the end of a stretcher.  
 20 Q. And can you describe what you saw?  
 21 A. Yes.  
 22 Q. His condition.  
 23 A. Yes. He was bleeding profusely, and when I looked  
 24 at the wound, his throat had been slit.  
 25 Q. Is that where he was bleeding from?

Page 12

1 A. Yes.  
 2 Q. Did you assist in giving medical aid to Mr. Wiley?  
 3 A. Yes, I did.  
 4 Q. What did you do?  
 5 A. Started IVs, put a blood pressure cuff on a bag of  
 6 fluid because we couldn't get it to run fast enough by  
 7 gravity, so we started pumping fluid.  
 8 Q. How does the IV cuff assist in pumping fluid?  
 9 A. Put pressure on it so it goes in faster.  
 10 Q. Why was that necessary?  
 11 A. Because of the amount of blood he had lost. We were  
 12 slipping and sliding on the floor because the floor was  
 13 covered with blood.  
 14 Q. What else did you do other than the IVs?  
 15 A. I didn't do it, but I assisted in intubation.  
 16 Q. Okay. When you say "intubation," what is that?  
 17 A. You put an endotracheal tube down into the windpipe.  
 18 Q. And is that where they go in through the mouth and  
 19 down into the windpipe?  
 20 A. Under normal situations, yes.  
 21 Q. Was something different done this time?  
 22 A. Yes. We had to intubate through the wound directly  
 23 into the trach.  
 24 Q. Did you assist him in breathing once that was done?  
 25 A. Yes, I did.

Page 13

1 Q. How did you do that?  
 2 A. With an ambu bag.  
 3 Q. What's an ambu bag?  
 4 A. It's a bag you squeeze so that you can press oxygen  
 5 into the lungs.  
 6 Q. What else did you do in regard to his care?  
 7 A. Mainly just talked to him and tried to keep him calm  
 8 until he became unconscious.  
 9 Q. Was he transported from the ER?  
 10 A. Yes, he was.  
 11 Q. And how was he transported?  
 12 A. By ambulance.  
 13 MR. YONTZ: I have no further questions, Your  
 14 Honor.  
 15 MR. DURHAM: No questions.  
 16 THE COURT: Okay, you can step down, ma'am.  
 17 Call your next witness.  
 18 MR. YONTZ: Call Mr. Calvin Askins.  
 19 THE COURT: Would you raise your right hand,  
 20 please, sir?  
 21 (Witness sworn)  
 22 THE COURT: All right. Take a seat on the  
 23 witness stand, please.  
 24  
 25

Page 14

1 CALVIN ASKINS,  
 2 having been first duly sworn, testified as follows:  
 3 DIRECT EXAMINATION  
 4 BY MR. YONTZ:  
 5 Q. Mr. Askins, could you pull that microphone just back  
 6 towards you just a little bit there? There we go.  
 7 Would you state your name, please, sir?  
 8 A. Calvin Askins.  
 9 Q. How are you employed, sir?  
 10 A. I work for the Texas Department of Criminal Justice.  
 11 Q. And what facility, what location?  
 12 A. At the Clements Unit, Amarillo.  
 13 Q. Is that in Potter County?  
 14 A. Yes, sir.  
 15 Q. And you indicated Texas Department of Criminal  
 16 Justice. Was that previously known by another name?  
 17 A. Texas Department of Criminal Justice, that was the  
 18 original name. It is now changed to Institutional Division.  
 19 Q. Was it formerly known as Texas Department of  
 20 Corrections?  
 21 A. Yes.  
 22 Q. When did that change come about?  
 23 A. Approximately about two, two and a half years ago.  
 24 Q. What are your assignments? What do you do at the  
 25 Clements Unit?

Page 15

1 A. I'm an inventory coordinator.  
 2 Q. What do you do in that regard?  
 3 A. I see over all the property, all the way from  
 4 ammunition, all the way to computers, printers, anything that  
 5 the facility needs to operate.  
 6 Q. Calling your attention back to January 29th, 2003,  
 7 what did you do then?  
 8 A. I was an industrial specialist in the boot factory.  
 9 Q. What's an industrial specialist and what did you do?  
 10 A. Supervisor in the warehouse. And my -- my function  
 11 at that time was to interview offenders and assess them and  
 12 assign them job assignments with the direction of the plant  
 13 manager.  
 14 Q. Did you have any individuals or any group of  
 15 individuals who you were specifically over?  
 16 A. I was over the janitors, SSIs, the work pool.  
 17 Q. Okay. I know what a janitor is. What's an SSI?  
 18 A. The same thing as a janitor. They take care of  
 19 cleaning the offices, the restrooms, the plant.  
 20 Q. Okay. Did you know an individual by the name of  
 21 Stanley Wiley?  
 22 A. Yes, I did.  
 23 Q. How did you know him?  
 24 A. He was one of my fellow supervisors.  
 25 Q. How long had you known him?

Page 16

1 A. Probably approximately about seven, eight years.  
 2 Q. On January 29th, 2003, do you know what shift he was  
 3 working?  
 4 A. He just got assigned back to first shift. We just  
 5 closed down second shift.  
 6 Q. What time does first shift begin?  
 7 A. Approximately 4:45 in the morning.  
 8 Q. And how long does it last?  
 9 A. To 12:45.  
 10 Q. That day at the boot factory, did you have occasion  
 11 to contact an individual by the name of Travis Runnels?  
 12 A. Yes, I did.  
 13 Q. Is he in the courtroom?  
 14 A. Yes.  
 15 Q. Would you point him out and describe what he's  
 16 wearing, please?  
 17 A. This individual here, gold colored tie, green shirt.  
 18 (Indicating)  
 19 Q. What was the reason for your contacting Mr. Runnels?  
 20 A. Runnels was assigned to me as one of my janitors.  
 21 Q. Okay. Around seven o'clock that morning, did you  
 22 have any additional contact with him other than just as the  
 23 assignment?  
 24 A. Yes. I was doing my tour of the factory, checking  
 25 on all my janitors, be sure they was cleaning up their areas

Page 17

1 and stuff, and I found Runnels sitting in the boxing area not  
 2 doing his job.  
 3 Q. And what did you do?  
 4 A. I directed Runnels to get up, get a broom, get his  
 5 mop, get his area cleaned up.  
 6 Q. What was his response?  
 7 A. He just stared at me.  
 8 Q. Did he eventually do it?  
 9 A. He eventually got up off the table.  
 10 Q. Did you see what he did after he got up off the  
 11 table?  
 12 A. No.  
 13 Q. After that incident occurred, did something else  
 14 occur in the boot factory that caught your attention?  
 15 A. I don't understand the question.  
 16 Q. Within about a few minutes after you had told  
 17 Mr. Runnels to get up and to move, did something else occur  
 18 that grabbed your attention? Did you see Mr. Wiley?  
 19 A. Yes. After I directed Runnels to go to work, I went  
 20 around the end of the toe lasters and I spoke with Mr. Wiley.  
 21 Q. And where was Mr. Wiley at that time?  
 22 A. He was standing near the insole table.  
 23 Q. What did you -- how long did that conversation  
 24 between you and Mr. Wiley last?  
 25 A. Maybe two or three minutes.

Page 18

1 Q. And what happened after that?  
 2 A. I went to the office.  
 3 Q. Did you see where Mr. Wiley went?  
 4 A. No.  
 5 Q. Did you see Mr. Wiley again?  
 6 A. Approximately maybe two minutes later.  
 7 Q. And had his condition changed?  
 8 A. Yes.  
 9 Q. Can you describe to the ladies and gentlemen what  
 10 you saw when you saw him the next time?  
 11 A. I was standing looking out the office door,  
 12 Mr. Wiley was approaching the office with both hands around  
 13 his neck, and I opened the door, Mr. Wiley stepped in, and we  
 14 were face to face. I said, "Wiley?" And at that time,  
 15 Mr. Wiley threw his head back.  
 16 Q. And what did you see?  
 17 A. Mr. Wiley had his throat cut. And the only thing  
 18 that was holding Mr. Wiley's head on was his vertebrae.  
 19 Q. This was in the office area?  
 20 A. In the office.  
 21 Q. What did you do once you observed this?  
 22 A. On the credenza near the door, Mr. Wiley's coat was  
 23 laying there. I grabbed his coat and slammed it up against  
 24 his neck.  
 25 Q. Why did you do that?

Page 19

1 A. Because he was bleeding profusely.  
2 Q. What did you do then?  
3 A. I turned and looked at Mr. Williams and asked him to  
4 call medical, call B turnout --  
5 Q. Who is Mr. Williams?  
6 A. He's plant manager.  
7 Q. He would be the guy that was the boss in the -- the  
8 top boss in the boot shop?  
9 A. Yes, sir.  
10 Q. What did you do after you told him to call medical?  
11 A. Wiley -- Mr. Wiley was wanting to leave the factory.  
12 I escorted him to the front door to medical.  
13 Q. How far is it from the boot factory to medical?  
14 A. A long ways. I would say approximately between an  
15 eighth and a quarter of a mile.  
16 Q. Are you familiar with the layout of the boot shop?  
17 A. Yes, I am.  
18 MR. YONTZ: May I approach, Your Honor?  
19 THE COURT: Sure.  
20 Q. (BY MR. YONTZ) Mr. Askins, I'll show you what has  
21 been marked as State's Exhibit No. 16 for identification, ask  
22 if you're familiar with this?  
23 A. Yes.  
24 Q. What is this?  
25 A. That's the layout of the boot factory.

Page 20

1 Q. I'll give you a purple marker to start off with  
2 here.  
3 MR. DURHAM: I'm going to object to marking on  
4 the exhibit that's been introduced into evidence, Your Honor.  
5 That alters the exhibit as introduced.  
6 THE COURT: Made my chair fall over.  
7 MR. DURHAM: I'm sorry, I didn't think it was  
8 that good of an objection.  
9 MR. YONTZ: What was the objection?  
10 THE COURT: Okay.  
11 MR. DURHAM: The objection is to marking on the  
12 admitted exhibit.  
13 MR. YONTZ: There's been no admitted exhibit.  
14 I indicated it's been marked as Exhibit 16. I've not tendered  
15 it.  
16 THE COURT: Okay. This is not one that has  
17 been --  
18 MR. SIMS: It's not the same exhibit.  
19 MR. YONTZ: It's not the same as 50, no.  
20 THE COURT: Okay. Go ahead.  
21 Q. (BY MR. YONTZ) Okay. You indicated earlier that  
22 you observed the defendant in some area and you had a  
23 conversation with him. Would you just put a purple "D" in  
24 that area?  
25 A. (Witness complies)

Page 21

1 Q. Okay. And then you walked over and talked with  
2 Mr. Wiley; is that correct?  
3 A. Yes.  
4 Q. Where did you go and where was this conversation  
5 held at?  
6 A. The conversation was held right in here.  
7 (Indicating)  
8 Q. And could you just draw a dotted line over to that  
9 area from the "D"?  
10 A. (Witness complies)  
11 Q. And then where did you go after you had this  
12 conversation?  
13 A. I left this area and walked through this way, up to  
14 the office. (Indicating)  
15 Q. Okay. And just put an "X" up there where the  
16 offices are.  
17 A. (Witness complies)  
18 Q. Where did you next see Mr. Wiley?  
19 A. I noticed Mr. Wiley right about here. (Indicating)  
20 Q. And did he come into the office?  
21 A. He walked directly into this door right there.  
22 (Indicating)  
23 Q. By the No. 32?  
24 MR. DURHAM: Pardon me, I --  
25 A. By No. 32.

Page 22

1 MR. DURHAM: -- for the purpose of the record.  
2 Pardon me. For the purpose of the record, "right about here"  
3 will not appear in the record, and I don't know how it's being  
4 marked on the chart as the back of the chart is to me, and I  
5 can neither acquiesce nor object, as I have no idea what's  
6 going on.  
7 THE COURT: Do you want to go stand over there?  
8 MR. DURHAM: Well, the record will still be --  
9 the record will still be silent as to what he's doing.  
10 THE COURT: Okay. Try to be more specific,  
11 please.  
12 MR. DURHAM: May I stand right up here?  
13 THE COURT: Sure.  
14 MR. DURHAM: Thank you.  
15 A. Let me clarify that, where the "X" is.  
16 Approximately about 20, 25 feet in front of the office door.  
17 Q. (BY MR. YONTZ) Were both of you then in the area  
18 marked No. 32?  
19 A. After opening the door for Mr. Wiley?  
20 Q. Yes.  
21 A. Yes.  
22 Q. And would you trace again with a polka dotted line  
23 the route you took to exit the boot factory?  
24 A. (Witness complies)  
25 Q. And this is the exit door down here?

Page 23

1 A. Yes, sir.  
 2 MR. YONTZ: Your Honor, at this time, we would  
 3 move State's Exhibit 16.  
 4 MR. DURHAM: I have no objection.  
 5 THE COURT: Exhibit is received.  
 6 Q. (BY MR. YONTZ) When you exited the boot factory,  
 7 where did you go?  
 8 A. We went towards B turnout, towards medical, both of  
 9 them in the same direction.  
 10 Q. And did you arrive at medical?  
 11 A. Yes.  
 12 Q. When you work there, are you working as a civilian  
 13 or as a corrections officer?  
 14 A. Civilian.  
 15 Q. And was Mr. Wiley a civilian or a corrections  
 16 officer?  
 17 A. Civilian.  
 18 Q. Did you wear any type of uniform or did you wear  
 19 civilian clothes?  
 20 A. Civilian clothes.  
 21 Q. When you got to the medical area, the infirmary  
 22 emergency room area, what did you do?  
 23 A. I directed the nurses and -- to open the door. And  
 24 once they opened the door, escorted Wiley around the corner to  
 25 the triage room.

Page 24

1 Q. Were photographs taken of Mr. Wiley while he was in  
 2 the triage room?  
 3 A. They were probably taken after I left.  
 4 Q. Did you have occasion to see Mr. Wiley as he was in  
 5 the triage room?  
 6 A. Yes.  
 7 Q. I'll show you what have been marked as State's  
 8 Exhibit 21, ask if you are familiar with those photographs?  
 9 A. Yes.  
 10 Q. And are those true and accurate depictions of what  
 11 is shown there as they appeared that day?  
 12 A. Yes.  
 13 MR. YONTZ: Your Honor, we would move State's  
 14 Exhibit 21.  
 15 MR. DURHAM: I have an objection to them I  
 16 would like to make outside the presence of the jury.  
 17 THE COURT: Okay. The jury will step into the  
 18 jury room, please.  
 19 MR. DURHAM: I think it could be at the bench.  
 20 It's very short.  
 21 THE COURT: Okay. Be seated again.  
 22 (At the bench, on the record)  
 23 MR. DURHAM: I just don't think that the  
 24 writing on the -- on there, he can't identify the writing as  
 25 being true and accurate. If the writing is excised, we have

Page 25

1 no objection to the exhibits, but the writing should be  
 2 deleted.  
 3 MR. YONTZ: We'll cover it before it's  
 4 published. We'll cover it.  
 5 THE COURT: Okay. Well, just take it now.  
 6 MR. DURHAM: Well, it's not -- I don't want it  
 7 admitted until it's covered.  
 8 THE COURT: Black it out.  
 9 MR. YONTZ: Okay.  
 10 THE COURT: Use a Marks-A-Lot and redact it.  
 11 MR. YONTZ: Let me see what I have here.  
 12 (Open court)  
 13 (Pause)  
 14 MR. DURHAM: No objection.  
 15 THE COURT: Exhibit is received.  
 16 MR. YONTZ: Thank you. May I publish, Your  
 17 Honor?  
 18 THE COURT: Sure.  
 19 Q. (BY MR. YONTZ) You've seen this, correct?  
 20 A. Yes.  
 21 Q. How long did you stay in the emergency room?  
 22 A. Total time?  
 23 Q. Yes, sir.  
 24 A. Probably a minute and a half, two minutes.  
 25 Q. Where did you go?

Page 26

1 A. After I left?  
 2 Q. Yes, sir.  
 3 A. I started back towards the boot factory.  
 4 Q. Why was that?  
 5 A. Because we still had offenders out there and other  
 6 bosses out there.  
 7 Q. Are you familiar with -- how long have you worked  
 8 with the penitentiary system?  
 9 A. Almost 12 years.  
 10 Q. And are you familiar with the term lockdown?  
 11 A. Yes.  
 12 Q. What is a lockdown?  
 13 A. A lockdown is all offenders are in their cells, in  
 14 their cubicles, locked down, no movement.  
 15 Q. Okay. What precipitates a lockdown?  
 16 MR. DURHAM: That calls for an interpretation  
 17 of the procedure of the department and he's not been  
 18 qualified.  
 19 THE COURT: Overruled.  
 20 Q. (BY MR. YONTZ) What precipitates a lockdown?  
 21 A. Anything unusual that happens on the farm.  
 22 Q. Would this incident precipitate a lockdown?  
 23 A. Yes.  
 24 Q. Are you familiar with the grounds of the  
 25 penitentiary?

Page 27

1 A. Yes.  
 2 Q. If a person is in the boot factory, where can you  
 3 run to hide?  
 4 A. If you're in the boot factory, if you have no key to  
 5 the door, you're in the boot factory.  
 6 Q. Those doors lock --  
 7 A. You're going nowhere. Doors are locked.  
 8 Q. And there's -- it's not a situation where you can  
 9 simply run out into the area?  
 10 A. No.  
 11 Q. If a person were to get out into the outside area  
 12 outside the boot factory, what restrains them from getting out  
 13 to the highway to escape?  
 14 A. We have fences and razor wire.  
 15 Q. How high are those fences?  
 16 A. Guesstimate, 12, 14 foot high.  
 17 Q. And you indicated razor wire. What's razor wire?  
 18 A. It's Constantine wire that has -- it's been  
 19 sharpened to keep somebody from trying to go over the fence.  
 20 MR. YONTZ: No further questions, Your Honor.  
 21 CROSS-EXAMINATION  
 22 BY MR. DURHAM:  
 23 Q. Do you have guard towers?  
 24 A. Do what, sir?  
 25 Q. Are there guard towers?

Page 28

1 A. Yes.  
 2 Q. Are there guards in those towers?  
 3 A. Yes.  
 4 Q. Do they have guns?  
 5 A. Yes.  
 6 Q. Do they shoot people who try to climb the fence?  
 7 A. Yes.  
 8 Q. Okay. So that, too, is a deterrent, isn't it?  
 9 A. Yes.  
 10 Q. The area is secure, correct?  
 11 A. Yes.  
 12 Q. All right. Now, that's all very interesting, but  
 13 what I want to talk to you about is about Travis. I want to  
 14 talk about how was he assigned to be a janitor.  
 15 A. When offenders are assigned to the factory, my job  
 16 was to interview all new offenders coming to the factory.  
 17 Q. So you interviewed him?  
 18 A. Yes.  
 19 Q. You are responsible for him being in there?  
 20 A. No.  
 21 Q. Well, who's responsible for him being placed in the  
 22 factory where there were knives?  
 23 A. Classification.  
 24 Q. So his classification was such that he could be  
 25 trusted around instruments like that?

Page 29

1 A. I did not know at the time what his classification  
 2 was.  
 3 Q. Well, you interviewed him and you didn't find that  
 4 out, sir? -  
 5 A. That is not part of my job.  
 6 Q. Okay. What exactly is your job, because it was my  
 7 understanding -- now, correct me if I'm wrong, okay? It was  
 8 my understanding Mr. Wiley was telling Travis what to do on  
 9 that occasion.  
 10 A. No.  
 11 Q. He was not?  
 12 A. No, it was not --  
 13 Q. He didn't have --  
 14 A. -- Wiley --  
 15 Q. -- the authority to tell him what to do?  
 16 A. Yes, he does.  
 17 Q. So Travis had more than one master there in the boot  
 18 factory?  
 19 A. I think you need to restate your question.  
 20 Q. More than one person --  
 21 A. What do you mean by master?  
 22 Q. -- could tell him what to do? You're his boss,  
 23 right?  
 24 A. Runnels was assigned to me, yes.  
 25 Q. All right. He wasn't assigned to Mr. Wiley, was he?

Page 30

1 A. No.  
 2 Q. All right. So you were his boss, correct?  
 3 A. Correct.  
 4 Q. And Mr. Wiley was boss over other people, correct?  
 5 A. Correct.  
 6 Q. And where -- where -- from whence does the term boss  
 7 come into common parlance in the penitentiary?  
 8 Do you understand the question?  
 9 A. Yes. It's a term that use as your supervisor or  
 10 anybody in authority. (sic)  
 11 Q. Anybody in authority. Any guard, any civilian,  
 12 they're all boss?  
 13 A. Yes.  
 14 Q. And deference is to be paid to that person; is that  
 15 correct?  
 16 A. Yes.  
 17 Q. As a matter of fact, as you're in the penitentiary,  
 18 you described the layout, there are painted lines in the  
 19 penitentiary, aren't there, in the halls?  
 20 A. Yes.  
 21 Q. All right. And those lines are about how wide  
 22 from -- how far are the lines from the wall?  
 23 A. Three to four feet.  
 24 Q. Okay. And between the lines is a wider aisle,  
 25 correct?

Page 31

1 A. Correct.  
 2 Q. Who can walk in the middle of the hall?  
 3 A. Any TDCJ employee.  
 4 Q. Where do the prisoners have to walk?  
 5 A. On the other side of the lines next to the walls.  
 6 Q. Next to the wall. So the TDJC (sic) employees, the  
 7 bosses can walk where they want to, the employees (sic) have  
 8 to walk within the lines, correct?  
 9 A. Correct.  
 10 Q. Okay. Now, you interviewed him. When you  
 11 interviewed him, I take it you were given a history of Travis?  
 12 A. No.  
 13 Q. Well, what did the interview consist of?  
 14 A. The interview consisted of how tall he was, his age,  
 15 date of birth, length of sentence, out -- free world  
 16 experience, what jobs did he hold in the free world, so we  
 17 could best determine what job to fit him.  
 18 Q. Well, you weren't there to determine what job would  
 19 fit him, you were there --  
 20 A. Yes, I determined what job fit him in the factory.  
 21 Q. In the factory or the janitorial branch?  
 22 A. In the factory.  
 23 Q. Oh, you -- you were responsible for determining who  
 24 worked where in the factory?  
 25 A. The plant manager determines that.

Page 32

1 Q. Well, that's not what you just said.  
 2 A. Okay. Once I interview them, I talk to  
 3 Mr. Williams, we go over it. He determines by looking at  
 4 their experience what area in the factory this individual will  
 5 work in.  
 6 Q. So you discussed Travis with Mr. Williams?  
 7 A. Yes.  
 8 Q. And y'all reached the conclusion that this was a  
 9 person who -- who could move around the factory and be a  
 10 janitor?  
 11 A. All offenders that were assigned to the factory  
 12 starts in the janitorial pool. Anybody that's missing an  
 13 offender for that day can come to me and say, "I need a  
 14 worker," and then I assign that worker to that other  
 15 supervisor that day.  
 16 Q. Okay. That's very interesting, but I don't believe  
 17 that was my question.  
 18 MR. DURHAM: And even though you don't have  
 19 your glasses, I'm going to ask you to read me the question for  
 20 him, please.  
 21 THE REPORTER: "And y all reached the  
 22 conclusion that this was a person who could move around the  
 23 factory and be a janitor?"  
 24 Q. (BY MR. DURHAM) It's a yes-or-no question.  
 25 A. Yes.

Page 33

1 Q. All right. Thank you.  
 2 Now, you didn't know his classification?  
 3 A. No.  
 4 Q. You didn't inquire about his classification?  
 5 A. No.  
 6 Q. You didn't discuss his classification with  
 7 Mr. Williams?  
 8 A. No.  
 9 Q. So you don't know whether or not he had a history  
 10 within the institution for starting trouble, did you?  
 11 A. No.  
 12 Q. You didn't know whether or not he was a peaceable  
 13 person within the institution or not, did you?  
 14 A. No.  
 15 Q. You didn't know if he got in fights a whole lot or  
 16 not, did you?  
 17 A. No.  
 18 Q. You didn't know whether or not he had a real temper,  
 19 real bad -- real easy -- hair-trigger temper, I guess would be  
 20 the best way to put it. You didn't know that?  
 21 A. No.  
 22 Q. You made no inquiry into those matters?  
 23 A. No.  
 24 MR. DURHAM: No further questions.  
 25

Page 34

1 REDIRECT EXAMINATION  
 2 BY MR. YONTZ:  
 3 Q. He was basically sent to you from classification,  
 4 said, "He's going to work in the boot factory and you decide  
 5 where" --  
 6 MR. DURHAM: Leading question, Your Honor.  
 7 THE COURT: Don't lead the witness.  
 8 Q. (BY MR. YONTZ) Is it correct that you then decide  
 9 where in the boot factory he fit in?  
 10 A. Yes.  
 11 Q. I take it this wasn't a pre-employment interview  
 12 like we have on -- outside the penitentiary; is that correct?  
 13 MR. DURHAM: Objectionable. Leading question.  
 14 THE COURT: Don't lead the witness.  
 15 Q. (BY MR. YONTZ) He was assigned there and that's  
 16 where he was going to be; is that correct?  
 17 A. Correct.  
 18 Q. You indicated Mr. Wiley also had -- although you  
 19 were over the janitors -- let me see if I can understand this.  
 20 Mr. Wiley also had authority over those individuals who were  
 21 under your supervision?  
 22 A. Yes.  
 23 Q. And would it be Mr. Wiley's job also to make sure  
 24 the janitors were continuing to do their job?  
 25 A. Yes.



Page 35

1 Q. Mr. Durham talked about the lines on the cement  
2 floors. Why are those lines there?  
3 A. For traffic control.  
4 Q. What do you mean?  
5 A. To keep the offenders from mixing in with the  
6 employees.  
7 Q. Is that a dangerous situation if that occurs?  
8 MR. DURHAM: Calls for a conclusion. No proper  
9 predicate.  
10 THE COURT: Sustained.  
11 Q. (BY MR. YONTZ) Are you familiar with the  
12 environment within the boot factory?  
13 A. Yes.  
14 MR. DURHAM: Your Honor, this is a civilian  
15 employee. I'm going to -- until he's qualified as to  
16 departmental procedures and reasoning behind, I'm going to  
17 object.  
18 THE COURT: That's the line of questioning  
19 that's begun. Go ahead.  
20 MR. DURHAM: I'm sorry, I was premature.  
21 Q. (BY MR. YONTZ) Having worked there, have you been  
22 able to observe departmental procedures?  
23 A. Yes.  
24 Q. And have you had input into those procedures?  
25 A. Those are established procedures.

Page 36

1 Q. And have you received training in regard to your  
2 working in the -- within the penitentiary?  
3 A. Yes.  
4 Q. Based on your training, knowledge, and experience,  
5 is it a security matter, or a security concern to have inmates  
6 mingling with civilian personnel?  
7 MR. DURHAM: He hasn't laid proper predicate --  
8 THE COURT: Sustained.  
9 MR. DURHAM: -- for the question.  
10 Q. (BY MR. YONTZ) During the time that you were with  
11 Mr. Wiley, about -- from the time you saw him at the office  
12 until you got to the emergency room, about how long of a time  
13 period had elapsed?  
14 A. I would say not more than three minutes.  
15 Q. And did it appear that Mr. Wiley was still feeling  
16 the effects of what had occurred to him?  
17 MR. DURHAM: No proper predicate laid for that  
18 question, Your Honor.  
19 THE COURT: Sustained.  
20 Q. (BY MR. YONTZ) Did it appear that Mr. Wiley was  
21 still suffering from some wound --  
22 MR. DURHAM: That's a leading question.  
23 THE COURT: Overruled.  
24 Q. (BY MR. YONTZ) Did it appear that he was still  
25 suffering from the wound --

Page 37

1 A. Yes.  
2 Q. -- during that time?  
3 At that time, did you ask any questions of  
4 Mr. Wiley?  
5 A. Yes.  
6 Q. Was he able to talk?  
7 A. No.  
8 Q. Was he able to communicate with you?  
9 A. Yes.  
10 Q. How was he able to do that?  
11 A. With his hands, his eyes.  
12 Q. And -- okay. What did you ask him?  
13 A. I asked Wiley, "Who did this to you?"  
14 Q. And did he respond in any way?  
15 A. He pointed towards me.  
16 Q. Did you understand that immediately?  
17 A. No.  
18 Q. What did you do then?  
19 A. I asked Mr. Wiley, "What are you trying to tell me?"  
20 Q. What did he do?  
21 A. Then he pointed at me adamantly.  
22 Q. Can you describe the manner in which he pointed at  
23 you?  
24 A. The first time (indicating). And the second time I  
25 asked him what it was he was trying to say, he went

Page 38

1 (indicating).  
2 Q. Okay. Were you able to translate that?  
3 A. Yes.  
4 Q. Did you ask him anything after that?  
5 A. I said, "Okay, Wiley, he works for me?"  
6 Q. And did he respond to that?  
7 A. Wiley nodded his head.  
8 Q. In what way?  
9 A. (Witness nods head up and down.)  
10 Q. Did you inquire further?  
11 A. Before I could ask him another question, Wiley put  
12 his hand up to his eye doing this manner. (Indicating)  
13 Q. Did you ask him what that meant?  
14 A. Yes. I said, "Wiley, he wears glasses?"  
15 Q. And did you get a response from Mr. Wiley?  
16 A. Wiley nodded yes.  
17 Q. Did you inquire further?  
18 A. Yes, I did.  
19 Q. What did you ask?  
20 A. I said, "Okay, Wiley, is he white?"  
21 Q. Did Mr. Wiley respond?  
22 A. He just sat there and stared at me. Then I asked  
23 him, "Okay, Wiley, is he Hispanic?" And he stared at me. And  
24 then I asked Mr. Wiley, "Is he black?" And Wiley nodded his  
25 head.

Page 39

1 Q. In what manner did he nod his head?  
 2 A. (Witness nods head up and down.)  
 3 Q. And you took that as a yes?  
 4 A. As a yes.  
 5 Q. Up-and-down motion?  
 6 How many black janitors did you have working  
 7 for you that wore glasses?  
 8 A. One.  
 9 Q. Who was that individual?  
 10 A. Runnels.  
 11 Q. The defendant?  
 12 A. Yes.  
 13 MR. YONTZ: No further questions.  
 14 RE-CROSS-EXAMINATION  
 15 BY MR. DURHAM:  
 16 Q. Well, you know, he pled guilty yesterday to this?  
 17 MR. YONTZ: Objection as to relevance.  
 18 THE COURT: Overruled.  
 19 Q. (BY MR. DURHAM) You do know that?  
 20 A. As of this morning, yes.  
 21 Q. You didn't know it before this morning?  
 22 A. No, sir.  
 23 Q. Okay. You brought up an interesting question that I  
 24 probably should have asked you a moment ago. In the  
 25 procedures they have out there, do they have job descriptions?

Page 40

1 A. Yes, they do.  
 2 Q. Okay. Do you have access to those job descriptions?  
 3 A. They're on file, yes.  
 4 Q. And Mr. Wiley's job is described there?  
 5 A. As industrial specialist.  
 6 Q. And what, does it give a further description of what  
 7 his duties are?  
 8 A. I don't understand your question. What his job  
 9 function was?  
 10 Q. Well, yes, sir. Generally, a job description says  
 11 that you are --  
 12 MR. YONTZ: I'm going to object, Your Honor, as  
 13 to the editorializing. Ask a question as opposed to providing  
 14 information.  
 15 THE COURT: Overruled.  
 16 Q. (BY MR. YONTZ) Generally, a job description  
 17 describes the job, that is what you're expected to do and  
 18 accomplish, would you agree with that?  
 19 A. If it's his job function. An industrial specialist  
 20 is listed out as a supervisor of people, knowledge of  
 21 production and quality. That is the job title. That is the  
 22 job description.  
 23 Q. There's nothing other than a title?  
 24 A. Yes.  
 25 Q. Where is that description located?

Page 41

1 A. It's located -- we have one in the boot factory and  
 2 we have one in personnel.  
 3 Q. Okay. So that -- and your job is described there,  
 4 too?  
 5 A. Correct.  
 6 Q. All right. And does it describe your duties?  
 7 A. No.  
 8 Q. Your duties are not described anywhere?  
 9 A. No.  
 10 Q. And his duties were not described anywhere?  
 11 A. No.  
 12 Q. So when you say you're over the janitors, how -- how  
 13 was it that you were over the janitors if it's not described  
 14 anywhere?  
 15 A. Plant manager makes assignments to the supervisors  
 16 on what area they will supervise.  
 17 Q. So you were assigned by the plant manager the  
 18 janitors?  
 19 A. Yes, sir.  
 20 Q. What was Mr. Wiley assigned by Mr. Williams?  
 21 A. Lasting area.  
 22 Q. Pardon?  
 23 A. Lasting area.  
 24 Q. A totally different area of the plant --  
 25 A. Yes.

Page 42

1 Q. -- in terms of operation?  
 2 A. Yes.  
 3 Q. Thank you, sir.  
 4 MR. DURHAM: No further questions.  
 5 MR. YONTZ: Nothing further.  
 6 THE COURT: Okay, you can step down, sir.  
 7 Call your next witness.  
 8 MR. YONTZ: Your Honor, the State will call  
 9 Officer Madigan.  
 10 THE COURT: What's the name?  
 11 MR. YONTZ: Madigan, M-a-d-i-g-a-n.  
 12 THE COURT: First name? First name? It's not  
 13 Officer.  
 14 MR. YONTZ: Initial F. I'm not sure.  
 15 MR. SIMS: Your Honor, may Mr. Askins be  
 16 excused?  
 17 THE COURT: Any objection? Defense have any  
 18 objection?  
 19 MR. DURHAM: No, I don't think so. He's  
 20 available, I'm sure, so we have no objection to him being  
 21 excused from attendance, but not from the Rule.  
 22 THE COURT: Okay.  
 23 MR. SIMS: Thank you, Your Honor.  
 24 THE COURT: Madigan?  
 25 THE BAILIFF: He's not out there. I think he's

Page 43

1 upstairs.

2 THE COURT: Okay. Call your next witness.

3 MR. YONTZ: Officer Threadgill.

4 (Pause)

5 THE BAILIFF: No response.

6 THE COURT: Okay. Call your next witness.

7 MR. YONTZ: That would be Officer McKinney.

8 The other individuals are here, Your Honor.

9 (Off-the-record discussion)

10 THE COURT: Okay. Come up, please.

11 Raise your right hand, please, sir.

12 (Witness sworn)

13 THE COURT: Okay. If you'll take a seat up

14 there on the witness stand, please, and tell us your first,

15 middle, and last names, please, sir.

16 THE WITNESS: Frances M. Madigan.

17 THE COURT: Go right ahead, sir.

18 FRANCES M. MADIGAN,

19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. YONTZ:

22 Q. Sir, how are you employed?

23 A. I work for the TDCJ, State of Texas.

24 Q. How long have you been employed in that capacity?

25 A. Approximately seven and a half years.

Page 44

1 Q. Sir, calling your attention back to January 19th,

2 1999, were you on duty that day?

3 A. Yes, sir, I was.

4 Q. What were your assignments?

5 A. I was doing the normal routine. I was running

6 showers on the wing.

7 Q. And is that something that's normally done?

8 A. Yes, sir, on that building, yes.

9 Q. On that day, did you have occasion to come in

10 contact with an individual that's identified as Travis

11 Runnels?

12 A. Yes, sir, I did.

13 Q. Is he in the courtroom today?

14 A. Yes, sir, he is.

15 Q. Would you point him out and describe what he's

16 wearing, please?

17 A. Wearing the green shirt and the tan tie.

18 Q. What was the nature of your contact with him?

19 A. The nature of the incident?

20 Q. Well, what were you doing at the time you made

21 contact?

22 A. I was involved in running the showers on that wing

23 at that time, which is, I have to escort offenders to and from

24 showers.

25 Q. Okay. Did you request Mr. Runnels to do anything?

Page 45

1 A. Yes, sir. He was on the 2 row and his house -- his

2 cell was on 3 row. I ordered him to get back to his cell.

3 Q. Is that normal, that they would be ordered to go

4 back to their cell?

5 A. Yes, sometimes, if they're problem offenders, yes.

6 Q. Did he comply with that order?

7 A. Somewhat he did, after he hit me in the jaw.

8 Q. Can you explain that?

9 A. Well, I was on 3 row and he was on 2 row.

10 Q. Are these tiers above each other?

11 A. Yes. There's -- 3 row is, 1, 2, 3. And some --

12 something happened to where he was down on 2 row, and I -- I

13 told him to get back to his cell on 3 row, I was at his door.

14 And he -- you know, I can't remember exactly what he said, but

15 I went down to confront him. And I told him to get back to

16 his cell, and he said something about, "What are you doing in

17 my cell fishing line," or something. And I don't know if

18 y'all know the terminology of a fishing line, which is a --

19 Q. That's okay.

20 A. Okay. I just -- I told him to go back to the cell

21 and he popped me in the jaw. And I was stunned for a second,

22 and I went to push him back. And as I did, he ran back up to

23 his cell and closed the door behind him.

24 Q. Were you in uniform at that time?

25 A. Yes, sir, I was.

Page 46

1 Q. And you were performing your duties as a corrections

2 officer?

3 A. Yes, sir.

4 MR. YONTZ: No other questions, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. DURHAM:

7 Q. When was this, please?

8 A. I wrote that case on January 19th, 1999.

9 Q. January 19th, 1999. And that was at the Clements

10 Unit?

11 A. No, that was at the Robertson Unit, when the said

12 offender was assigned closed custody.

13 Q. I'm sorry.

14 A. When --

15 Q. It was a yes-or-no question.

16 A. I'm sorry. Yes, I was at the Robertson Unit.

17 Q. Thank you. And how long had he been there?

18 A. Have I been there?

19 Q. No, how long had he been there?

20 A. I have no idea, sir. I don't have that information.

21 Q. Okay. So you requested him to return to his cell or

22 you ordered him to return to his cell?

23 A. I ordered him to.

24 Q. Okay. And firmly, I guess?

25 A. Yes, sir.

Page 47

1 MR. DURHAM: May I have just a moment, Your  
2 Honor?  
3 (Pause)  
4 Q. (BY MR. DURHAM) Now, as I understood your  
5 testimony -- now, correct me if I'm wrong, because -- he was  
6 where he wasn't supposed to be and you ordered him to return  
7 to his cell?  
8 A. Yes, sir.  
9 Q. And y'all had no confrontation other than that?  
10 A. No, sir.  
11 MR. DURHAM: May I approach the witness?  
12 THE COURT: Sure.  
13 Q. (BY MR. DURHAM) I want you to read your offense  
14 report and refresh your memory.  
15 A. Yes, sir, I will.  
16 Q. Yes, sir. Have you read it today?  
17 A. Yes.  
18 Q. You did?  
19 A. Yes.  
20 Q. Well, y'all didn't have a confrontation about  
21 confiscating his fishing line?  
22 A. That was involved in the words that we did have,  
23 yes, sir.  
24 Q. Oh, there was a confrontation --  
25 A. It was -- I did not --

Page 48

1 MR. YONTZ: We'll object to --  
2 A. -- consider it a --  
3 MR. YONTZ: -- the word confrontation, Your  
4 Honor.  
5 A. -- confrontation.  
6 THE COURT: Okay, folks. You know, it's hard  
7 enough to have one person talking and get that all down  
8 perfectly on the record. Two is pretty tough, but Ms. Zimmer  
9 is real good at it. Three, nobody in the world can do it.  
10 Okay?  
11 All right. Let's start over. Ask your  
12 question.  
13 MR. DURHAM: I've forgotten it.  
14 THE COURT: Okay. Think of another one --  
15 MR. DURHAM: Okay.  
16 THE COURT: -- and then you can think of  
17 another objection.  
18 Q. (BY MR. DURHAM) Y'all had words about your  
19 confiscating a fishing line, so there was more to what  
20 happened than just you ordering him to his cell, wasn't there?  
21 A. Sir -- yes, sir, but I did not --  
22 Q. It's a yes-or-no question, sir. Do you not  
23 understand the question?  
24 THE COURT: Mr. Durham --  
25 MR. DURHAM: I'm sorry, Your Honor.

Page 49

1 THE COURT: -- if you need to object to  
2 responsiveness --  
3 MR. DURHAM: All right. Then I object to the  
4 nonresponsive.  
5 THE COURT: Sustained.  
6 MR. DURHAM: Thank you.  
7 THE COURT: Do you have another question?  
8 MR. DURHAM: Yes, I do. I'm trying to read the  
9 officer's writing.  
10 May I approach and ask him to --  
11 THE COURT: Sure, absolutely.  
12 MR. DURHAM: -- interpret?  
13 Q. (BY MR. DURHAM) What's that word?  
14 A. Right here?  
15 Q. Uh-huh.  
16 A. Check.  
17 Q. Check. Okay. You said he swung at you and hit you,  
18 but he was backing up. He was backing away from you when he  
19 hit you, wasn't he?  
20 A. No, sir.  
21 Q. Oh, well --  
22 MR. DURHAM: May I approach?  
23 THE COURT: Sure.  
24 Q. (BY MR. DURHAM) That's what you wrote. You said,  
25 "As he backed away, he swung at me." That's what you wrote,

Page 50

1 isn't it?  
2 A. Okay. Yes, as he was backing away he swung at me.  
3 Q. Well, that's what I just asked you.  
4 A. Yes, sir.  
5 Q. And you said no. Which is true, what you wrote or  
6 what you just said?  
7 A. It's what I wrote.  
8 Q. Oh, okay. So what you just said under oath was  
9 not --  
10 A. Sir, this was seven years ago.  
11 Q. Pardon?  
12 A. This was seven years ago.  
13 Q. But, sir, you said you read your statement before  
14 you came in here, didn't you?  
15 A. Yes.  
16 Q. Okay. And it was seven years ago?  
17 A. Yes.  
18 Q. And was -- you wrote this up as a violation where  
19 y'all could -- where he would be disciplined, right?  
20 A. Yes, sir.  
21 Q. And then he returned to his cell after he swung?  
22 A. Yes.  
23 Q. Did you require medical treatment?  
24 A. I did -- I did go to the local hospital for an exam,  
25 but no --

Page 51

1 Q. I take it your answer is no, then?  
 2 MR. YONTZ: Objection, Your Honor. He can give  
 3 his answer.  
 4 MR. DURHAM: He said he went for an exam. The  
 5 question was: Did you require medical treatment? So his  
 6 answer was nonresponsive.  
 7 A. You didn't let me finish.  
 8 THE COURT: Sustained.  
 9 MR. DURHAM: Thank you, Your Honor.  
 10 I have no further questions of this officer.  
 11 REDIRECT EXAMINATION  
 12 BY MR. YONTZ:  
 13 Q. Why did you go to the hospital?  
 14 A. To get my jaw examined.  
 15 Q. Had you had any -- I think we got hung up on the  
 16 word confrontation -- any prior confrontations with  
 17 Mr. Runnels?  
 18 A. No, sir.  
 19 Q. You indicated you confiscated his fishing line?  
 20 A. Yes, sir.  
 21 Q. Was there a confrontation at that time?  
 22 A. I did not consider it a confrontation, no, sir.  
 23 Q. Did he question you or bring up the fact that you  
 24 had previously confiscated his fishing line at this time?  
 25 A. Yes, he did.

Page 52

1 Q. So this all occurred at once, not on separate  
 2 incidences?  
 3 A. No, all at once, sir.  
 4 Q. What is a fishing line?  
 5 A. A fishing line in the penitentiary is a long string  
 6 with some type of manmade weight on it. It could be as little  
 7 as a toothpaste tube filled with wet toilet paper for a  
 8 weight. They sling it down the run, which is the walkway in  
 9 front of their cell, another inmate has another fishing line,  
 10 he catches it with that line, pulls it into his cell, and  
 11 whatever that inmate wants, he connects to that line and that  
 12 offender pulls it into his cell.  
 13 Q. Primitive way of communicating and passing things  
 14 back and forth?  
 15 A. Yes, sir.  
 16 MR. DURHAM: That was a pretty leading  
 17 question.  
 18 THE COURT: Sustained.  
 19 MR. YONTZ: No further questions.  
 20 MR. DURHAM: Nothing.  
 21 THE COURT: Okay, you may step down, sir.  
 22 THE WITNESS: Thanks.  
 23 MR. YONTZ: May this witness be excused?  
 24 THE COURT: Any objection?  
 25 MR. DURHAM: Excused from attendance, but not

Page 53

1 from the Rule. I assume that he'll be available.  
 2 THE COURT: I think he wants to go back home,  
 3 right?  
 4 THE WITNESS: I would like to.  
 5 MR. DURHAM: Where is his home?  
 6 THE WITNESS: Abilene.  
 7 THE COURT: Wherever Robertson Unit is.  
 8 MR. DURHAM: I didn't know where Robertson was.  
 9 If he wants to go back to Abilene, okay.  
 10 THE COURT: Thank you very much, sir. You're  
 11 free to go.  
 12 MR. MADIGAN: Nothing wrong with Abilene.  
 13 MR. DURHAM: Didn't say there was.  
 14 THE COURT: Call your next witness.  
 15 MR. YONTZ: Brown.  
 16 THE COURT: Would you raise your right hand,  
 17 please, ma'am?  
 18 (Witness sworn)  
 19 THE COURT: Okay. If you would take a seat up  
 20 here on the witness stand, please. Once you're comfortable,  
 21 kind of pull the microphone to you and state your full name,  
 22 please.  
 23 THE WITNESS: Tonia LaShaon Brown.  
 24  
 25

Page 54

1 TONIA BROWN,  
 2 having been first duly sworn, testified as follows:  
 3 DIRECT EXAMINATION  
 4 BY MR. YONTZ:  
 5 Q. Ms. Brown, how are you employed?  
 6 A. Lieutenant at the correctional office of --  
 7 Lieutenant of Corrections -- excuse me, at Coffield.  
 8 Q. And how long have you been with the Department of  
 9 Corrections?  
 10 A. Since May 18th, 1990, about 15 years.  
 11 Q. Calling your attention back to November 18th, 2003,  
 12 were you on duty at that time?  
 13 A. Yes, I was.  
 14 Q. And where were you on duty at?  
 15 A. The Coffield facility in Administrative Segregation.  
 16 Q. Where is that?  
 17 A. Administrative Segregation is where we house  
 18 offenders who have been placed there either because of  
 19 disciplinary or because of their affiliation with some type of  
 20 security threat group.  
 21 Q. At that time, was Travis Runnels one of your persons  
 22 in Administrative Segregation?  
 23 A. Yes, he was.  
 24 Q. Did you have contact with him on this particular  
 25 date?

Page 55

1 A. Yes, I did.

2 Q. What was the nature of the contact?

3 A. This offender was housed in separate seg, what we

4 call separate seg, where we house 12 of our most dangerous

5 offenders. And he was in one of those cells. I had to bring

6 paperwork to him. And in doing so, he threw a light bulb at

7 me.

8 Q. In regard to that, was there anything that

9 precipitated the light bulb incident? Could you describe how

10 that occurred?

11 A. None whatsoever. In this area where he was assigned

12 at the time --

13 MR. DURHAM: Objection, nonresponsive after

14 "none whatsoever."

15 THE COURT: Sustained.

16 MR. YONTZ: And then the question was: Can you

17 describe what occurred?

18 MR. DURHAM: There was not a question between

19 her "none whatsoever" --

20 MR. YONTZ: It's a two-part question. Was

21 there a --

22 MR. DURHAM: Your Honor, I object to the

23 question as being two questions in one.

24 THE COURT: Okay. She's answered the first

25 part, ask the second part.

Page 56

1 Q. (BY MR. YONTZ) Can you describe what happened?

2 A. In this area, I took some paperwork. It was my job

3 as a supervisor to take things to the offenders if necessary

4 because you can't open the cells unless there's a supervisor

5 present in the area where he was.

6 On this particular day, I was taking some

7 paperwork to him, and that was my only job, was to take the

8 paperwork to him. Nothing else occurred, and I was assaulted

9 with a light bulb.

10 Q. When the assault -- or when this occurred, had you

11 just opened the door, had you been there awhile, what -- how

12 long had your --

13 MR. DURHAM: Leading question, Your Honor.

14 Q. (BY MR. YONTZ) -- contact been?

15 MR. DURHAM: Suggest the answers.

16 THE COURT: Sustained.

17 Q. (BY MR. YONTZ) How long had your contact been with

18 him?

19 A. Just a few seconds.

20 Q. Did this cause you any concern in regard to having

21 something like this thrown at you?

22 A. Yes.

23 Q. What was that?

24 A. We wear safety glasses to cover our eyes, but when

25 an object is thrown at you, there are other areas of your body

Page 57

1 that's not protected. And so the light bulb and what consists

2 within the light bulb was still a danger to me.

3 MR. YONTZ: No further questions, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. DURHAM:

6 Q. Administrative Segregation. Describe -- can you

7 describe Administrative Segregation? How big an area is the

8 cell?

9 A. The cell itself?

10 Q. Yes, ma'am.

11 A. Six by nine.

12 Q. Fifty-four square feet, would that be correct?

13 A. Six by nine, whatever that comes to, six by nine.

14 Q. Six times nine is 54, would you agree with me on

15 that?

16 A. I can agree with you to that.

17 Q. Okay. So he had 64 (sic) square feet, and how long

18 had he been in that cell?

19 A. That particular cell, I cannot specifically tell

20 you.

21 Q. An hour, a day, a week, a month?

22 A. He is housed there. That is his housing assignment.

23 Q. So that's where he kind of lives, in that 54 square

24 foot?

25 A. Yes.

Page 58

1 Q. And he had been living in that 54 square foot since

2 he was sent to Coffield from Clements; is that correct?

3 A. That would probably not be correct. In that area

4 where he was assigned, offenders were moved on a weekly basis

5 in the event that they would not be able to facilitate an

6 escape by doing something to manipulate the cell. So

7 specifically how long he was in this particular cell, I cannot

8 tell you.

9 Q. Okay. Let's talk about Administrative Segregation.

10 How long -- are all the cells 54 square foot?

11 A. Best of my knowledge on this facility.

12 Q. Okay. So if he was moved from Cell A to Cell B, the

13 difference would be Cell A is Cell A and Cell B is Cell B, but

14 that would be the only difference, the primary difference; is

15 that correct?

16 A. This is correct.

17 Q. Okay. I'm not trying to argue with you.

18 A. Oh, no, sir, no, sir.

19 Q. I'm -- I have not spent any time in your facility.

20 A. I understand.

21 Q. Okay. And I haven't been there to look at it, and

22 these jurors haven't seen it --

23 MR. YONTZ: Objection, Your Honor. Is this a

24 question?

25 THE COURT: Go ahead.

Page 59

1 Q. (BY MR. DURHAM) So that's the reason I'm trying to  
2 describe what -- what it's like.  
3 A. Okay.  
4 Q. Do you understand that?  
5 A. Yes.  
6 Q. Okay. Thank you.  
7 All right. Now, in that regard, how is that 54  
8 square -- just -- may I -- can you kind of just -- I know you  
9 can't do it to a T, but can you kind of indicate on the floor,  
10 you know, starting here to here, from here to here, what the  
11 size of the cell is? That's about 54 square foot, isn't it?  
12 A. Good guesstimation maybe.  
13 Q. Is that about the size of the cell?  
14 A. That's possible.  
15 Q. Well --  
16 A. I mean, it's nine foot long --  
17 Q. -- I haven't been there.  
18 A. I understand. It's nine foot long, six feet wide.  
19 Q. Okay.  
20 A. The bunk where he is assigned is cemented to the  
21 floor, so there's an area that's there, so it's not a moveable  
22 bunk. The toilet is attached to the back of the wall, and  
23 that's the only walking room, is from the space where the bed  
24 ends to the other side of the wall.  
25 Q. Which is about how much, three foot, two foot?

Page 60

1 A. The bed itself is approximately the size of a twin  
2 bed, so whatever the distance would be from a twin bed to the  
3 wall from the --  
4 Q. Two or three foot?  
5 A. Possible.  
6 Q. Okay. All right. Now, I'm not talking about that  
7 particular cell, I'm talking about Administrative Segregation  
8 in the Coffield Unit. Do you know when he arrived at  
9 Coffield?  
10 A. He was transferred after the murder occurred.  
11 Q. Okay.  
12 A. What date that actually was, I wouldn't be able to  
13 tell you.  
14 Q. Would that have been the next day, a couple of days  
15 later, pretty soon?  
16 A. I really don't have privy to that information. I do  
17 know he was immediately removed from his facility and this is  
18 the facility that he ended up on after that incident. If  
19 there were two other units in between his transfer, one, or  
20 none at all, I wouldn't be able to tell you.  
21 Q. And when he was at Coffield, he was in  
22 Administrative Segregation?  
23 A. Yes.  
24 Q. Which would have been February, probably the month  
25 of February, yes or no?

Page 61

1 A. Once again, I wouldn't be able to tell you.  
2 Q. March?  
3 MR. YONTZ: Objection, Your Honor, asked and  
4 answered.  
5 THE COURT: You're not going to be able to  
6 identify any month, is that --  
7 THE WITNESS: Yes, sir, this is correct. I  
8 don't work in the division that deals with the classification  
9 as to where the offender is assigned and when he's  
10 transferred.  
11 Q. (BY MR. DURHAM) Well, in all your contact with him,  
12 he was in Administrative Segregation?  
13 A. Yes, during the time that I was assigned to that  
14 area, he was also there.  
15 Q. Now, I'm not sure, but is -- when you feed the  
16 prisoners in Administrative Segregation, there's a little door  
17 that opens and a tray is set there; is that correct?  
18 A. Yes, sir. It's called a food slot.  
19 Q. Okay. Will papers not fit through the food slot?  
20 A. In the area where he was assigned, you would have to  
21 open the door in order to get them in. They would not slide  
22 through.  
23 Q. They wouldn't fit in the food slot, is what you're  
24 saying?  
25 A. Not for the area where he was.

Page 62

1 Q. Oh. Well, what was different about that area?  
2 A. We have a -- what you would maybe consider to be a  
3 general area of Administrative Segregation and then we have a  
4 more confined area. At the time he was on our facility, he  
5 was in the most confined area.  
6 Q. All right. What's the difference in the general  
7 Administrative Segregation area and the confined area?  
8 A. Within the confined area, we house what we consider  
9 to be 12 of the most dangerous offenders, and they're there  
10 for either attempting to escape, harming of the staff members,  
11 harming themselves, harming other offenders, potential escape  
12 risk, and so they're placed there so that we have a constant  
13 view on them.  
14 Q. Is it the same size?  
15 A. Yes.  
16 Q. But they're under constant observation?  
17 A. Yes.  
18 Q. And the lights are on 24 hours a day?  
19 A. Yes, unless the offender turns them off. Within the  
20 cell, if that's what you're asking.  
21 Q. Well, I mean, does he have the control to turn it  
22 off?  
23 A. Yes.  
24 Q. Can you override that control?  
25 A. No.

Page 63

1 Q. Okay. And you don't know how long he had been in  
2 there?  
3 A. No, sir.  
4 Q. And it was that small confined space. Is it unusual  
5 for prisoners in that segregation unit to be hostile?  
6 A. Is it unusual?  
7 Q. Yes, ma'am.  
8 A. Not in this particular area.  
9 Q. Now, this light bulb, what wattage was it?  
10 A. I would not know.  
11 Q. Was it recovered?  
12 A. It was shattered. I mean, when he threw it, it  
13 shattered, so --  
14 Q. What did it hit?  
15 A. It went through the cell and hitting me.  
16 Q. And shattered when it hit you?  
17 A. Going through the outer doorway, yes.  
18 Q. Now -- boy, you've lost me there.  
19 A. I'm sorry. The outside door on the cell is made of  
20 a mesh wire, somewhat similar -- similar to that of chicken  
21 wire, I guess you could say --  
22 Q. So it --  
23 A. -- but stronger in nature.  
24 Q. It hit the -- the mesh wire first?  
25 A. Yes.

Page 64

1 Q. So it really didn't hit you? He threw the light  
2 bulb, it hit the mesh wire, and you were behind the mesh wire?  
3 A. It did strike me.  
4 Q. Did it cut you?  
5 A. No, it did not.  
6 Q. Okay. Where did the light bulb come from?  
7 A. From inside the cell. He's issued a light bulb in  
8 order to generate light to his cell.  
9 Q. Okay. So it's a lamp?  
10 A. No, sir, it's an actual plate that has the light  
11 bulb in it.  
12 Q. Okay. So he only had the one bulb, and when he took  
13 it out, he had no light?  
14 A. That's correct.  
15 Q. Was he disciplined for that?  
16 A. I believe so.  
17 Q. And that was after the murder that he pled guilty to  
18 yesterday, right?  
19 A. Yes.  
20 MR. DURHAM: I have no further questions.  
21 REDIRECT EXAMINATION  
22 BY MR. YONTZ:  
23 Q. As I take it, then, even in Administrative  
24 Segregation, they have contact with corrections officers?  
25 A. Yes.

Page 65

1 MR. YONTZ: No further questions.  
2 RE-CROSS EXAMINATION  
3 BY MR. DURHAM:  
4 Q. Describe that contact. How much time are they  
5 allowed out of the cell?  
6 A. One hour per day in the event that he's doing  
7 everything he needs to do in order to receive that one hour.  
8 Q. So he gets one hour a day if he's a good boy?  
9 A. More or less.  
10 Q. Okay. And when he leaves that cell, is there a  
11 procedure you follow for handcuffing him?  
12 A. Yes.  
13 Q. All right. And will you describe that procedure to  
14 the jury, please?  
15 A. Of course. Would you like for me to describe that  
16 of Administrative Segregation or the area where this  
17 particular person was confined?  
18 Q. Let's do it both ways.  
19 A. Okay. In the general area --  
20 Q. Do you want to demonstrate it? Would a  
21 demonstration --  
22 A. Either/or, sir, it's your preference.  
23 Q. Well, let's just kind of show them what you do.  
24 I've seen a film on this. You tell me if it's right. Like,  
25 okay, here's my cell, okay?

Page 66

1 A. Uh-huh.  
2 Q. You're the officer and you come and you tell me  
3 you're going to take me out for my hour, right?  
4 A. Yes.  
5 Q. And during this hour a day, what do I get to do?  
6 A. You may either go to the dayroom area or to an  
7 outside recreation area.  
8 Q. Is that alone or do I get to be with --  
9 A. By themselves.  
10 Q. By myself?  
11 A. Yes.  
12 Q. I can go outside to the recreation area, right?  
13 A. Yes.  
14 Q. Okay. And what if I want to shower, do I do that  
15 within the hour?  
16 A. No, sir, that's a separate time.  
17 Q. At a separate time?  
18 A. Yes.  
19 Q. Okay. Here's my cell, this is my 54 square foot,  
20 okay?  
21 A. Okay.  
22 Q. And you come to the door and say, "I'm -- it's your  
23 hour," okay?  
24 A. It's your hour.  
25 Q. All right. Come to the door.



Page 67

1 A. The first procedure that's going to occur is we're  
2 going to ask you to remove all of your clothing.  
3 Q. I'm not going to do that. I'm sorry.  
4 MR. YONTZ: He requested a demonstration, we  
5 would request it be accurate.  
6 MR. DURHAM: If that's what it takes.  
7 Do you want me?  
8 MR. YONTZ: No.  
9 THE COURT: Perhaps Mr. Yontz wants to  
10 demonstrate.  
11 MR. DURHAM: All right. We'll let Mr. -- if  
12 Mr. Yontz --  
13 MR. YONTZ: We'll stipulate, Your Honor.  
14 MR. DURHAM: I thought we could come to an  
15 agreement.  
16 Q. (BY MR. DURHAM) Okay. Pretend, without getting  
17 sick, that I have removed my clothes.  
18 A. Yes. Once you have removed your clothing, then  
19 we're going to conduct the remainder of the strip search,  
20 which we would go through. At that completion, you would  
21 place your clothes back on.  
22 Q. Okay. I'm in my cell?  
23 A. Yes, sir.  
24 Q. You come in the cell?  
25 A. No, sir.

Page 68

1 Q. Okay. You're watching me?  
2 A. Yes, sir.  
3 Q. I mean, as a part of your duties?  
4 A. Yes, sir.  
5 Q. Okay. And -- all right, I'm stripped, you've  
6 searched me.  
7 A. I've searched you.  
8 Q. Okay.  
9 A. Now we will place -- you will place your hands  
10 through the outer food slot.  
11 Q. Food slot right here?  
12 A. Back into that, yes, sir.  
13 Q. Like that, okay.  
14 A. The employee will then place the restraints on you,  
15 double lock the handcuffs.  
16 Q. Okay.  
17 A. And then close the food slot.  
18 Q. Uh-huh.  
19 A. Open the outer door, and you would be removed by  
20 walking backwards out of the cell.  
21 Q. Walk backwards out of the cell?  
22 A. Yes, sir.  
23 Q. Okay. Now, that's for regular --  
24 A. Anytime you're removed from the cell, that should be  
25 the procedure.

Page 69

1 Q. Yeah. For regular Administrative Segregation. What  
2 about the --  
3 A. Those same procedures occur. The only difference is  
4 in the area where this particular person was assigned, a  
5 supervisor would have to be present.  
6 Q. Two people would be there?  
7 A. A supervisor would have to be present.  
8 Q. Okay, so more than two people could be there?  
9 A. Yes.  
10 Q. All right. And I go out to the -- to the play area  
11 and I play basketball or whatever it is --  
12 A. Yes, sir.  
13 Q. -- by myself, right?  
14 A. Yes, sir.  
15 Q. And then I get ready to come in, am I searched  
16 again?  
17 A. Yes, you are.  
18 Q. I stand in a wire cage?  
19 A. The same procedure where you are would be  
20 followed --  
21 Q. Take my clothes off?  
22 A. -- as you go -- yes, sir.  
23 Q. Bend over, arms --  
24 A. Yes, sir.  
25 Q. The whole nine yards, right?

Page 70

1 A. Yes, sir.  
2 Q. And then I'm shackled again?  
3 A. Once again.  
4 Q. And go back?  
5 A. Yes.  
6 Q. That's one hour a day?  
7 A. Yes.  
8 Q. All right. And if -- if I violate some of the  
9 rules, I don't get that hour?  
10 A. Your punishment -- part of punishment that could be  
11 imposed could be that you would not receive that one hour.  
12 Q. So some people could be in that 54 square foot every  
13 day for a very, very long period of time without going out at  
14 all; is that correct?  
15 A. There are still rules that ensure that we make sure  
16 that you are out of your cell because we have to view you to  
17 make sure that you're okay. But as far as you being able to  
18 participate in those activities, yes, there are some that do  
19 not get those activities.  
20 Q. Okay.  
21 MR. DURHAM: Just a moment, Judge.  
22 (Pause)  
23 Q. (BY MR. DURHAM) Now, there are different levels of  
24 security even in Ad Seg. When we say "Ag Seg," what --  
25 agri --

Page 71

1 A. Administrative Segregation.  
2 Q. Ad Seg?  
3 A. Yes.  
4 Q. A-d?  
5 A. Yes.  
6 Q. Ad Seg, okay. I was thinking Ag. Okay, Ad Seg.  
7 All right. You have two levels in Administrative Segregation,  
8 correct?  
9 A. Actually, there are three.  
10 Q. Three?  
11 A. One, two, and three.  
12 Q. One, two, and three. All right. Is one the highest  
13 or the lowest?  
14 A. One is the highest.  
15 Q. Okay.  
16 A. Three being the lowest.  
17 Q. Okay. And describe the difference in the three  
18 levels.  
19 A. The three levels are determined based upon the  
20 offender's disciplinary history. Level One means that he  
21 doesn't have any disciplinary within the minimum of 120 days.  
22 I'm kind of rusty on my thing. I haven't been in seg for a  
23 while.  
24 Two and three means there is some disciplinary  
25 that has been imposed within the last 30, 90, to 120 days,

Page 72

1 which limits the amount of activities and property the  
2 offender could have in his cell at the time.  
3 Q. And three means he's limited in his time and  
4 property. When you speak of property, does that include  
5 radios, televisions, that type of thing?  
6 A. We don't have televisions, sir, in segregation.  
7 Q. Well, I had always heard they had color TV in  
8 prison; is that not true?  
9 A. Not in Texas, not at Coffield.  
10 Q. Do they have radios?  
11 A. Yes, they do.  
12 Q. In all three levels?  
13 A. What you can have in segregation is based upon your  
14 level. If your level is high enough that you could purchase  
15 the radio, then it would be part of your property that you  
16 could have on you at that time.  
17 As part of the disciplinary phase, if you are  
18 disciplined for an aggressive act, then you can be limited in  
19 the property you can have in your cell with you at that time.  
20 If you do not get your disciplinary to a  
21 positive point, then you could actually lose your property  
22 altogether.  
23 Q. Lose it all -- you mean you would take my radio  
24 forever?  
25 A. If your disciplinary did not improve within a

Page 73

1 certain time span.  
2 Q. Okay. So I -- if I don't get proper within that  
3 time span, the radio is gone. I --  
4 A. If you don't --  
5 Q. -- never can --  
6 A. -- progress.  
7 Q. -- have a radio?  
8 A. You wouldn't be able to have that radio again. You  
9 would have to progress to a point that you could purchase  
10 another radio.  
11 Q. Okay. What happens to that radio?  
12 A. It is destroyed or you have the ability to send it  
13 home.  
14 Q. Okay. So in Ad Seg, you control the prisoner with  
15 several things. First, they're limited in space, correct?  
16 A. Yes, sir.  
17 Q. And they are limited in movement, correct?  
18 A. Yes.  
19 Q. And if that doesn't bring them under, you limit  
20 their time out of the cell, correct?  
21 A. Through disciplinary, yes.  
22 Q. Uh-huh. And you limit the property they can have  
23 and when it's returned?  
24 A. This is all true.  
25 Q. Okay. And I've heard -- correct me if I'm wrong.

Page 74

1 Sometimes do they segregate people in Ad Seg because of gang  
2 associations?  
3 A. Yes.  
4 Q. And for that reason and that reason alone?  
5 A. Yes.  
6 Q. Okay. It's not a pretty thing, is it?  
7 A. No, sir.  
8 Q. Okay. Now -- okay, we've got Ad Seg, then we have  
9 other levels of incarceration within your unit. That's the  
10 only one I -- is that the only unit you're familiar with?  
11 A. I've worked on one other facility.  
12 Q. Where was that?  
13 A. The Michael -- the McConnell facility in Beeville,  
14 Texas.  
15 Q. Beeville. And Coffield is where?  
16 A. In Tennessee Colony, Texas.  
17 Q. Which is down by Palestine?  
18 A. Yes, it is.  
19 Q. Or is it Palestine?  
20 A. Palestine if you live there, Palestine if you're  
21 not.  
22 Q. Okay. Well -- all right. Some of these -- well,  
23 within the Coffield Unit, what other level? We have the three  
24 Administrative Segregation levels. What else -- what other  
25 levels do we have?

Page 75

1 A. We house general population. We have G-2s and G-1  
2 offenders and G-3s as well.

3 Q. All right.

4 A. And G-4s.

5 Q. All right. That means nothing to me.

6 A. Okay.

7 Q. Okay? Explain it to me, please.

8 A. We have --

9 Q. What's a G-1?

10 A. A G-1 is an outside trusty.

11 Q. That's somebody that can leave the facility?

12 A. He does not leave the facility, he is still  
13 confined. It's that his restriction -- his contact with the  
14 staff members is once every -- a minimum of once every two  
15 hours. He's given a specific job. He can be outside working  
16 on a tractor, he could be working in some other capacity,  
17 but --

18 Q. File clerk?

19 A. -- it's the less restrictive category we have in our  
20 facility.

21 Q. Okay. So -- okay. That's G-1?

22 A. Yes, sir.

23 Q. Then let's go on to G-2.

24 A. G-2 is what we know to be general population  
25 offenders. These offenders have jobs. They're still confined

Page 76

1 inside the inner gates, but they're assigned to facilities to  
2 work in food service, they may work in the laundry department,  
3 the field force service. There are general population jobs  
4 assigned to that custody level, G-2s and G-3 offenders.

5 Q. What's the difference in a 2 and 3?

6 A. The difference between a 2 and 3 is that a G-3  
7 offender is an offender who is serving 50 years or more worth  
8 of time, and he does not have the minimum of five to ten years  
9 of time done on that.

10 Q. Okay. And G-4?

11 A. G-4 is what we consider to be a medium custody  
12 offender. He is there because of his disciplinary or because  
13 of an SPD, a security precaution designator.

14 Q. And what are the limitations placed on them?

15 A. They're out of their cells less, and the type of  
16 jobs that they can have are more restrictive.

17 Q. Okay. So if you're not a G-4 and you're not an Ad  
18 Seg, you have some freedom -- much more freedom of movement;  
19 is that right?

20 A. Yes.

21 Q. And that classification is done how and when, if you  
22 know?

23 A. The classification of the offenders?

24 Q. Yes, ma'am.

25 A. At the time that he comes in, he is immediately

Page 77

1 classified, and every year from his birth day is the date that  
2 we use in our facility to reclassify the offender or to look  
3 at him again, or in the event that he has not progressed six  
4 months after a disciplinary hearing, he may be reviewed.

5 Q. Okay. Well, Lieutenant Brown, I want to thank you  
6 for educating me about your unit and about Ad Seg, and I  
7 appreciate you coming here from Palestine.

8 A. Thank you.

9 MR. DURHAM: Pass the witness.

10 REDIRECT EXAMINATION

11 BY MR. YONTZ:

12 Q. Good things are rewarded and bad things result in  
13 things being taken away; is that correct?

14 A. Yes.

15 Q. You demonstrated getting a person out for rec time  
16 or for -- in the dayroom or whatever, and you used a variety  
17 of security procedures; is that correct?

18 A. That's correct.

19 Q. But they also get out to shower?

20 A. Yes.

21 Q. And if a medical situation arises, you have to open  
22 the door and get in there without them being handcuffed; is  
23 that correct?

24 A. If it's a situation to where the offender is harmed  
25 to where we need to get in, yes.

Page 78

1 Q. So they may have contact with you without being  
2 shackled?

3 A. It is possible.

4 Q. And when they -- you take security precautions, do  
5 those security precautions eliminate all the dangers?

6 A. No, they don't.

7 Q. In fact, those people can still kick?

8 A. Yes.

9 Q. And kicks can be severe -- cause severe injuries?

10 MR. DURHAM: Can counsel ask a question that's  
11 not leading. Objection, leading.

12 THE COURT: Sustained.

13 Q. (BY MR. YONTZ) Can kicks cause severe injuries?

14 A. Yes, they can.

15 MR. YONTZ: Nothing further, Your Honor.

16 RE-CROSS-EXAMINATION

17 BY MR. DURHAM:

18 Q. Well, you say it's possible to have injuries with  
19 all the precautions, right?

20 A. Yes.

21 Q. Just like, if you're wearing your seat belt and you  
22 have good tires and your car is inspected and you're driving  
23 the speed limit, it's possible that you'll be injured in an  
24 auto accident, isn't it?

25 A. That's possible.

Page 79

1 Q. Because you can't predict what some other person is  
2 going to do?  
3 A. No.  
4 Q. Correct?  
5 Would you agree that predicting what a person  
6 is going to do is highly improbable?  
7 A. In what situation?  
8 Q. Any situation, driving, marriage, it's hard to  
9 predict what people are going to do, isn't it?  
10 A. Sometimes.  
11 Q. Well, do you have some particular -- strike that.  
12 Basically, you impress me as having been  
13 educated in this area. Do you have a degree?  
14 A. Yes, I do.  
15 Q. All right. And that's a master's or what?  
16 A. No, sir, I have an associate's.  
17 Q. From?  
18 A. Trinity Valley Community College.  
19 Q. Okay. Where is that?  
20 A. Palestine, Texas.  
21 Q. Oh, it's in Palestine?  
22 A. Yes.  
23 Q. All right. You had other training at the  
24 department, too?  
25 A. Yes, I have.

Page 80

1 Q. Yeah. And they teach you to look out for things?  
2 A. Yes.  
3 Q. They teach you about how to do the handcuffs and how  
4 to do the strip search and that type thing; am I correct?  
5 A. Yes, you are correct.  
6 Q. All right. What about the civilian employees, do  
7 they give them the same training?  
8 A. The what type of employees?  
9 Q. Civilian.  
10 A. Civilian employees?  
11 Q. Do y'all have civilian employees?  
12 A. We do have an inservice type training that gives you  
13 basic awareness to potential danger working in this type of  
14 environment, but the intense training that the correctional  
15 officers receive, these employees do not receive.  
16 Q. Okay. When you say "intense training," could you  
17 describe the training that y'all are given to prevent the very  
18 thing that Mr. Yontz asked about?  
19 A. There's six weeks worth of training when you come to  
20 our facility before employment. And depending upon what your  
21 title is determines whether or not you are required to go  
22 through this program. It's called pre-service training.  
23 During your pre-service training, you are  
24 taught the rules and regulations of our facility -- of our  
25 agency, rather, as well as how to apply hand restraints,

Page 81

1 transportation of offenders, proxemics, defense tactics, as  
2 well as other things within -- but that's somewhat basic to  
3 your six weeks worth of training.  
4 Q. Do they teach you any unarmed combat or anything  
5 like that? I mean, I really don't know what they teach you.  
6 A. It's basic defensive tactics, is the best I could  
7 describe it for you.  
8 Q. Could you demonstrate some of that on Ms. Hamilton?  
9 Well, I'm trying to be equal opportunity.  
10 A. What you're asking is -- it's not to the level that  
11 they would receive a black belt in karate or anything of that  
12 nature. It's basic maneuvers that we teach you in order to  
13 attempt to defend yourself in the event that you are in harms  
14 way, not as an offensive, but as a defensive, so that if -- we  
15 teach proxemics and distance and how far you should be from  
16 someone to lessen the danger, defensive stances, things that  
17 are not aggressive to another individual in speaking with them  
18 or dealing with them on a day-to-day basis.  
19 Q. I've probably been watching too much of the Arts &  
20 Entertainment channel, but they've had a deal on  
21 penitentiaries and where they have an obstreperous inmate, one  
22 who's sitting in the back of the cell just making a real  
23 nuisance of himself, they'll rush in there with like nine or  
24 ten ninjas, or they look like ninjas, you know, and take him  
25 out and that type of thing. Do y'all have that kind of unit,

Page 82

1 response unit?  
2 A. It's not specifically a unit that's assigned to the  
3 facility. It's called a force cell move team, as you are  
4 hinting toward. It's a five-person team that is utilized to  
5 extract someone from an area in the event that their actions  
6 would require that. But you don't just go in and just do  
7 that. I mean, something would have to occur --  
8 Q. Well, I --  
9 A. -- to --  
10 Q. -- I know.  
11 A. But it's a minimum -- a minimum of five should be  
12 sufficient in most cases to remove someone from an area.  
13 Q. And they have -- they have more specialized training  
14 than the average officer, or do they?  
15 A. No, sir, not necessarily. Any employee could be  
16 utilized that's a security staff member, but the supervisor is  
17 going to make a decision based upon that employee's skill  
18 level as to whether they would be used in that position.  
19 Q. Do they have different equipment than the ordinary  
20 officer who is just taking somebody out of the cell?  
21 A. There is protective wear that those individuals  
22 wear.  
23 Q. What does that consist of?  
24 A. It's a helmet, it's a jacket, more or less, I guess  
25 you would consider it, and a -- the first person that goes in

Page 83

1 the cell is going to use a shield to try and move that person  
2 away so that the least amount of harm comes to the staff or  
3 the offender, to pin them.  
4 Q. Do they have batons or anything?  
5 A. Not in this -- in this area when they go in.  
6 Q. Okay.  
7 MR. DURHAM: I have no further questions.  
8 THE COURT: Anything else?  
9 MR. YONTZ: Nothing further, Your Honor.  
10 THE COURT: Okay, you can step down.  
11 MR. YONTZ: May she be excused?  
12 MR. DURHAM: Certainly, if she wants to go back  
13 to Palestine.  
14 THE COURT: Okay, you're excused.  
15 MR. DURHAM: Thank you for coming up.  
16 THE COURT: All right. Let's take a 15-minute  
17 recess, please.  
18 (Recess)  
19 THE COURT: Call your next witness.  
20 MR. YONTZ: Your Honor, the next witness the  
21 State would call would be Officer McKinney.  
22 THE COURT: Come right up, please. Raise your  
23 right hand, please.  
24 (Witness sworn)  
25 THE COURT: All right. Take a seat up here on

Page 84

1 the witness stand. When you make yourself comfortable, pull  
2 that microphone, not up to your mouth, but in a direct line  
3 with it just where you can sort of speak into it, and state  
4 your full name, please.  
5 THE WITNESS: Catherine Nicole McKinney.  
6 CATHERINE NICOLE MCKINNEY,  
7 having been first duly sworn, testified as follows:  
8 DIRECT EXAMINATION  
9 BY MR. YONTZ:  
10 Q. How are you employed?  
11 A. Sir?  
12 Q. I'm sorry?  
13 A. I didn't understand you.  
14 Q. How are you employed?  
15 A. I am employed as a correctional officer at the Texas  
16 Department of Criminal Justice.  
17 Q. In what facility?  
18 A. Coffield Unit.  
19 Q. Calling your attention back to May 3rd of 2003, were  
20 you also a corrections officer?  
21 A. Yes.  
22 Q. And were you also at the Coffield Unit?  
23 A. Yes.  
24 Q. On that date, did you have contact with an  
25 individual identified as Travis Runnels?

Page 85

1 A. Yes, sir.  
2 Q. Is he in the courtroom today?  
3 A. Yes, sir.  
4 Q. Would you point him out and describe what he's  
5 wearing, please?  
6 A. A green shirt.  
7 Q. And a tie?  
8 A. Yes, brown tie.  
9 Q. What were your duties at the Coffield Unit?  
10 A. I was -- I escort offenders to and from the showers  
11 and recreation and just make sure they're where they're  
12 supposed to be when they're supposed to be there.  
13 Q. How did you have contact with the defendant?  
14 A. He threw urine in my face.  
15 Q. Can you explain how that occurred?  
16 A. What had happened, earlier that day, I had written  
17 an offense report on him for a masturbation case, and when I  
18 was escorting another offender to the cell, I had secured the  
19 other offender, and when I was bending down to slide the bolt  
20 closed on the bottom of the cell front, he threw urine in my  
21 face.  
22 Q. Was he the person that you were securing in the  
23 cell?  
24 A. No, it was another offender.  
25 Q. Did you have any contact -- had you had contact with

Page 86

1 him prior to this?  
2 A. No, not that I recall.  
3 Q. Was there anything that you observed that would have  
4 precipitated this?  
5 A. Other than the offense report I had written earlier  
6 that day, no.  
7 MR. YONTZ: No further questions.  
8 CROSS-EXAMINATION  
9 BY MR. DURHAM:  
10 Q. You wrote an offense report earlier in the day?  
11 A. Yes, sir.  
12 Q. For him exposing himself?  
13 A. Yes, sir.  
14 Q. Is that unusual for prisoners to expose themselves  
15 to you?  
16 A. No.  
17 Q. Pardon?  
18 A. No, sir.  
19 Q. That's fairly common?  
20 A. Yes, sir.  
21 Q. And he was in Ad Seg?  
22 A. Yes, sir.  
23 Q. Okay. He was in Ad Seg, and that's a solid door,  
24 isn't it?  
25 A. No, sir, it is not. It has an expanded metal mesh

Page 87

1 across the front of the cell front.  
2 Q. It's not a solid door?  
3 A. No.  
4 Q. None of Ad Seg is solid doors?  
5 A. No, sir. They have some type of mesh or like a  
6 metal front that has some kind of holes in it where we're able  
7 to see inside.  
8 Q. Okay. And you were at a cell next to it?  
9 A. Yes.  
10 Q. How far?  
11 A. Probably not even a foot away, maybe six inches.  
12 Q. And was he aware you had written him up earlier in  
13 the day?  
14 A. Yes.  
15 Q. And how was he made aware of that?  
16 A. Another officer had gone and investigated the  
17 offense report.  
18 Q. Did you tell him you were going to write him up?  
19 A. Yes, sir.  
20 Q. Oh, so you had told him you were going to write him  
21 up?  
22 A. Yes.  
23 Q. And he was still in the 54 square foot cell at the  
24 time, right?  
25 A. Yes, sir.

Page 88

1 Q. And he had been there how long?  
2 A. As far as I know, all day.  
3 Q. Well, before that, had he been in Ad Seg?  
4 A. Yes.  
5 Q. And how long had he been in Ad Seg?  
6 A. I can't really recall how long he had been there.  
7 Q. Had you ever known him not to be in Ad Seg?  
8 A. No, sir.  
9 Q. Were you aware he came there sometime in early  
10 February?  
11 A. Yes, sir.  
12 Q. So he had been there in February, March, April, and  
13 May?  
14 A. Uh-huh. Yes, sir.  
15 Q. And he got out no more than one hour a day if  
16 everything was right?  
17 A. That's right.  
18 Q. Did he get out every day for one hour --  
19 A. Unless he had refused.  
20 Q. -- or were there -- pardon?  
21 A. Unless he had refused to come out of his cell yes.  
22 Q. Well, what -- when you wrote him up, what would the  
23 penalty be for being written up?  
24 A. Cell restriction and commissary restriction.  
25 Q. Cell restriction?

Page 89

1 A. Yes, sir. He would not -- or he would be on  
2 recreation restriction. He would not be allowed to go to  
3 recreation.  
4 Q. That means he couldn't get out for the hour?  
5 A. Correct.  
6 Q. And for how many days would that occur?  
7 A. However the disciplinary captain -- how many days --  
8 however many days the disciplinary captain said that he could  
9 not come out.  
10 Q. And that could be as many as how many?  
11 A. Thirty.  
12 Q. In other words, because you had written him up, he  
13 could have to remain in his cell 30 days without recreation?  
14 A. Yes.  
15 Q. So he was angry?  
16 A. Yes.  
17 MR. YONTZ: Objection. Calls for speculation.  
18 THE COURT: Sustained.  
19 Q. (BY MR. DURHAM) Did he say anything to you that  
20 would indicate he was angry?  
21 A. No.  
22 Q. You thought he was okay with you writing him up?  
23 A. Yes, I suppose.  
24 MR. YONTZ: Again, objection.  
25 MR. DURHAM: What's the objection?

Page 90

1 MR. YONTZ: Speculation.  
2 THE COURT: Sustained.  
3 MR. DURHAM: Well, it's speculation on what she  
4 thought. It's not speculation. She --  
5 THE COURT: Well, it's speculation based on  
6 speculation -- answer based upon speculation. Sustained.  
7 MR. DURHAM: Very well. No further questions.  
8 MR. YONTZ: Nothing further, Your Honor.  
9 THE COURT: Okay, you can step down, ma'am.  
10 Call your next witness.  
11 MR. YONTZ: Officer Threadgill.  
12 THE COURT: Raise your right hand, please.  
13 (Witness sworn)  
14 THE COURT: If you would take a seat on the  
15 witness stand, please, and once you're comfortable, make sure  
16 that you're speaking into the microphone, and state your full  
17 name, please, sir.  
18 THE WITNESS: Robert Threadgill.  
19 ROBERT THREADGILL,  
20 having been first duly sworn, testified as follows:  
21 DIRECT EXAMINATION  
22 BY MR. YONTZ:  
23 Q. How are you employed, sir?  
24 A. I was employed with TDCJ at the Coffield Unit.  
25 Q. Are you still employed with them?

Page 91

1 A. No, sir.  
 2 Q. How long were you employed with the Department of  
 3 Corrections?  
 4 A. Ten months.  
 5 Q. Where were you employed at, what facility?  
 6 A. It was the seg unit of Coffield.  
 7 Q. Sir, in regard to that, calling your attention back  
 8 to June 25th, 2004, did you have occasion to come in contact  
 9 with an individual identified as Travis Runnels?  
 10 A. Yes, sir.  
 11 Q. Was he an inmate there?  
 12 A. Yes, sir.  
 13 Q. Is he in the courtroom?  
 14 A. Yes, sir.  
 15 Q. Would you point him out and describe what he's  
 16 wearing, please?  
 17 A. The green shirt.  
 18 Q. Okay. Thank you.  
 19 A. Tan tie.  
 20 Q. What were your duties at the unit?  
 21 A. As a correctional officer.  
 22 Q. What did you do?  
 23 A. That -- on that day?  
 24 Q. Yes, sir.  
 25 A. I was working Ad Seg, Super Seg. We were in the

Page 92

1 process of doing showers and changing out rec, recreational.  
 2 Q. Was Mr. -- what was the nature of the contact that  
 3 you had, or how did you come in contact with him?  
 4 A. At that point, we was changing out a shower at the  
 5 time, and I was walking across the cell and he had a -- like a  
 6 foot tub full of human feces, which he threw at that point  
 7 towards myself, and I had a shield in front of me that we have  
 8 to use to walk in front of their cells.  
 9 Q. Did any of it hit you?  
 10 A. Yes, it made contact on my boot because it hit the  
 11 ground and went up under the shield.  
 12 Q. Was he the person that you were transporting at that  
 13 time?  
 14 A. No, sir. He was in the first cell next to the  
 15 shower and we had to pass his cell to retrieve another inmate  
 16 for the shower.  
 17 Q. Did that cause you any concern?  
 18 A. Yes, sir.  
 19 Q. Why is that?  
 20 A. Just the health issues, the risk that -- you know,  
 21 the diseases that you can come in contact with.  
 22 MR. YONTZ: No further questions, Your Honor.  
 23 CROSS-EXAMINATION  
 24 BY MR. DURHAM:  
 25 Q. Ten months. Why did you quit?

Page 93

1 A. Why did I quit?  
 2 Q. Yes, sir.  
 3 A. A better -- a different job.  
 4 Q. Doing what?  
 5 A. I'm employed with Coffee City Police Department.  
 6 Q. Became a policeman instead?  
 7 A. Yes, sir.  
 8 Q. This was in May?  
 9 A. Sir?  
 10 Q. This was when, May of this year -- of last year?  
 11 A. Yes, sir. I was employed with Alto PD at the time.  
 12 Q. No, no, when this incident occurred, May of '04?  
 13 A. Yes, yes.  
 14 Q. How long had you been with the department at the  
 15 time it occurred?  
 16 A. About seven months, I would say.  
 17 Q. During that seven months, Mr. Runnels had been in Ad  
 18 Seg all of that time, hadn't he?  
 19 MR. YONTZ: Objection, Your Honor -- withdrawn.  
 20 A. I had no -- the first time I came in contact with  
 21 him was when I worked in Super Seg, and that was that one day  
 22 this incident occurred.  
 23 Q. (BY MR. DURHAM) That's the only time you came in  
 24 contact with him?  
 25 A. Yes, sir.

Page 94

1 Q. Never saw him before?  
 2 A. No, sir.  
 3 Q. And you don't know who did -- you don't know how  
 4 long he had been in there?  
 5 A. No, sir, I don't have a clue how long he's been in  
 6 the system.  
 7 Q. You don't know what the history was of people  
 8 walking by his cell saying things?  
 9 A. No, sir.  
 10 MR. DURHAM: No further questions.  
 11 MR. YONTZ: Nothing further, Your Honor.  
 12 THE COURT: Okay, you can step down,  
 13 Mr. Threadgill.  
 14 THE WITNESS: Thank you.  
 15 THE COURT: Do you want this witness released?  
 16 MR. DURHAM: No objection.  
 17 THE COURT: Okay, you're free to go. Thanks a  
 18 lot.  
 19 THE WITNESS: Thank you.  
 20 THE COURT: Call your next witness.  
 21 MR. YONTZ: Sergeant Crandell.  
 22 THE COURT: Can you give me a first name rather  
 23 than try to look this up?  
 24 MR. YONTZ: I'm sorry. Mike Crandell.  
 25 THE COURT: Raise your right hand, please, sir.

Page 95

1 (Witness sworn)  
2 THE COURT: All right. Take a seat on the  
3 witness stand, please.  
4 MICHAEL CRANDELL,  
5 having been first duly sworn, testified as follows:  
6 DIRECT EXAMINATION  
7 BY MR. YONTZ:  
8 Q. Sir, would you state your name, please?  
9 A. I'm Sergeant Michael Crandell.  
10 Q. How are you employed, sir?  
11 A. I am a sergeant for the Amarillo Police Department.  
12 Q. In what capacity?  
13 A. I'm currently assigned to the Special Crimes Unit,  
14 which is the Homicide Investigation Unit compromised (sic) of  
15 Potter County deputies and Amarillo police officers.  
16 Q. Sir, calling your attention back to the 29th day of  
17 January, 2003, were you also called to be involved in the  
18 investigation of a homicide that occurred at the penitentiary  
19 in the Clements Unit?  
20 A. Yes, sir.  
21 Q. During that time, what did you do initially?  
22 A. I was assigned to assist Investigator Tim Burge, who  
23 is an investigator for the prison system. I was -- my main  
24 assignment was to assist him in the scene, which was the shoe  
25 factory or boot factory where the offense had occurred.

Page 96

1 Q. Sir, as a part of that investigation, did you have  
2 occasion to take photographs?  
3 A. Yes, sir.  
4 Q. I'll show you what's marked as State's Exhibit  
5 No. 51, and ask if you recognize that?  
6 A. Yes, sir.  
7 Q. What is that?  
8 A. This is a photograph that I took of ten trimming  
9 knives in the tool bin of the boot factory.  
10 Q. Did you collect those knives, also?  
11 A. Yes, I did.  
12 Q. Sir, I'll show you a bag that has an exhibit sticker  
13 on it that says "State's Exhibit No. 6, 10 knives." Are you  
14 familiar with the contents of that bag?  
15 A. Yes, sir.  
16 Q. What is in that bag?  
17 A. These are the ten knives that are displayed in the  
18 photograph, State's 51.  
19 MR. YONTZ: Your Honor, we would move State's  
20 Exhibit 6 at this time indicating the contents of the bag.  
21 MR. DURHAM: The tag is what he's admitting or  
22 the bag and contents?  
23 MR. YONTZ: The bag and contents.  
24 MR. DURHAM: Well, I need to see what the  
25 contents are before I can object or not object to it.

Page 97

1 Is it stapled? Do you want to unstaple it?  
2 Your Honor, inside the bag are ten -- are brown  
3 bags, that I have no idea what's in the brown bags.  
4 May I open a brown bag?  
5 THE COURT: Well, you know, all these things I  
6 guess are marked separately, and so if State's Exhibit -- what  
7 is it, 6?  
8 MR. YONTZ: Yes, sir.  
9 THE COURT: -- is the outside sack, then dump  
10 everything out, and if you want to introduce State's 6, then  
11 offer it, and then go through each other sack, I guess, until  
12 you get down to the last thing that is contained --  
13 MR. DURHAM: I would put it over there.  
14 (Pause)  
15 MR. DURHAM: I take it 6 that was tendered has  
16 not been admitted at this point in time; is that correct?  
17 THE COURT: That's correct.  
18 MR. DURHAM: Thank you.  
19 THE COURT: Okay. This exhibit has been marked  
20 what now?  
21 MR. YONTZ: This will be 6-A.  
22 THE COURT: Okay. Hand that to Mr. Crandell,  
23 then.  
24 Q. (BY MR. YONTZ) Marked this one as 6-A. Can you  
25 identify what's in that particular bag?

Page 98

1 A. Yes, sir.  
2 Q. Would you take it out for us?  
3 A. (Witness complies)  
4 MR. YONTZ: Your Honor, I would request defense  
5 counsel come to this location to examine these.  
6 THE COURT: Okay. You're offering now?  
7 MR. YONTZ: 6-A.  
8 THE COURT: 6-A being the sack. What have you  
9 marked the -- what you removed from 6-A?  
10 MR. YONTZ: Well, this particular knife, I  
11 marked as 6-A.  
12 THE COURT: Okay. What was the sack? No, that  
13 sack was State's 6. What's the smaller sack marked?  
14 MR. YONTZ: The smaller sack is not marked.  
15 THE COURT: Oh, I'm sorry, I thought I saw you  
16 put a sticker on it.  
17 MR. YONTZ: No, sir.  
18 THE COURT: Okay. Any objection to 6-A?  
19 MR. DURHAM: No. Where is 16, the picture of  
20 the knives?  
21 MR. YONTZ: State's Exhibit 51.  
22 MR. DURHAM: No, they appear to be the same.  
23 No objection.  
24 THE COURT: Exhibit is received.  
25 Q. (BY MR. YONTZ) I'll go ahead and mark that as



Page 99

1 State's 6-B, ask if you're familiar with that?  
 2 A. Yes, sir.  
 3 MR. DURHAM: Your Honor, may I inquire into the  
 4 relevance of marking each of these knives when we have a  
 5 picture of the knives?  
 6 MR.YONTZ: Defense counsel requested each one  
 7 identified individually. He wanted to see each one before he  
 8 could make his determination as to whether or not he would  
 9 admit them.  
 10 MR. DURHAM: Well, if they're duplicitous of  
 11 State's 16, then I -- I'll object on grounds of duplicity.  
 12 MR. YONTZ: Your Honor, this is State's Exhibit  
 13 16. Those knives are not duplicitous --  
 14 MR. DURHAM: Well, whatever the picture is.  
 15 I'm sorry, I'm just not smart enough to remember the numbers.  
 16 Let me look at this and see. The number I'm talking about is  
 17 51.  
 18 THE COURT: Well, let's just stop arguing for a  
 19 minute. Is it the State's intention to offer each of those  
 20 knives?  
 21 MR. YONTZ: All ten, yes, sir.  
 22 THE COURT: Okay. His objection went to you  
 23 offering an exhibit that contained unknown items that would  
 24 not be within the record. That was the basis of that.  
 25 Now, if we're going to go down through and --

Page 100

1 to have each of these in, then let's just take them all out of  
 2 the sack and mark them 6-A infinitum, then.  
 3 Actually, let's have someone else do it while  
 4 you continue your interrogation. There are folks here from  
 5 the office that can mark these things.  
 6 MR. YONTZ: That's fine.  
 7 Your Honor, pending the admission of those  
 8 particular items, I have no further questions.  
 9 THE COURT: Any cross-examination, Mr. Durham?  
 10 MR. DURHAM: No.  
 11 THE COURT: Okay. Are you going to have  
 12 questions after --  
 13 MR. YONTZ: No, sir.  
 14 THE COURT: -- they're marked?  
 15 Okay. Well, then, you can step down, you're  
 16 free to go.  
 17 THE WITNESS: Thank you.  
 18 THE COURT: Call your next witness.  
 19 MR. SIMS: A.P. Merillat.  
 20 THE COURT: Raise your right hand, please, sir.  
 21 (Witness sworn)  
 22 THE COURT: If you would take a seat on the  
 23 witness stand, please.  
 24 Once you get comfortable, make sure you're  
 25 speaking directly into that microphone that just disappeared.

Page 101

1 THE WITNESS: Yes, sir.  
 2 THE COURT: And state your full name, please.  
 3 THE WITNESS: A.P. Merillat.  
 4 A.P. MERILLAT,  
 5 having been first duly sworn, testified as follows:  
 6 DIRECT EXAMINATION  
 7 BY MR. SIMS:  
 8 Q. How are you employed, sir?  
 9 A. I'm a criminal investigator with the Special  
 10 Prosecution Unit headquartered in Huntsville, Texas.  
 11 Q. How long have you been so employed with that group?  
 12 A. About 16-1/2 years.  
 13 Q. What is your educational background in regards to  
 14 law enforcement?  
 15 A. I'm a Certified Texas Peace Officer. I have been so  
 16 for -- since 1977. I worked for the Houston Police Department  
 17 for ten years, and I worked for the Huntsville Police  
 18 Department for three years, then I've worked at this office  
 19 for over 16. I've had about 1,700 hours of training in law  
 20 enforcement type matters, criminal investigations, all types  
 21 of situations like that.  
 22 Q. Have you also, based on your training and  
 23 experience, had the opportunity to train and educate others  
 24 and give lectures in regards to criminal investigations and  
 25 law enforcement related topics?

Page 102

1 A. Yes, sir. I've written five books in law  
 2 enforcement related topics. I've given seminars to college  
 3 students, to prosecutors and investigators, police officers  
 4 throughout the state of Texas. I've testified numerous times  
 5 across the state and in the state of Florida as an expert in  
 6 various types of criminal investigations, bloodstain  
 7 interpretation, fingerprints, and violence, particularly in  
 8 the penitentiary.  
 9 Q. In addition to your generalized knowledge in regards  
 10 to criminal investigation and law enforcement related topics,  
 11 as a result of your work with the Special Prosecution Unit,  
 12 have you developed an expertise in the specific area of Texas  
 13 prison system?  
 14 MR. DURHAM: That's leading and bolstering.  
 15 THE COURT: Sustained.  
 16 Q. (BY MR. SIMS) Have you developed any expertise in  
 17 regards to the Texas prison system?  
 18 MR. DURHAM: That's bolstering, Your Honor.  
 19 That's not a proper predicate for the --  
 20 THE COURT: Rephrase the question, please.  
 21 MR. DURHAM: No predicate has been laid.  
 22 Q. (BY MR. SIMS) Based on your experiences, have you  
 23 gained any kind of particular expertise?  
 24 A. Yes, I have.  
 25 MR. DURHAM: Same objection, Your Honor.

Page 103

1 THE COURT: Sustained.  
 2 MR. DURHAM: Instruction.  
 3 THE COURT: Jury will disregard the last  
 4 answer.  
 5 Q. (BY MR. SIMS) Do you specialize in any particular  
 6 areas?  
 7 A. Yes, I do.  
 8 Q. Based on what, sir?  
 9 A. Our office prosecutes prison crimes, and I have to  
 10 be familiar with the situation in prison as far as preparing  
 11 cases for trial.  
 12 Q. What are your specific responsibilities as Senior  
 13 Criminal Investigator for the Special Prosecution Unit?  
 14 A. I take cases from their inception, primarily in the  
 15 prison units across the state, cases of murder, rape, hostage  
 16 situations, things like that, I take those cases from their  
 17 inception through the investigation process, through the grand  
 18 jury, into trial, I work the trial with our lawyers, and then  
 19 we also go all the way through the appellate process until the  
 20 case is finalized.  
 21 Q. Have you previously testified in other courts as an  
 22 expert witness?  
 23 A. Yes, I have, many times.  
 24 Q. Specifically in regards to what area?  
 25 A. Primarily, I've been testifying in the area of

Page 104

1 prison violence in Texas.  
 2 Q. Okay. Are you familiar with how inmates are housed  
 3 in the Texas prison system?  
 4 A. Yes, I am.  
 5 Q. Are you familiar with the classification process in  
 6 the Texas system?  
 7 A. Yes, I am.  
 8 Q. Would you explain that, please, sir?  
 9 A. Yes, sir. The classification system in Texas prison  
 10 is the crux of how an inmate will spend his time from the time  
 11 he gets to the prison system until the time he paroles. The  
 12 classification system governs where he lives, how he's housed,  
 13 how tightly he's secured, what his privileges are within the  
 14 prison system, the jobs he can have, and his time earning  
 15 classification. All of those are part of the classification  
 16 system.  
 17 MR. DURHAM: I'm going to object, Your Honor.  
 18 That's a nonresponsive answer. He gave us the purpose of the  
 19 classification, but he did not give us the classification,  
 20 which was the question.  
 21 THE COURT: What was the question, do you  
 22 remember?  
 23 MR. YONTZ: Sir?  
 24 THE REPORTER: "Are you familiar with the  
 25 classification process in the Texas system?"

Page 105

1 "Yes, I am."  
 2 "Explain that, please, sir."  
 3 THE COURT: Objection is overruled.  
 4 Q. (BY MR. SIMS) Are there specific classification  
 5 designations under that system?  
 6 A. Yes, there are.  
 7 Q. Would you explain those, please, sir?  
 8 A. Yes, sir. The classification system relies on two  
 9 basic factors.  
 10 THE COURT: Okay. Maybe we ought to stay away  
 11 from narrative answers, then, and just ask direct questions,  
 12 please.  
 13 Q. (BY MR. SIMS) What are the specific classification  
 14 identifiers?  
 15 A. There are S classifications, the letter S, and there  
 16 are the letter G classifications.  
 17 Q. What do each of those stand for?  
 18 A. The S stands for State Approved Trusty or SAT  
 19 classification, and there are levels within that  
 20 classification.  
 21 Q. What levels are within that classification?  
 22 A. S-1 is like a trusty or a real good inmate. S-2, S-  
 23 3, and S-4, the more misbehaved or more of a problem an inmate  
 24 becomes, they lower in classification. In other words, 2 is  
 25 bad, 3 is worse, 4 is real bad.

Page 106

1 Q. And the other general classification you mentioned  
 2 is what?  
 3 A. The letter G.  
 4 Q. What does that stand for?  
 5 A. I have no idea what the letter G stands for. It's  
 6 just a letter the prison issued for that classification.  
 7 Q. Are there any subclassifications under it?  
 8 A. Yes, sir, there are. And once again, it's according  
 9 to how -- your behavior inside the penitentiary.  
 10 Q. How many levels are there in that --  
 11 A. There are four.  
 12 Q. What are they, sir?  
 13 A. G-1, 2, 3, and 4, and there's a 5 as well, G-5.  
 14 Q. What is G-1, sir?  
 15 A. A G-1 is a well-behaved inmate, doesn't present  
 16 problems, is a minimal-custody type inmate.  
 17 Q. What is G-2?  
 18 A. G-2 is also minimum custody, but he has more of a  
 19 disciplinary behavior problem. He has to be watched a little  
 20 closer and --  
 21 Q. What is G-3?  
 22 A. G-3 is what we call minimum/medium custody. It's an  
 23 inmate that has certain characteristics of violence in his  
 24 history or certain disciplinary problems. He's had to be  
 25 leveled out at a G-3. And then as you get worse, they go in

Page 107

1 number.

2 Q. Okay. Do G-3s have any specific subcategory in

3 regards to aggravated or nonaggravated offenses?

4 A. Yes, sir.

5 Q. What are those, sir?

6 A. A G-3 inmate is an inmate, among other things, but

7 primarily an inmate who comes into the prison system with an

8 aggravated offense, like aggravated rape, robbery, murder,

9 capital murder, such as that. He will be a G-3 inmate, and

10 he'll be classified as such for a minimum of ten years.

11 And if he has a nonaggravated sentence of 50

12 years or more, for whatever crime, he'll be a G-3 inmate for a

13 minimum of five years before he can be eligible to be elevated

14 in his G classification.

15 Q. And included in that inmates that have been

16 convicted of capital murder?

17 A. Yes, sir.

18 Q. Explain how they wind up as a G-3.

19 A. It's an automatic classification. A capital

20 murderer or a -- what we call a straight murderer, when he

21 comes in the penitentiary, will automatically be classified as

22 G-3. And like I said, if it's an aggravated sentence, he'll

23 have to stay that way for ten years.

24 Q. What is G-4?

25 A. G-4 is a closed custody inmate.

Page 108

1 Q. G-5?

2 A. That's also a closed custody or an Ad Segregated

3 type inmate.

4 Q. You indicated earlier you're familiar with how

5 inmates are housed --

6 A. Yes, sir.

7 Q. -- is that correct?

8 A. Yes, sir.

9 Q. Explain how capital murder convictions are generally

10 housed.

11 A. A G-3 inmate, like I said, he'll be automatically

12 classified as G-3. He will be housed in general population

13 with a cell mate. He could have a cell mate who happens to be

14 a G-2 or a G-1 inmate. He could be housed with a DWI

15 offender, for example.

16 The -- the G simply tells the prison officials

17 what kind of sentence that man has, not necessarily what the

18 details of his crime were that brought him to the

19 penitentiary. They're free to come and go from their cells.

20 They're not handcuffed when they're leaving their cells. They

21 can go to work, visitation, church, medical, chow, unescorted.

22 The G-3, like I said, simply tells them what

23 kind of sentence --

24 MR. DURHAM: Your Honor, we've gotten into a

25 very nonresponsive area here to the question, I believe.

Page 109

1 THE COURT: Let's move back away from narrative

2 responses and questions, please.

3 Q. (BY MR. SIMS) Are those -- would a capital murderer

4 indicated as a G-3, are they going to be isolated or with

5 others?

6 A. No, sir, they will not be isolated.

7 Q. Are there certain stipulations that are placed on

8 inmates at times?

9 A. Yes, sir.

10 Q. Are they broken down into any specific categories?

11 A. Yes, sir.

12 Q. What are those categories?

13 A. That would be in the G classification, the 4 and the

14 5, and also the line classification, which would be a No. 3,

15 4, or 5, but it's for their behavior after their arrival at

16 the penitentiary.

17 Q. How does their behavior in the penitentiary affect

18 their status?

19 A. The more problems they present to the prison

20 officials, the tighter they are housed or restricted in their

21 freedoms with inside the penitentiary.

22 Q. If they behave appropriately, are they rewarded?

23 A. Yes, sir.

24 Q. How so?

25 A. First of all, they can earn more time for -- during

Page 110

1 their sentence. They can earn opportunities to use the

2 telephone. They can earn recreational opportunities, more

3 visitation type privileges, opportunities to have more items

4 in their cells, make life more comfortable.

5 Q. Describe specifically how capital murder defendants

6 that receive a life sentence are classified.

7 A. They're classified as a G-3 and put into general

8 population.

9 Q. How are capital murder defendants convicted and

10 sentenced to the death penalty classified?

11 A. They are sent directly to death row and classified

12 separately according to their system, but it's -- they're

13 still put into Ad Seg, or segregation on death row in

14 Polunsky.

15 Q. Explain what Ad Seg is.

16 A. It's an abbreviation for Administrative Segregation,

17 and any inmate can be housed in Ad Seg for disciplinary

18 problems, but death row is Ad Seg. It's a very restrictive

19 housing custody and it's only found at the Polunsky Unit for

20 males, which is in Livingston, Texas, and it's in the Ad Seg

21 building.

22 Q. Have you ever heard the term "closed custody"?

23 A. Yes, sir, I've heard that term.

24 Q. Does that have anything to do with death row?

25 A. Death row inmates are closed custody, yes, sir.

Page 111

1 Q. Explain to the ladies and gentlemen of the jury what  
2 closed custody means.

3 A. As it applies to death row, it means they have to  
4 be -- an inmate has to be handcuffed when he leaves his cell.  
5 He has to be escorted by two officers. He cannot co-recreate  
6 with other inmates, he can't eat outside of his cell, very  
7 restrictive housing and custody.

8 Q. Do all capital murder convictions result in a closed  
9 custody status?

10 A. No, sir, only the death penalty ones.

11 Q. Briefly describe the security on death row.

12 A. As I said, it's very -- very tight security. An  
13 inmate spends 23 hours a day inside that cell. He can only  
14 come out when he's handcuffed and escorted by two officers.  
15 He has to single recreate -- recreate by himself. He has to  
16 be escorted to a shower once a day, if he chooses to. Then  
17 he's back in his cell, he eats inside his cell, very  
18 restrictive custody.

19 Q. So is there Administrative Segregation on other  
20 places other than death row?

21 A. Yes, sir, there is.

22 Q. Okay. Is that the highest level of security that  
23 there is?

24 A. No, sir, it's not.

25 Q. What's the highest level of security?

Page 112

1 A. The highest we have now is called high security and  
2 there are a few units in the state that have high security  
3 buildings which are separate from the main buildings.

4 Q. What is different about high security versus Ad Seg?

5 A. High security is for inmates who were in Ad Seg that  
6 could not be controlled even in Ad Seg. They have to have a  
7 more tight custody. So they have these special buildings  
8 where inmates are virtually out of one-on-one contact with  
9 prison guards. The buildings are designed so that everything  
10 can be done for an inmate without personal contact between a  
11 guard and that particular inmate.

12 He remains in his cell 23 hours a day, he  
13 showers in his cell, he eats in his cell. He comes out --  
14 like on death row, he comes out under handcuffs to a  
15 single-man rec yard. It's very -- extremely strict housing,  
16 but it's only for certain levels of inmates.

17 Q. What level of inmate would get to that point?

18 A. It's an Ad Seg inmate who cannot be controlled in Ad  
19 Seg.

20 Q. Are there efforts by the prison system to try to  
21 negate violence inside its system?

22 A. Yes, sir. That's how our office came into  
23 existence.

24 Q. And the office has been in existence for how long?

25 A. Twenty-one years.

Page 113

1 Q. In addition do the Department of Corrections take  
2 actions themselves to try to negate violence inside the prison  
3 system?

4 A. Yes, sir. Yes, sir, that's true.

5 Q. Would few or many of most of the regulations that  
6 are imposed inside a prison be based on security and  
7 protection?

8 A. Yes, sir. The primary factor for the restrictions  
9 inside the penitentiary are safety oriented.

10 Q. Okay. Now, in regards to your function with the  
11 Special Prosecution Unit, do you have the opportunity to keep  
12 up with statistics in regards to the state of Texas regarding  
13 violence in the prison system?

14 A. Yes, I do.

15 Q. How long have you been doing that, sir?

16 A. Since I've been there. We have to report to the  
17 governor's office every year.

18 Q. Okay. What is the trend in regards to assaultive  
19 behavior --

20 MR. DURHAM: Predicate. There has been no  
21 showing that he has --

22 THE COURT: We haven't even heard the end of  
23 the question.

24 MR. DURHAM: Oh, okay, I'm sorry. Withdrawn.

25 Q. (BY MR. SIMS) Have you collected -- specifically

Page 114

1 collected numbers in regards to the assaultive behavior -- or  
2 assaultive cases inside the prison system?

3 A. Yes, I have.

4 Q. Okay. And how long have you been keeping a record  
5 of that, sir?

6 A. For over 16 years; since I've been there.

7 Q. Have you noticed any kind of trend in regards to  
8 those numbers?

9 MR. DURHAM: Objection. I want to take the  
10 witness on voir dire --

11 THE COURT: Go right ahead, sir.

12 MR. DURHAM: -- to test the statistics.

13 THE COURT: Be seated.

14 VOIR DIRE EXAMINATION

15 BY MR. DURHAM:

16 Q. Officer, these statistics you've prepared, do you  
17 investigate the report?

18 A. Do I investigate the report?

19 Q. Yes, to determine that it was, in fact, an assault?

20 A. Oh, yes, sir, yes, sir.

21 Q. You do?

22 A. Yes, sir.

23 Q. You investigate each one of them?

24 A. We investigate each one to see if it --

25 Q. No, sir, not we, you.

1 A. No, sir, I personally don't investigate each one.  
 2 Q. Okay. So you -- you do not have any reliable base  
 3 for your statistical analysis, do you?  
 4 A. Yes, I do.  
 5 Q. You do?  
 6 A. Yes.  
 7 Q. What constitutes an assault?  
 8 A. Contact -- in the prison system, contact between a  
 9 prison inmate and another inmate or a guard or an employee or  
 10 a visitor.  
 11 Q. Any contact?  
 12 A. Any contact that's considered offensive or harmful  
 13 to that person.  
 14 Q. And that is a subjective consideration?  
 15 A. No, sir, not in my view.  
 16 Q. Well, if I say I consider the contact offensive,  
 17 that's an assault, isn't it?  
 18 A. That's -- you as a reporter, would tell me that and  
 19 I would have to investigate to determine whether or not --  
 20 Q. But you have not investigated each case. In other  
 21 words, your base for assault includes anything as simple as  
 22 throwing water on a guard, would be an assault, wouldn't it?  
 23 A. That's correct.  
 24 Q. Whether the guard was hit with it or not?  
 25 A. That is not correct.

1 Q. Oh. It has to splash on him?  
 2 A. Yes, sir.  
 3 Q. If you throw it and it hits the floor and splashes  
 4 on him, that would be an assault?  
 5 A. If it bounces off the floor and hits him?  
 6 Q. Yes.  
 7 A. Technically, it could be, probably.  
 8 Q. Uh-huh. So it could be included in your statistical  
 9 base.  
 10 Now, in arriving at your statistical base, do  
 11 you take into consideration the nature of the expansion of the  
 12 prison system?  
 13 A. I don't understand what you mean by that.  
 14 Q. Well there are more prisoners than there were 16  
 15 years ago?  
 16 A. Yes, sir.  
 17 Q. Okay. So there are probably going to be more  
 18 assaults. If there are more people -- if there are more  
 19 chances for a car wreck because there are more cars, makes  
 20 more chances, right?  
 21 A. That's correct.  
 22 Q. Okay. And do -- what is your mathematical factor  
 23 for determining the effect of increased population and prison  
 24 crowding upon your statistical conclusions?  
 25 A. There is not a statistical analysis. Perhaps that's

1 a bad term.  
 2 MR. DURHAM: Well, then, I'm going to object to  
 3 him testifying about statistical trends.  
 4 THE COURT: Sustained.  
 5 MR. DURHAM: Thank you.  
 6 DIRECT EXAMINATION - Cont'd  
 7 BY MR. SIMS:  
 8 Q. Are you familiar with the numbers of assaultive --  
 9 A. Yes, sir.  
 10 Q. -- reports?  
 11 A. Yes, sir.  
 12 Q. How many assaultive reports were reported in the  
 13 prison system --  
 14 MR. DURHAM: Object --  
 15 THE COURT: You have got to let the man --  
 16 MR. DURHAM: All right. Yes, sir.  
 17 THE COURT: -- ask the question, please, sir.  
 18 MR. DURHAM: I'm sorry.  
 19 Q. (BY MR. SIMS) Are you familiar with the number of  
 20 inmate-on-inmate assaults that were reported in the year 2000  
 21 in the prison system?  
 22 THE COURT: Are you familiar or are you  
 23 unfamiliar?  
 24 THE WITNESS: Not for that year, no, sir.  
 25 Q. (BY MR. SIMS) Based on your expertise, and we've

1 heard -- I'll rephrase it.  
 2 Based on your knowledge in regards to what  
 3 you've already expressed, is there any safe place in the  
 4 prison system?  
 5 A. No, sir.  
 6 Q. At what level have you found offenses to occur as  
 7 far as the G rating?  
 8 A. Everywhere from the trusty camp to the chapel.  
 9 Q. Does that include even death row?  
 10 A. Yes, sir. We've worked murders on death row.  
 11 Q. You've worked murders on death row?  
 12 A. Yes, I have.  
 13 Q. What about Administrative Segregation?  
 14 A. I've worked numerous murders in Ad Seg.  
 15 Q. Have there ever been escapes from Ad Seg?  
 16 A. Yes, sir.  
 17 Q. Approximately how many murders have occurred inside  
 18 the prison system since you have been keeping records?  
 19 MR. DURHAM: I'm going to object as to  
 20 relevance, Your Honor; also would be hearsay reporting. As to  
 21 whether it was a murder or not would depend upon the facts and  
 22 circumstances, and it does not deviate between assaults on  
 23 guards or prison personnel and upon personnel and people  
 24 acting in self-defense, and we -- there's no basis for the  
 25 question to be answered. There's no definition of murder.

Page 119

1 THE COURT: Overruled.  
 2 A. There have been 138 murders, prosecutable murders,  
 3 inside the Texas penitentiaries since 1984.  
 4 Q. (BY MR. SIMS) How many convicted capital murderers,  
 5 if you are aware, have been involved in further murders?  
 6 A. I don't know the exact number today.  
 7 MR. DURHAM: Then I'm going to object to the  
 8 response because it assumes by the very nature of the response  
 9 that there have been some.  
 10 THE COURT: Sustained.  
 11 MR. DURHAM: May I have an instruction for the  
 12 jury to disregard?  
 13 THE COURT: The jury is so instructed.  
 14 Q. (BY MR. SIMS) Have capital murderers been known to  
 15 commit murder in prison?  
 16 A. Yes, sir.  
 17 Q. You previously said that, hadn't you?  
 18 A. I believe I have said that.  
 19 Q. I thought you had.  
 20 MR. SIMS: Pass the witness, Your Honor.  
 21 THE COURT: Let's just -- it's a quarter of  
 22 12:00. I assume you've got some cross-examination of this  
 23 witness?  
 24 MR. DURHAM: I do have a few questions, yes.  
 25 THE COURT: Let's break until -- be back here

Page 120

1 at 1:15, please, folks.  
 2 All folks out in the gallery need to remain  
 3 seated, please.  
 4 (Jury left the courtroom)  
 5 Okay. I need all members of the gallery there  
 6 to remain seated until all the jurors have cleared the  
 7 elevators.  
 8 Gary, if you would come back in and tell them  
 9 at that point.  
 10 MR. YONTZ: Your Honor, may I --  
 11 THE COURT: Sir?  
 12 MR. YONTZ: I just have one question for  
 13 defense counsel. I gave them earlier State's Exhibits 26 and  
 14 27, which are prior convictions. I don't know --  
 15 THE COURT: Inside what? Which was inside  
 16 what?  
 17 MR. DURHAM: Which we will not stipulate to.  
 18 THE COURT: Okay.  
 19 MR. YONTZ: Okay. Then what we need is, we  
 20 need to take his fingerprints during the lunch hour.  
 21 THE COURT: Fine. Get me an order on it.  
 22 MR. YONTZ: Okay.  
 23 THE COURT: Okay. You can step down.  
 24 (Recess)  
 25 THE COURT: Okay. Let's proceed.

Page 121

1 (Jury returned to the courtroom)  
 2 CROSS-EXAMINATION  
 3 BY MR. DURHAM:  
 4 Q. Will you pronounce your last name for me where I  
 5 don't mess it up.  
 6 A. Merillat.  
 7 Q. Okay. I'm just going to refer to you as sir because  
 8 I'll mess up Merillat --  
 9 A. That's fine either way.  
 10 Q. -- more often than not.  
 11 Okay. Now, as I understand it, you're with the  
 12 Special Prosecution Unit?  
 13 A. Yes, sir.  
 14 Q. Is that correct?  
 15 A. Yes, sir.  
 16 Q. Okay. And it's your job to prosecute crimes that  
 17 occur in prison?  
 18 A. Primarily, yes, sir.  
 19 Q. So you're part of the prosecution team?  
 20 A. Yes, sir.  
 21 Q. So you don't ever testify for a defendant?  
 22 A. I've been called many times by the defense, but they  
 23 don't put me on the stand.  
 24 Q. Well, but my question was testify for them, and I  
 25 guess what you just said was no?

Page 122

1 A. That's correct.  
 2 Q. So the answer to my question was no?  
 3 A. That's correct.  
 4 Q. Okay. All right. Now, I've got a couple of  
 5 questions on this -- when a capital murderer goes in, he's  
 6 classified as a 3, right?  
 7 A. Yes, sir.  
 8 Q. Okay. And anybody that has an aggravated offense or  
 9 has a sentence over 50 years is a 3?  
 10 A. That's correct.  
 11 Q. All right. Is that without regard to any other  
 12 history?  
 13 A. No, sir, it's not -- it's not without regard to --  
 14 Q. What I mean -- let me give you an example because I  
 15 really don't -- I'm not as familiar with your system as maybe  
 16 I could be or should be, and you need to educate me and the  
 17 jury a little bit.  
 18 Suppose that a man has been in prison for  
 19 manslaughter or something and did a stint and then he's in  
 20 prison for 20 years for murder and he finishes that, and then  
 21 he commits a capital murder, so he's got -- he's going in with  
 22 two prior offenses and a capital murder. Is he going to come  
 23 in as a 3?  
 24 A. He is certainly going to come in as a G-3, yes, he  
 25 is. You're talking about a brand new conviction, although --

1 Q. So -- I'm sorry, I didn't mean to interrupt you.  
 2 A. If he had prior convictions -- if I understand you  
 3 correctly, say he came in for burglary, paroled, got out into  
 4 the free world, got convicted for a manslaughter, came back  
 5 in, paroled, went back out, came back in for a capital murder,  
 6 yes, he's going to come back in as a G-3.  
 7 The prison is not going to look at those  
 8 previous convictions. They're going to start him with his  
 9 capital case as a G-3, and then his behavior will determine  
 10 what happens after that situation.  
 11 Q. Okay. So y'all assume that his behavior is what  
 12 you're going to look at from then on?  
 13 A. Did you just say I assume that?  
 14 Q. No, the system assumes it. I'm not asking you to  
 15 assume that. I'm asking you about classifications.  
 16 A. No, sir, the system doesn't assume anything like  
 17 that. The system assigns that classification as a result of  
 18 an incident that happened in Texas not too long ago. There  
 19 was no G system before that incident.  
 20 MR. DURHAM: Nonresponsive, objection.  
 21 THE COURT: Sustained.  
 22 A. Perhaps I don't understand your question.  
 23 Q. (BY MR. DURHAM) Well, let's move on. I'm probably  
 24 asking bad questions.  
 25 But there are provisions for people who are

1 considered risks to be more than 3s; is that correct?  
 2 A. Yes.  
 3 Q. There is 4, which is higher than 3?  
 4 A. That's correct.  
 5 Q. And then you get into the Administration Segregation  
 6 categories?  
 7 A. Yes, sir.  
 8 Q. Which have more than one level?  
 9 A. That's correct.  
 10 Q. And you actually have a unit where you put people  
 11 whose behavior is extremely violent in -- in this new prison?  
 12 A. Yes, sir, high security.  
 13 Q. And what prison is that?  
 14 A. They're all over the state. They're at the larger  
 15 prisons. There's one here in Amarillo, they're in Livingston  
 16 and Gatesville, all over the state, Beeville.  
 17 Q. Where they have that to have that (sic)?  
 18 A. Sir?  
 19 Q. Where they -- where they are locked in a very --  
 20 very -- a 5 level, I think you -- what did you call it?  
 21 A. Well, it's called high security. It's not  
 22 necessarily for 5s only, but it's for the ones who cannot be  
 23 managed in Ad Seg. It's a separate building.  
 24 Q. Well, would you have somebody that is a G-1 that  
 25 could end up in Ad Seg?

1 A. Absolutely. You could have someone who has a trusty  
 2 classification in Ad Seg.  
 3 Q. So -- all right. Now, in that regard, say you have  
 4 a trusty that does something so outlandish, do you move them  
 5 to G-2 or do -- or do you move them up the ladder or can they  
 6 jump from a trusty to 5?  
 7 A. You sure can, yes, sir.  
 8 Q. You can go from trusty to 5?  
 9 A. That's correct.  
 10 Q. Okay. Did you testify in that rape case of the  
 11 inmate in Wichita Falls?  
 12 A. No, sir, I worked that case, I didn't testify in it.  
 13 Q. Didn't testify for the plaintiff in that?  
 14 A. No, sir.  
 15 Q. Now, you didn't hear Lieutenant Brown's testimony,  
 16 did you?  
 17 A. No, sir.  
 18 Q. Okay.  
 19 MR. DURHAM: I'll pass the witness.  
 20 REDIRECT EXAMINATION  
 21 BY MR. SIMS:  
 22 Q. For inmates housed in the high security -- the high  
 23 security I think is what you called it?  
 24 A. Yes, sir.  
 25 Q. Have there been acts of violence committed by those

1 inmates --  
 2 A. Yes, sir.  
 3 Q. -- in prison?  
 4 Have there been murders committed by those --  
 5 A. Yes, sir.  
 6 Q. -- type classed inmates?  
 7 A. Yes, sir.  
 8 MR. SIMS: Pass the witness, Your Honor.  
 9 RE-CROSS EXAMINATION  
 10 BY MR. DURHAM:  
 11 Q. In the high security, there have been murders  
 12 committed?  
 13 A. Yes, sir.  
 14 Q. When was that?  
 15 A. The Allred Unit in 2003, I believe the date was.  
 16 Q. Was that another prisoner?  
 17 A. Yes, sir.  
 18 Q. So the guards failed to protect the other prisoner?  
 19 A. They did the best they could.  
 20 Q. I didn't say they didn't do their best, I said they  
 21 failed. Is that correct or incorrect? It happened?  
 22 A. Yes, it happened.  
 23 MR. DURHAM: Okay. No further questions.  
 24 MR. SIMS: Nothing else, Your Honor.  
 25 THE COURT: Okay, you can step down, sir.

Page 127

1 Do you want this witness released?  
 2 MR. DURHAM: No objection.  
 3 MR. SIMS: That will be fine.  
 4 THE COURT: You're free to go. Thanks a lot.  
 5 THE WITNESS: Thank you.  
 6 THE COURT: Call your next witness.  
 7 MR. YONTZ: Michael Wright.  
 8 Call Catherine Nall, Your Honor. Mr. Wright  
 9 will be here in a few minutes.  
 10 THE COURT: Catherine who?  
 11 MR. YONTZ: Catherine Nall.  
 12 THE COURT: Ms. Nall, come up, please. Come  
 13 right up and take a seat on the witness stand.  
 14 Once again, make yourself comfortable and move  
 15 that mike around to wherever you need to so you're speaking  
 16 into it.  
 17 You're still under the same oath that I  
 18 administered to you previously.  
 19 THE WITNESS: Yes, sir.  
 20 CATHERINE NALL,  
 21 having been previously duly sworn, testified as follows:  
 22 DIRECT EXAMINATION  
 23 BY MR. YONTZ:  
 24 Q. Would you state your name for the record, please?  
 25 A. My name is Catherine Nall.

Page 128

1 Q. And Catherine, you testified previously in this  
 2 case; is that correct?  
 3 A. That's correct.  
 4 Q. And at that time, you identified a photograph; is  
 5 that right?  
 6 A. Yes, a photo of my brother.  
 7 Q. Is your brother older than you or younger?  
 8 A. He's my younger brother by about three years.  
 9 Q. Okay. How old was he when he died?  
 10 A. I'm sorry, I can't do the math.  
 11 Q. Still a couple of years younger than you?  
 12 A. He's three years younger than me, yes.  
 13 Q. And what type of person was he?  
 14 A. He was a wonderful person.  
 15 Q. Can you give me some examples of what -- what you  
 16 mean?  
 17 A. I think the best way that I can describe his  
 18 character to you is that I named my youngest son after  
 19 Stanley, and I think when you share a family name with one of  
 20 your children, it's because that you hope when that child  
 21 grows up, that they'll emulate that person and display their  
 22 characteristics and use them as a role model. I think that's  
 23 one of the highest forms of praise that I can think of.  
 24 Q. Do you know what other people thought of him?  
 25 A. He was well liked.

Page 129

1 MR. DURHAM: I'm sorry, that calls for  
 2 speculation and conclusions without proper predicate.  
 3 THE COURT: Sustained.  
 4 MR. DURHAM: May I have an instruction?  
 5 THE COURT: The jury is instructed to disregard  
 6 the last question and answer.  
 7 Q. (BY MR. YONTZ) How has his loss affected your  
 8 family?  
 9 MR. DURHAM: I think she can testify how the  
 10 loss has affected her, but not other people.  
 11 THE COURT: Sustained.  
 12 Q. (BY MR. YONTZ) Are you familiar with the members of  
 13 your family?  
 14 A. Yes.  
 15 Q. Who all is in your immediate family?  
 16 A. My father is still living, my mother died of cancer  
 17 about three months before Stanley was killed. I have another  
 18 sister, Margaret.  
 19 Q. Okay. What about your children?  
 20 A. I have three children, all teenagers, and I'm  
 21 married.  
 22 Q. Your sister -- you have a sister; is that correct?  
 23 A. Yes, I have an older sister.  
 24 Q. Does she have children?  
 25 A. Yes, she has two. I have two nieces with her.

Page 130

1 Q. How about Stanley, did he have children?  
 2 A. No, Stanley was not married and he didn't have any  
 3 children.  
 4 Q. Have you had occasion since his death to meet with  
 5 family members at various occasions?  
 6 A. Oh, yes.  
 7 Q. Has there been a difference in things since Stanley  
 8 is not there?  
 9 A. Yes.  
 10 Q. Can you explain that?  
 11 A. Stanley was incredibly family oriented. He made a  
 12 huge effort to spend time with family. Anytime Margaret's  
 13 family or mine would come to Amarillo, Stanley would arrange  
 14 to have as much time off as possible to spend with us and the  
 15 kids, and he adored the children.  
 16 And we have a huge Thanksgiving dinner in  
 17 Dallas every year, and he was always there if it was at all  
 18 possible. And, of course, at the lake every year, we have a  
 19 bit of a family reunion. And, again, whoever could come would  
 20 be there, and Stanley was always there.  
 21 Q. How has his death affected you?  
 22 A. Well, I can't even come home without flying into the  
 23 Amarillo airport and I drive past the prison and all of those  
 24 details of his death just crowd in on you and you can't get  
 25 away from it, so I can't even come home without being vividly



Page 131

1 reminded of what happened.  
 2 At Thanksgiving now, it's -- it's still a happy  
 3 occasion. We enjoy having the family all together, but, of  
 4 course, I usually wind up in the kitchen cooking, and as I  
 5 prepare those special dishes that were Stanley s favorites,  
 6 I'm crying in the deviled eggs and -- at the lake this year,  
 7 we had six children there from the different family groups,  
 8 and not all together, but during the course of the days that  
 9 we were at the lake, each and every one of those children  
 10 found a time to come and talk with me, and the common thread  
 11 in those conversations was is that the lake was just never  
 12 going to be the same. There was a big hole that Stanley left  
 13 behind. The kids just -- and, of course, the adults and  
 14 everyone, we just -- we're still grieving.  
 15 MR. YONTZ: I have no other questions.  
 16 CROSS-EXAMINATION  
 17 BY MR. DURHAM:  
 18 Q. Ms. Nall, you've suffered a terrible, terrible  
 19 double loss. You're telling this jury your mother died just  
 20 three months before your brother was murdered?  
 21 A. Yes, sir.  
 22 Q. And so the void that she presented was exacerbated  
 23 by your brother's death, wasn't it? You have our deepest  
 24 sympathy and we hope -- I personally hope that you can get  
 25 past the grieving, but you'll never get past your brother's

Page 132

1 memory. And I have no questions.  
 2 MR. YONTZ: Nothing further.  
 3 THE COURT: Okay. You can step down, Ms. Nall.  
 4 MR. YONTZ: May she be excused, Your Honor?  
 5 MR. DURHAM: I have absolutely no objection.  
 6 THE COURT: Okay, you're free to go. Thank  
 7 you, ma'am.  
 8 MS. NALL: Does that mean I can stay in the  
 9 courtroom, sir?  
 10 THE COURT: Absolutely you can, sure.  
 11 MR. DURHAM: Under those circumstances, I don't  
 12 agree to excuse.  
 13 THE COURT: Okay. All right. Ms. Nall, you'll  
 14 need to step back outside, please, ma'am.  
 15 MS. NALL: Yes, sir.  
 16 THE COURT: Call your next witness.  
 17 MR. YONTZ: Michael Wright.  
 18 THE COURT: Raise your right hand, please.  
 19 (Witness sworn)  
 20 THE COURT: Take a seat on the witness stand,  
 21 please.  
 22 MICHAEL WRIGHT,  
 23 having been first duly sworn, testified as follows:  
 24  
 25

Page 133

1 DIRECT EXAMINATION  
 2 BY MR. YONTZ:  
 3 Q. Sir, would you state your name, please?  
 4 A. Deputy Mike Wright.  
 5 Q. How are you employed, sir?  
 6 A. With the Potter County Sheriff's Office.  
 7 Q. In what capacity?  
 8 A. I work as an ID technician. One of the tasks I do  
 9 is fingerprint comparisons.  
 10 Q. What's an ID technician?  
 11 A. We do several tasks, sir. We handle crime scenes,  
 12 we'll gather evidence. We specialize in processing evidence  
 13 for latent fingerprints and then doing comparisons against a  
 14 possible suspect.  
 15 Q. Have you had any training in regard to fingerprints  
 16 and fingerprint comparison?  
 17 A. Yes, sir, I have.  
 18 Q. Can you explain that to the ladies and gentlemen?  
 19 A. Yes, sir. Fingerprint comparison, there are several  
 20 schools available. I have been to two of them, the basic and  
 21 the intermediate, and they are conducted in Austin at the DPS  
 22 academy by certified latent print examiners. And as I said,  
 23 I've been through the first two series and will continue on  
 24 after this as well.  
 25 Q. Is that something that basically continues on

Page 134

1 throughout your career then, additional training?  
 2 A. Yes, sir.  
 3 Q. Approximately how many fingerprints have you  
 4 compared?  
 5 A. Tens of thousands.  
 6 Q. And in your job, you make fingerprint comparisons;  
 7 is that correct?  
 8 A. Yes, sir, I do.  
 9 Q. What -- we say what type of comparisons do you do,  
 10 but what does that consist of?  
 11 A. To make a fingerprint comparison, you take either a  
 12 known fingerprint or a latent fingerprint, one that you've  
 13 developed off of a piece of evidence and you compare it  
 14 against another known print to look for similarities. You  
 15 look for ridge characteristics, whether the ridges are going  
 16 in a straight line and then break off into two, called a  
 17 bifurcation, or whether they end all of a sudden, whether  
 18 there's a small island.  
 19 There's five basic characteristics that you  
 20 look for, and you look for the same characteristics in the  
 21 same place in your latent or your known against your other  
 22 print that you're comparing to so that you can match them and  
 23 say that they are one and the same.  
 24 Q. Okay. You lost me a little bit there. You started  
 25 talking about bifurcation --

1 A. Yes, sir.  
 2 Q. -- and things like that.  
 3 Could you open the board behind you and show --  
 4 A. Yes, sir.  
 5 Q. -- us what you're talking about when you say those  
 6 things?  
 7 You can erase that item that's on there.  
 8 A. Yes, sir.  
 9 When you talk about ridge characteristics,  
 10 there are certain characteristics that you look for. The  
 11 first thing you look for is general patterns, whether you've  
 12 got all of your ridges coming in in a general pattern that  
 13 come in from one side, circle around, then go back out the  
 14 other. You might have some that are just almost like a little  
 15 whirl in there. I mean, you can have --  
 16 MR. DURHAM: I'll stipulate he's a qualified  
 17 fingerprint examiner, if --  
 18 MR. YONTZ: I'll accept the stipulation as to  
 19 his qualification. I just wanted a basic understanding of  
 20 what we're looking at.  
 21 MR. DURHAM: Then I go to relevance.  
 22 THE COURT: Overruled.  
 23 MR. YONTZ: That's the underlying basis for  
 24 the --  
 25 THE COURT: Overruled. Go ahead, just kind of

1 hold it down a little bit.  
 2 MR. YONTZ: Okay.  
 3 A. As far as the characteristics go, if you have a  
 4 ridge that's coming up and then all of a sudden it breaks off  
 5 into two, you can have a small dot, you can have if this one  
 6 closes back off. Each of these are certain characteristics  
 7 that we look for and compare between one print and another to  
 8 see if they're the same, and not only in the same appearance,  
 9 but the same place in the print.  
 10 Q. (BY MR. YONTZ) Sir, I'll show you what have been  
 11 marked -- or what is marked as State's Exhibit 60, State's  
 12 Exhibit 26, and State's Exhibit 27.  
 13 Let's deal with State's Exhibit 60 first. Are  
 14 you familiar with that item?  
 15 A. Yes, sir. It is a set of fingerprints, a rolled set  
 16 of fingerprints that I took from Mr. Runnels earlier this  
 17 afternoon.  
 18 Q. And is that the exact card that you took them on?  
 19 A. Yes, sir, it is.  
 20 MR. YONTZ: Your Honor, we would at this time  
 21 move State's Exhibit No. 60.  
 22 MR. DURHAM: No objection.  
 23 THE COURT: Exhibit is received.  
 24 Q. (BY MR. YONTZ) When you took those prints, what was  
 25 the purpose in taking them?

1 A. To compare them against what we call Pen Packets,  
 2 documents that talk about previous convictions of an  
 3 individual, to see if the Pen Packet can match the  
 4 fingerprints of Mr. Runnels that I took today.  
 5 Q. Okay. Are you familiar with that method of doing it  
 6 in Texas where you match known prints to the Pen Packets?  
 7 A. Yes, sir.  
 8 Q. And referring to State's Exhibit 26, are you  
 9 familiar with that?  
 10 A. Yes, sir, I am.  
 11 Q. And when did you become familiar with that?  
 12 A. I believe I saw it once during pretrial, and then I  
 13 saw it again today, sir.  
 14 Q. Did you take that with you to make any comparisons?  
 15 A. Yes, sir, I did.  
 16 Q. Can you explain to the ladies and gentlemen what you  
 17 did in making any comparison?  
 18 A. As far as making comparisons, the first thing I do  
 19 is I look at all ten fingers, I look at the generic pattern of  
 20 it, whether it's a loop, whether it's a whirl, just to see if  
 21 the pattern is similar from finger to finger, in which case  
 22 they were. If they are, then I will go on and do an actual --  
 23 I will just pick a finger out and start finding exact ridge  
 24 characteristics to come up with a match.  
 25 Q. Okay. You've got a device in front of you there.

1 What is that?  
 2 A. Yes, sir. That is a magnifying lens, sir. It just  
 3 makes it a little bit easier where I can go ahead and see a  
 4 larger image of the fingerprint so I can make a determination  
 5 whether or not the details are the same.  
 6 Q. Okay. On State's Exhibit No. 26, did you do that  
 7 comparison?  
 8 A. Yes, sir, I did.  
 9 Q. And what did you conclude?  
 10 A. That all ten fingers have the same basic pattern,  
 11 and I used finger number four, which would be the right hand  
 12 ring finger, and that is the one I compared against the known  
 13 set of prints that I took from Mr. Runnels, and I did  
 14 determine that it was a match, that the same person made both  
 15 fingers - prints.  
 16 Q. When you say a "match," how many points -- I guess  
 17 the term is points of comparison?  
 18 A. Ridge characteristics, yes, sir.  
 19 Q. Was there a specific number you were looking for?  
 20 A. No, sir. There is no set number. In this case, I  
 21 had pretty clear fingerprints to work with and I stopped at  
 22 16.  
 23 Q. Sixteen points of --  
 24 A. Sixteen matching ridge characteristics, yes, sir,  
 25 and no areas that showed characteristics on one that were not

Page 139

1 on the other, no discrepancies.  
2 MR. YONTZ: Your Honor, we would move State's  
3 Exhibit 26 at this time.  
4 MR. DURHAM: May I examine?  
5 THE COURT: Sure.  
6 MR. DURHAM: The exhibit, I mean.  
7 (Pause)  
8 MR. DURHAM: I have no objection to 26, Your  
9 Honor.  
10 THE COURT: Exhibit is received.  
11 Q. (BY MR. YONTZ) Would you look at State's Exhibit  
12 27, please?  
13 A. Yes, sir.  
14 Q. Have you seen that previously?  
15 A. Yes, sir.  
16 Q. What is that?  
17 A. I'm not familiar with the actual form themselves.  
18 There were a set of fingerprints that I am familiar with. It  
19 looks to be a set of records of disciplinary actions that  
20 occurred while incarcerated.  
21 Q. And have you examined the fingerprints on that?  
22 A. Yes, sir, I did.  
23 Q. And what conclusions did you reach in regard to  
24 that?  
25 A. On this particular one, again, the ten basic

Page 140

1 patterns were the same, and I used the finger number six,  
2 which is left hand thumb, and made a match off of that one.  
3 Q. Okay. When you say you made a match off of that  
4 one, what do you mean?  
5 A. That means that I discovered enough points that were  
6 the same without any discrepancies that I felt comfortable in  
7 saying that the fingers -- the prints were made by the same  
8 person.  
9 Q. Okay. And that would be the defendant?  
10 A. Yes, sir, Mr. Runnels.  
11 MR. YONTZ: We would move admission of State's  
12 Exhibit No. 27.  
13 MR. DURHAM: I have objections to it.  
14 THE COURT: Come up.  
15 MR. DURHAM: May I approach? I have objections  
16 outside the presence or at the bench.  
17 THE COURT: Come up.  
18 (At the bench, on the record)  
19 MR. DURHAM: These disciplinary records contain  
20 hearsay statements that the declarant is not available. It's  
21 not admissible for any purpose and I'll object to it. Also,  
22 you know, there's no way I can tell what period of time this  
23 covers.  
24 THE COURT: Okay. I need to take a look at it  
25 and see.

Page 141

1 (Open court)  
2 THE COURT: Okay. Members of the jury, if you  
3 would please return to the jury room.  
4 (Jury left the courtroom)  
5 MR. YONTZ: Your Honor, in this matter, I  
6 believe what counsel is referring to are the back several  
7 pages of this which contain items -- the first pages contain  
8 the actual fingerprints, as well as the judgment and sentence  
9 in regard to this. If we would redact the item, remove the  
10 complained of items, I believe we would have the same result.  
11 MR. DURHAM: If they make a Pen Pack out of it,  
12 I will withdraw my objection, if they take off the  
13 disciplinary records, yes.  
14 MR. YONTZ: That's fine. That's -- in fact,  
15 that's what I'm offering to do.  
16 MR. DURHAM: Well, then, that meets my  
17 objection.  
18 THE COURT: Okay. All right.  
19 MR. YONTZ: May I have just a moment with the  
20 staple remover?  
21 THE COURT: Sure.  
22 (Pause)  
23 MR. DURHAM: Just a second here, Judge. No  
24 objection.  
25 THE COURT: Okay. That's 27?

Page 142

1 MR. YONTZ: Yes, sir.  
2 THE COURT: Okay. Bring them back in.  
3 (Jury returned to the courtroom)  
4 THE COURT: Okay. State's Exhibit No. 27 is  
5 received into evidence.  
6 MR. YONTZ: Your Honor, State's Exhibit 27  
7 having been admitted, I have no further questions.  
8 CROSS-EXAMINATION  
9 BY MR. DURHAM:  
10 Q. Deputy Wright, just a couple of questions. I guess  
11 you're always right?  
12 A. In one manner, yes, sir, I guess so.  
13 Q. Now, the second question, is AFIS going to put you  
14 out of a job?  
15 A. No, sir, it will not.  
16 Q. Okay. Well, that -- is that one method of  
17 comparing?  
18 A. The method of using an AFIS system, it uses a  
19 computer-generated batch of algorithms --  
20 Q. Uh-huh.  
21 A. -- formula, and it -- any results that we get from  
22 AFIS are still manually compared to give a valid comparison.  
23 We don't just rely on a machine.  
24 Q. That's not the way they do it in CSI.  
25 A. Well, I'm sorry, sir.

Page 143

1 MR. DURHAM: No further questions.  
2 THE WITNESS: Yes, sir.  
3 MR. DURHAM: Thank you, sir.  
4 MR. YONTZ: Your Honor, may I tender these to  
5 the jury?  
6 THE COURT: Sure.  
7 Okay. You may step down.  
8 Do you want this witness released?  
9 MR. YONTZ: Yes, sir.  
10 THE COURT: Any objection?  
11 MR. DURHAM: No.  
12 THE COURT: Okay, you're free to go.  
13 THE WITNESS: Thank you, sir.  
14 THE COURT: Call your next witness.  
15 MR. SIMS: The State of Texas rests, Your  
16 Honor.  
17 MR. DURHAM: Before I make an opening  
18 statement, I would like a short break.  
19 THE COURT: Okay. All right, folks, ten  
20 minutes.  
21 (Jury left the courtroom)  
22 MR. DURHAM: Your Honor, we have a witness  
23 who's teaching a class, the class is over at 2:45. He's in  
24 Canyon, it will be 3:15 before I can have him here. I do have  
25 one witness that I need to confer with counsel about as to

Page 144

1 whether or not I'm calling that witness.  
2 The other -- I have witnesses out of Dallas  
3 that are subpoenaed for tomorrow.  
4 THE COURT: Well --  
5 MR. DURHAM: Well, I moved it up from Monday to  
6 tomorrow.  
7 THE COURT: Okay. So at this point, you don't  
8 want to call anybody until 3:45?  
9 MR. DURHAM: No, I -- it depends on what  
10 counsel tells me about this one witness we have in the hall,  
11 as to whether or not we will call her.  
12 THE COURT: Okay. Any way this witness can  
13 excuse himself for one afternoon and come up here, the one  
14 that's being here at 3:45?  
15 MR. DURHAM: He's a teacher at WT. He's in  
16 class right now.  
17 THE COURT: That's been a long time ago, but I  
18 recall a whole lot of them walking out of the courtroom when I  
19 was there. [sic]  
20 MR. DURHAM: Well, I'll find out from  
21 Ms. Garrison.  
22 THE COURT: Okay. All right. Well --  
23 MR. DURHAM: I'll see if I can get him up here.  
24 THE COURT: -- see what we can work out.  
25 MR. DURHAM: Okay.

Page 145

1 (Break)  
2 THE COURT: Okay, Mr. Yontz, outside the  
3 presence of the jury you told me you've got something you want  
4 to put in for the --  
5 MR. YONTZ: Yes, Your Honor.  
6 THE COURT: -- simply for the court reporter to  
7 retain only and for the record later.  
8 MR. YONTZ: That's correct. These were the  
9 items that were deleted from State's Exhibit No. 27 at the  
10 bench pursuant to counsel's objections. I have placed them in  
11 a plastic binder and sealed the top of it, marked 27-A with  
12 the note that says, "Do not go to the jury."  
13 THE COURT: Okay. 27-A is received for that  
14 purpose.  
15 MR. YONTZ: Your Honor, at this time, also, we  
16 would tender Exhibit 6-A. That was the knife. That was the  
17 one that was identified just -- that one exhibit as opposed to  
18 all ten of them.  
19 THE COURT: Oh, the first one you pulled out?  
20 Okay. Any objection?  
21 MR. DURHAM: No.  
22 THE COURT: All right. 6-A is received.  
23 MR. YONTZ: Thank you.  
24 MR. DURHAM: I just question the wisdom of  
25 sending six -- of sending ten knives back into the jury room

Page 146

1 in case they become deadlocked.  
2 THE COURT: There's only one.  
3 MR. DURHAM: Only one knife?  
4 THE COURT: Only 6-A is going back.  
5 MR. DURHAM: Just one knife?  
6 MR. YONTZ: Just one knife.  
7 MR. DURHAM: All right. Can we designate that  
8 for the foreman?  
9 THE COURT: As soon as we determine who that  
10 will be.  
11 MR. DURHAM: Very well.  
12 THE COURT: Okay. Bring the jury in.  
13 (Jury returned to the courtroom)  
14 THE COURT: What says the defense?  
15 MR. DURHAM: Your Honor, the defendant elects  
16 to rest at this time.  
17 THE COURT: What says the State?  
18 MR. SIMS: The State of Texas closes, Your  
19 Honor.  
20 THE COURT: All right.  
21 MR. DURHAM: We close.  
22 THE COURT: Thank you. Members of the jury,  
23 that is all the evidence you will hear in the trial of this  
24 case. I need to work with the lawyers this afternoon to get  
25 the Charge of the Court that I will read to you correct, so I

Page 147

1 will recess now and let you go home and we'll work on the  
2 charge.

3           The lawyers -- I will read the charge to you  
4 beginning at nine o'clock in the morning. When I finish, then  
5 the lawyers will make their closing argument.

6           It is important now that you have heard all of  
7 the evidence that you not pay any mind to any media report  
8 whatsoever, just like I previously told you. I would prefer  
9 that you just simply did not watch the local news at all, that  
10 you not listen to radio at all until we get back here, and  
11 have someone else go through the newspaper and delete any  
12 articles that may be found in there.

13           If you want to put them up on the closet shelf  
14 in a shoebox to read them later, that's fine, but certainly  
15 not before your deliberations have concluded in this case.

16           Likewise, it's important that should you see  
17 each other out somewhere between now and tomorrow that you not  
18 discuss anything about this case. No deliberations should  
19 take place at all unless all 12 of you -- and tomorrow I will  
20 -- after the argument, I'll release the two alternate jurors  
21 -- until you are in the jury room and deliberating upon your  
22 verdict. You just simply cannot do that, and I'm trusting you  
23 to follow that direction.

24           My only other option would be to put you up in  
25 a hotel and I don't know that there are any that will hold 14

Page 148

1 folk right now. And I know you don't want to do that, too,  
2 right?

3           JURY PANEL: Right.

4           THE COURT: Okay. All right. I'll release you  
5 now. I'll see you in the morning.

6           I tell you what, I prefer you do that in the  
7 morning. All these things will go in with you.  
8 (Jury left the courtroom)

9           THE COURT: Okay. May I see your draft?

10          MR. SIMS: Yes, sir.

11          MR. DURHAM: Ms. Hamilton will represent our  
12 interest.

13          (Pause)

14          MR. OWEN: Your Honor, may I be excused for a  
15 moment? I need to get another copy of the charge.

16          (Pause)

17          THE COURT: Okay. Nine is the paragraph,  
18 correct?

19          MR. SIMS: I'm sorry?

20          THE COURT: Nine, Paragraph 9.

21          MR. SIMS: He only brought two copies up here,  
22 Judge, so we don't have one.

23          THE COURT: Okay. All right.

24          MS. HAMILTON: Are you saying that should even  
25 be in there at all?

Page 149

1           THE COURT: Yeah.

2           MS. HAMILTON: I think it should.

3           THE COURT: Well, Paragraph 9 doesn't have -- I  
4 mean, what it tells them to think about there doesn't have  
5 anything to do with the question they're asked, does it?

6           MR. OWEN: Which paragraph, Your Honor?

7           MS. HAMILTON: Nine.

8           THE COURT: Nine.

9           MR. OWEN: The parole instruction?

10          THE COURT: I'm sorry?

11          MR. OWEN: The parole instruction?

12          MS. HAMILTON: That's not 9.

13          THE COURT: IX.

14          THE REPORTER: Do you want this on the record?

15          THE COURT: No.

16          (Off the record)

17          (10/27/05 proceedings adjourned)

Page 150

THE STATE OF TEXAS            )

COUNTY OF POTTER            )

                                  I, JILL ZIMMER, Official Court Reporter in and for the

320th District Court of Potter County, State of Texas, do

hereby certify that the above and foregoing contains a true  
and correct transcription of the proceedings in the above-  
styled and numbered cause, all of which occurred in open court  
or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record  
of the proceedings truly and correctly reflects exhibits, if  
any, offered by the respective parties.

WITNESS my hand this the \_\_\_\_ day of  
\_\_\_\_\_, 2006.

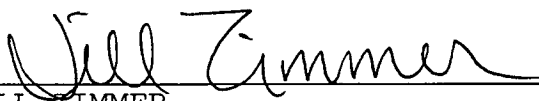
\_\_\_\_\_  
JILL ZIMMER  
Official Court Reporter  
Certificate Number 533  
Expiration Date: 12-31-2006  
Potter County Courts Building  
Amarillo, Texas 79101  
(806) 379-2372

THE STATE OF TEXAS            )  
  !  
COUNTY OF POTTER            )

I, JILL ZIMMER, Official Court Reporter in and for the 320th District Court of Potter County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of the proceedings in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record of the proceedings truly and correctly reflects exhibits, if any, offered by the respective parties.

WITNESS my hand this the 25<sup>th</sup> day of  
April, 2006.

  
\_\_\_\_\_  
JILL ZIMMER  
Official Court Reporter  
Certificate Number 533  
Expiration Date: 12-31-2006  
Potter County Courts Building  
Amarillo, Texas 79101  
(806) 379-2372

75318

R E P O R T E R ' S R E C O R D  
VOLUME 17 of 19

TRIAL COURT CAUSE NO. 48,950-D

THE STATE OF TEXAS	)	IN THE 320TH DISTRICT COURT
	)	
	)	
VS.	)	IN AND FOR
	)	
	)	
TRAVIS TREVINO RUNNELS	)	POTTER COUNTY, TEXAS

\*\*\*\*\*

TRIAL ON THE MERITS

OCTOBER 28, 2005

\*\*\*\*\*

**FILED IN  
COURT OF CRIMINAL APPEALS  
MAY 02 2005**

**Louise Pearson, Clerk**

On the 28th day of October, 2005, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Don Emerson, Judge Presiding, held in Amarillo, Potter County, Texas:

Proceedings reported by Machine Shorthand.

ORIGINAL

## A-P-P-E-A-R-A-N-C-E-S:

FOR THE STATE:

MR. JAMES ALLEN YONTZ  
SBOT: 24044106  
MR. RANDALL C. SIMS  
SBOT: 18426650  
MR. JOHN L. "JACK" OWEN  
SBOT: 15369200  
47th District Attorney's Office  
501 Fillmore, Suite 5-A  
Amarillo, Texas 79101

FOR THE DEFENDANT:

MR. JAMES D. DURHAM  
SBOT: 06284000  
Attorney at Law  
1008 W. 10th  
Amarillo, Texas 79101

MS. LAURA D. HAMILTON  
SBOT: 20016450  
Attorney at Law  
215 W. 7th  
Amarillo, Texas 79101



CHRONOLOGICAL INDEX

VOLUME 17

(TRIAL ON THE MERITS)

	Page
<b>OCTOBER 28, 2005</b>	
Caption and Appearances -----	1-2
Proceedings -----	3
Charge of the Court-----	7-13
State's Closing Statement -----	14
Defendant's Closing Statement -----	19
State's Final Closing Statement -----	28
Jury Verdict -----	41
Sentencing -----	42
Reporter's Certificate -----	45

ALPHABETICAL INDEX

VOLUME 17

DX CX RDX RCX VDX

(No witnesses called)

EXHIBIT INDEX

VOLUME 17

EXHIBIT NUMBER	DESCRIPTION	OFFERED	ADMITTED
-------------------	-------------	---------	----------

(No exhibits offered)

Page 3

1                    PROCEEDINGS  
 2                    OCTOBER 28, 2005  
 3                    (Open court, defendant present, no jury)  
 4                    THE COURT: Okay. Are there any objections to  
 5 the proposed Charge of the Court?  
 6                    MR. DURHAM: No, Your Honor. I do have a  
 7 couple of motions.  
 8                    THE COURT: Okay.  
 9                    MR. DURHAM: First, I move for an instructed --  
 10 instruction to the jury to answer Special Issue No. 1 no, as  
 11 the evidence is legally and factually insufficient to support  
 12 an answer of yes. It's a question of law, not of fact at this  
 13 point in time.  
 14                    THE COURT: That is overruled.  
 15                    MR. DURHAM: All right. Number two, I would  
 16 like the Court to instruct the district attorney to open  
 17 fully, as I only have one argument and I cannot respond to  
 18 charts used in a closing if they're not used in the opening.  
 19                    MR. SIMS: I've got some charts I was going to  
 20 use in my part of the argument. I don't know whether Jim is  
 21 planning on using them or not.  
 22                    MR. DURHAM: Well, if they're not used in the  
 23 opening, how can I respond to them?  
 24                    THE COURT: Well, I agree with that. What are  
 25 they? Have you looked at them?

Page 4

1                    MR. DURHAM: Yes, I have. That's the reason  
 2 for the motion.  
 3                    THE COURT: Okay. Let me see them.  
 4                    MR. SIMS: Be glad to, Your Honor.  
 5                    MR. DURHAM: They're their charts.  
 6                    MR. SIMS: It's a quote from inmate Yow;  
 7 another quote from inmate Yow.  
 8                    The chart that I want to utilize in regards  
 9 to --  
 10                    THE COURT: Don't move it.  
 11                    MR. SIMS: I understand. I'm trying to hold it  
 12 still.  
 13                    I'm going to talk about in relationship to the  
 14 offense, can apply these.  
 15                    THE COURT: Well, I'm not going to structure  
 16 his argument for him. I'll let you, if you want to, sit here  
 17 and take notes of each of those and respond --  
 18                    MR. DURHAM: If I -- how can I respond to them  
 19 before they are raised. If I raise them, that gives  
 20 credibility to them because I'm responding before they're  
 21 raised.  
 22                    THE COURT: Okay. Do you want an opportunity  
 23 to make another argument after his?  
 24                    MR. DURHAM: Yes, sir.  
 25                    THE COURT: A very short one --

Page 5

1                    MR. DURHAM: Yes, sir.  
 2                    THE COURT: -- to respond to these things?  
 3                    MR. DURHAM: Yes, sir.  
 4                    THE COURT: The Code of Criminal Procedure  
 5 provides that there shall be no argument less than two if  
 6 requested, but the defendant -- but the State gets to go last,  
 7 so that means he'll get three.  
 8                    All right with you?  
 9                    MR. DURHAM: Well, Judge, it -- I mean, a man's  
 10 life is at stake here and he's going to put in material in his  
 11 closing argument that if I respond to, he gets to respond  
 12 again, why can't they open fully if they're going to open?  
 13 That's all I'm asking. I'm just asking for them to play by  
 14 the rules and open fully.  
 15                    MR. SIMS: The rules don't require --  
 16                    MR. DURHAM: The rules don't count. I'm  
 17 glad -- I hope that's on the record.  
 18                    MR. SIMS: I did not say the rules don't count,  
 19 Your Honor.  
 20                    THE COURT: I think his statement was that the  
 21 rules don't provide and then it kind of trailed off.  
 22                    Okay. At any rate --  
 23                    MR. DURHAM: I misinterpreted his words. I  
 24 apologize.  
 25                    THE COURT: Okay. Just let me know before I

Page 6

1 send the jury out. If you want an opportunity to say more,  
 2 let me know.  
 3                    MR. DURHAM: Very well.  
 4                    THE COURT: Okay. Now, with regard to the  
 5 Charge of the Court, does the defense have any special  
 6 instructions, requests, or objections?  
 7                    MS. HAMILTON: No, sir.  
 8                    THE COURT: Okay. Bring them in, Gary.  
 9                    (Jury entered the courtroom)  
 10                    THE COURT: Okay, folks, as I told you  
 11 yesterday, I will now read the Charge of the Court to you.  
 12 Following that, the attorneys will make closing comments and  
 13 argument. You will be retired then to consider your verdict.  
 14 You'll take the verdict form back there with you. We have  
 15 made copies for each of the 12 of you who will serve on the  
 16 jury. At the time I send you back, I'll discharge the two  
 17 alternate jurors, so all of you will have a copy of it in  
 18 there to go over.  
 19                    The law provides that you may either take the  
 20 evidence that's been introduced for your benefit back with you  
 21 to begin with, if you want it. If you don't want it right  
 22 then, you want to kind of get your bearings, that's fine, too.  
 23                    All I need you to do is just knock on the jury  
 24 room door and tell Colonel Johnson that you want the evidence  
 25 and he will see that it's all brought in for you.

1 "Members of the jury, the defendant, Travis  
2 Trevino Runnels, stands charged by indictment with the offense  
3 of capital murder, alleged to have been committed in Potter  
4 County, Texas on or about the 29th day of January, 2003.

5 "To this charge the defendant has pleaded  
6 'guilty,' and he has persisted in entering such plea,  
7 notwithstanding the court, as required by law, has admonished  
8 him of the consequences of the same; and it plainly appearing  
9 to the court that the defendant is sane, and that he is not  
10 influenced to make this plea by any consideration of fear, nor  
11 by any persuasive or delusive hope of pardon prompting him to  
12 confess his guilt, said plea is by the court received, and the  
13 jury is instructed to find the defendant guilty as charged in  
14 the indictment.

15 It now becomes your duty to answer certain  
16 questions, called 'Special issues' in order that the Court may  
17 assess the punishment prescribed by law. Before answering the  
18 Special Issues, you must carefully consider the following  
19 instructions:

20 "You are instructed that the mandatory  
21 punishment for the offense of Capital Murder is confinement in  
22 the Institutional Division of the Texas Department of Criminal  
23 Justice for life, or death.

24 "In determining your answers to the questions,  
25 or the Special Issues submitted to you, you shall consider all

1 if any."

2 Folks, if you will delete after the word -- end  
3 that sentence with "any." Delete "were committed," please.

4 "Even then, you may only consider the same as  
5 they bear upon the Special Issues submitted, and for no other  
6 purpose.

7 "In the event the jury is unable to agree upon  
8 an answer to any Special Issue in accordance with the  
9 conditions and instructions outlined herein, the Presiding  
10 Juror will not sign an answer to that Special Issue.

11 "You are instructed that you will answer  
12 Special Issue No. 1 either 'Yes' or 'No,' in accordance with  
13 the instructions contained herein.

14 "You are instructed that the burden of proof in  
15 Special Issue No. 1 rests upon the State, and it must prove  
16 the affirmative - that is, an answer of 'Yes' -- as to such  
17 issue beyond a reasonable doubt.

18 "You are instructed that you shall consider all  
19 evidence, including evidence of the defendant's background or  
20 character or the circumstances of the offense that militates  
21 for or mitigates against the imposition of the death penalty.

22 "In the event you have a reasonable doubt as to  
23 an affirmative answer to Special Issue no. 1 after considering  
24 all the evidence before you and these instructions, you will  
25 answer Special Issue No. 1 in the negative, if you can do so

1 the evidence submitted to you in this trial.

2 "In arriving at the answers to the Special  
3 Issues submitted, during your deliberations you must not  
4 consider, discuss, nor relate any matters not in evidence  
5 before you. You should not consider nor mention any personal  
6 knowledge or information you may have about any fact or person  
7 connected with this case which is not shown by the evidence.

8 "In arriving at the answers to the Special  
9 Issues submitted, you are instructed that you cannot, and you  
10 must not, render a compromise verdict; that is, in arriving at  
11 your answers to the Special Issues, you are not to arrive at  
12 the same by agreeing among yourselves to answer one Special  
13 Issue in one way in exchange for an agreement to answer the  
14 other Special Issue another way. Nor are you to arrive at  
15 your answers by lot or by chance; or by any other method other  
16 than by a full, fair, and free discussion of the evidence  
17 bearing thereon.

18 "In arriving at the answers to the Special  
19 Issues submitted, you are instructed that if there is any  
20 testimony before you in this case regarding the defendant  
21 having committed offenses or bad acts other than the offense  
22 alleged against him in the indictment in this case, you cannot  
23 consider said testimony for any purpose unless you first find  
24 and believe, beyond a reasonable doubt, that the defendant  
25 committed such other offense, offenses, bad act, or bad acts,

1 in accordance with the instructions contained herein, and say  
2 by your verdict 'No' as to that Special Issue.

3 "You are instructed that you may not answer  
4 Special Issue No. 1 'Yes' unless all twelve (12) jurors agree  
5 to such answer. Furthermore, you are instructed that you may  
6 not answer Special Issue No. 1 'No' unless ten (10) or more  
7 jurors agree.

8 "It is not necessary that all members of the  
9 jury agree on what particular evidence supports a negative  
10 answer - that is, an answer of 'No' - to Special Issue No. 1.

11 "You are further instructed that if the jury  
12 returns an affirmative finding - that is a 'Yes' answer - as  
13 to Special Issue No. 1, then the jury shall answer Special  
14 Issue No. 2. Otherwise, you will not answer Special Issue  
15 No. 2.

16 "You are instructed that you will answer  
17 Special Issue No. 2 either 'Yes' or 'No,' in accordance with  
18 the instructions herein.

19 "You are instructed that you may not answer  
20 Special No. 2 'No' unless all twelve (12) members agree to  
21 such answer. Furthermore, you are instructed that you may not  
22 answer Special Issue No. 2 'Yes' unless ten (10) or more  
23 jurors agree.

24 "It is not necessary that members of the jury  
25 agree on what particular evidence supports an affirmative

1 answer - that is, an answer of 'Yes' - to Special Issue No. 2.  
2 "You are instructed that you shall consider  
3 'mitigating evidence' to be evidence that a juror might regard  
4 as reducing the defendant's moral blameworthiness.

5 "In the event the jury is unable to agree upon  
6 an answer to Special Issue No. 1 [sic] in accordance with the  
7 conditions and instructions outlined above, the Presiding  
8 Juror will not sign either answer to Special Issue No. 2.

9 "You are instructed that if the jury answers  
10 that a circumstance or circumstances warrant that a sentence  
11 of life imprisonment rather than a death sentence be imposed,  
12 the court will sentence the defendant to imprisonment in the  
13 institutional division of the Texas Department of Criminal  
14 Justice for life.

15 "Under the law applicable in this case, if the  
16 defendant is sentenced to imprisonment in the Institutional  
17 Division of the Texas Department of Criminal Justice for life,  
18 the defendant will become eligible for release on parole, but  
19 not until the actual time served by the defendant equals forty  
20 (40) years, without consideration for any good conduct time.  
21 It cannot accurately be predicted how the parole laws might be  
22 applied to this defendant if the defendant is sentenced to a  
23 term of imprisonment for life because the application of those  
24 laws will depend on decisions made by prison and parole  
25 authorities, but eligibility for parole does not guarantee

1 "After you have retired to the jury room, it is  
2 the duty of your presiding juror to preside at your  
3 deliberations, vote with you, and when you have agreed upon a  
4 verdict in accordance with the instructions contained herein,  
5 to certify to your verdict by signing his or her name as  
6 presiding juror to the verdict form attached hereto. After  
7 you have retired to the jury room, no one has any authority to  
8 communicate with you except the officer who has you in charge.  
9 You may communicate with this Court in writing through the  
10 officer who has you in charge. Do not attempt to talk to the  
11 officer who has you in charge, or the attorneys or the Court,  
12 or anyone else concerning any question you may have. After  
13 you have arrived at your verdict, you may use one of the  
14 verdict forms attached hereto by having your presiding juror  
15 sign his or her name to the particular form that conforms to  
16 your verdict, but in no event shall he or she sign more than  
17 one of such form.

18 "Following the arguments of counsel, you may  
19 retire to consider your verdict."

20 Signed Don Emerson, Judge Presiding.

21 There follow verdict forms.

22 I will tell you, folks, that this charge I just  
23 read to you, that last little bit about one verdict form only  
24 refers to those contained within Special Issues No. 1 and 2.

25 The first thing you will find in this packet is

1 that parole will be granted.

2 "When you are given a legal definition, you are  
3 bound to accept that definition in place of any other meaning.  
4 If a word or phrase is not defined, simply ascribe to it the  
5 meaning commonly understood for that word or phrase.

6 "You, the jury, are the exclusive judges of the  
7 credibility of the witnesses, of the weight to be given the  
8 evidence and of the facts proved, but you are bound to receive  
9 the law from this Court as given in this charge and be  
10 governed thereby.

11 "Our law provides that a defendant may testify  
12 in his own behalf if he elects to do so. This, however, is a  
13 privilege accorded a defendant, and in the event he elects not  
14 to testify, that fact cannot be taken as a circumstance  
15 against him. In this case, the defendant has elected not to  
16 testify, and you are instructed that you cannot and must not  
17 consider, discuss, allude to, comment upon or refer to that  
18 fact throughout your deliberations or take it into  
19 consideration for any purpose whatsoever against him.

20 "You are charged that it is only from the  
21 witness stand that the jury is permitted to receive evidence  
22 regarding the case, or any witness therein, and no juror is  
23 permitted to communicate to any other juror anything he or she  
24 may have heard regarding the case or any witness therein, from  
25 any source other than the witness stand.

1 a verdict form with regard to the guilt/innocence stage, which  
2 is to be signed by the presiding juror in accordance with the  
3 instructions I gave you to find the defendant guilty. That is  
4 merely a formality and those portions that I just read you  
5 about signing only one of the forms only applies to Special  
6 Issue No. 1 or No. 2.

7 Do you see why we're sending 12 copies back?  
8 Okay. Let me see the lawyers up here a minute.  
9 (At the bench, on the record)

10 THE COURT: You made 12 copies, right?

11 MR. OWEN: No, I haven't. I will.

12 THE COURT: That's okay, I'll handle it.  
13 Okay. Thanks.

14 (Open court)

15 THE COURT: Go ahead.

16 STATE'S CLOSING STATEMENT

17 MR. YONTZ: Your Honor, may it please the  
18 Court, Counsel. Throughout this trial, at times this has been  
19 referred to as a tragedy. It's not a tragedy. This is a  
20 murder, far worse than a tragedy.

21 Many years ago, there was an episode of Mash in  
22 which Father Mulcahy and Hawkeye --

23 MR. DURHAM: I'm sorry, that's outside the  
24 record, Your Honor. I didn't -- don't recall seeing that  
25 being played to the jury. That's outside the record.

1 THE COURT: Overruled.  
 2 MR. YONTZ: Which Hawkeye and Father Mulcahy  
 3 were talking, and Father Mulcahy quotes General Sherman that  
 4 "War is hell." And Hawkeye says, "No, war is war and hell is  
 5 hell and of the two, war is the worst because in hell only the  
 6 guilty suffer."  
 7 What this gentleman has wreaked upon the Wiley  
 8 family is far closer to the latter, where the innocent suffer  
 9 as well and continue to suffer.  
 10 There is no question of guilt in this case.  
 11 There is no issue of that. After you sign the verdict form  
 12 indicating guilty, then go to the Special Issues. And each of  
 13 you have seen this chart before.  
 14 Ladies and gentlemen, in looking at Special  
 15 Issue No. 1, look to the evidence that's been presented to  
 16 you, consider the testimony of the witnesses. Out of  
 17 everything that's been said in this trial, perhaps the most  
 18 eloquent statement comes from Mr. Ellis [sic] as he testified,  
 19 an inmate in the penitentiary. His simple words through his  
 20 tears, "Mr. Wiley was a good boss."  
 21 Whether there is a probability the defendant  
 22 would commit criminal acts of violence that would constitute a  
 23 continuing threat to society. All people are members of  
 24 society; all people, including those in the penitentiary and  
 25 outside the penitentiary, whether they're employees or inmates

1 he didn't want to sweep the floor. There's no evidence --  
 2 THE COURT: The jury will recall the evidence.  
 3 MR. DURHAM: Thank you, Your Honor.  
 4 MR. YONTZ: He didn't want to do it, and he  
 5 carried out his plan to kill Stanley Wiley because of words,  
 6 not even a physical confrontation, simply words, he committed  
 7 a murder.  
 8 You saw the injuries that Stanley Wiley  
 9 sustained. You heard Dr. Natarajan describe those injuries.  
 10 That knife cut so deep that it cut entirely through the  
 11 trachea and actually cut the spinal cord in back of the  
 12 trachea. His only intent was to murder.  
 13 The defendant's character and background.  
 14 We've touched on that. The defendant is a violent person.  
 15 The defendant will continue to be a violent person.  
 16 The personal and moral culpability of the  
 17 defendant. Ladies and gentlemen, that's one of the knives  
 18 that was introduced that was picked up. Set that knife down,  
 19 ladies and gentlemen, and if I stand over here and I look at  
 20 that knife all day, it's not going to move. No matter what I  
 21 want to do with that knife, it's not going to move. It's not  
 22 going to move until I walk over and pick it up and then do  
 23 whatever I want with it. And that's the same with the  
 24 defendant.  
 25 That knife was not going to cut Stanley Wiley's

1 in the criminal justice system.  
 2 Look to the actions of the defendant. It was  
 3 interesting that defense counsel would ask each one of those  
 4 witnesses, "Well, have you seen him involved in any fights  
 5 with other inmates?" "No, he hasn't been involved in fights  
 6 with other inmates."  
 7 But you do have what type of person he is. You  
 8 have his criminal history, you have his burglary conviction,  
 9 you have his armed robbery conviction with a firearm, you have  
 10 the assault where he hit the officer in the jaw and then ran  
 11 back to his cell. You have the murder where he snuck up  
 12 behind him, pulled his head back and cut his throat with a  
 13 knife. You have him continuing to throw urine, feces, light  
 14 bulbs, attacking people that have done nothing to him, except  
 15 for whatever reason he wants to strike out.  
 16 His action in prison, his actions before tell  
 17 you he is going to be a person who will commit criminal acts  
 18 of violence that constitute a continuing threat to society.  
 19 You are then asked to look at Question 2,  
 20 Special Issue No. 2. Taking into consideration all the  
 21 evidence, the circumstances of the offense, he had a  
 22 disagreement, he was in the penitentiary, but he didn't want  
 23 to work, he didn't want to sweep the floor. And because --  
 24 MR. DURHAM: Your Honor, that is outside the  
 25 record. There was no evidence that that's what was said, that

1 throat until the defendant put it to that use. He is the only  
 2 one responsible for this crime. He is the only one that is  
 3 personally and morally culpable of this murder. He acted  
 4 alone, and there is no mitigating circumstance or  
 5 circumstances that warrant a life sentence in this case over a  
 6 death sentence.  
 7 Ladies and gentlemen, this is not to suggest in  
 8 any way that your decision is going to be easy or that's it  
 9 should be made in haste. It's a difficult decision. It's a  
 10 terribly difficult decision. But it's one that you have sworn  
 11 an oath to base upon the evidence in the case.  
 12 Society is full of difficult decisions that  
 13 have been made by brave people that are willing to take upon  
 14 them the responsibility that has been placed similarly as it  
 15 has upon your shoulders.  
 16 One of the things that I have done, or used to  
 17 do more than I do now, is collect ties of historical events,  
 18 historical people. And once in a while I wear this one.  
 19 Somebody will get up close to it and they'll say, "Well,  
 20 what's that little design or that little person in there?"  
 21 That's actually a person of somewhat historical significance,  
 22 though not very well known. He was a captain of an army, he  
 23 was the leader of a nation, and the people in his nation  
 24 wanted to succumb to taking the easy way out of their  
 25 problems. They were at war and they were thinking of

1 surrendering --

2 MR. DURHAM: Your Honor, this is -- I have no  
3 way of testing the validity of this story, and I'm going to  
4 object to it as being outside the record.

5 THE COURT: Overruled.

6 MR. YONTZ: They were at war, they wanted to  
7 take the easy way out, they wanted to take the easy way out of  
8 decisions in their society. And it got to the point that he  
9 became so flustered and so angered that the historical record  
10 records that he ripped his coat, he tore his coat and he wrote  
11 upon it, "For our nation, for our justice, for our liberty,  
12 for our families, our wives, and our children is why we must  
13 make the tough decisions."

14 He could very easily have put, "For our society  
15 is why we have to make the tough decisions." It's also why  
16 you have to make the tough decision.

17 THE COURT: Mr. Durham?

18 DEFENDANT'S CLOSING STATEMENT

19 MR. DURHAM: May it please the Court. Ladies  
20 and gentlemen of the jury. I've got a tie story, too. My tie  
21 has crosses on it for a man who made a difficult decision, who  
22 died for all of us where we could enjoy forgiveness for our  
23 sins and omissions, real and imagined.

24 I told you on voir dire, I stood before you and  
25 I said, "I have a very sober and awesome responsibility." Do

1 and our movies, you can't go to a movie that there's not 14  
2 cars destroyed and a dozen people killed. We're losing troops  
3 every day in Iraq to fight for freedom, freedom, due process,  
4 the American way.

5 Now, where does this come down to? It comes  
6 down to one specific question. Stop and consider all the  
7 evidence. Some of you go to Palo Duro Canyon. I've gone to  
8 Palo Duro Canyon. I look across there and I see the vista and  
9 the cedar trees, sometimes when it's rained, the stream  
10 running through, and it's green. And sometimes you might even  
11 see an animal down there. There are animals down there that  
12 you might see. And you're just taken with the totality of the  
13 landscape.

14 But, you know, you can focus on one thing.  
15 Right there, there's a bare spot where somebody's polluted the  
16 ground, dropped some gasoline on it and it's a bare spot and  
17 it's ugly. So are you going to ignore the entire vista  
18 because of one gasoline spot? No, you're going to look at the  
19 totality.

20 Now, that's what I'm asking you to do, is look  
21 at the totality and answer this one question? What witness,  
22 what one witness looked you in the eye and said, "Travis  
23 Runnels is a future danger"? What psychologist, what  
24 psychiatrist, what expert brought their magic ball, their  
25 crystal -- maybe you've seen these little things, 8-balls, you

1 y'all remember that? Representing a man on trial for his  
2 life, Travis Trevino Runnels. Well, my job, after a sleepless  
3 night, ends today. Your job begins, I hand to you the awesome  
4 and sober responsibility of evaluating the evidence and  
5 answering Special Issues.

6 And I want to talk about the evidence, and I  
7 will. The Court gives you a charge, tells you to follow the  
8 evidence. Now, we spent a lot of time talking about the  
9 murder. And let me -- let me hasten, it was a horrific  
10 murder. But do you know that every murder, every loss of  
11 life, be it man, woman, child, adult, the unborn, every loss  
12 of life is horrific and it leaves a void, it leaves a void for  
13 those around them.

14 There is nothing that Travis can do to restore  
15 Stanley Wiley to life. There's nothing you can do. We can  
16 seek revenge. We can take him out to the nearest tree and  
17 string him up, because he pled guilty, so why the -- the  
18 pageantry of a trial? Because we are a society, we are a  
19 sane, rational society that looks at all the evidence. And  
20 instead of taking the easy way out and just killing everyone  
21 who offends us -- and all of us -- well, maybe not all of us,  
22 but many of us have at various times said things like -- when  
23 you're cut off in traffic, "I could kill that SOB," and you  
24 didn't mean it. But it was out of anger. And you see, we're  
25 so permeated with the violence in our TV and our literature

1 turn it over and it has an answer, you know, "Will I be rich?"  
2 You turn it over and it says, "It depends on what you do," you  
3 know. You don't plan your life on a toy. You consult  
4 experts, you ask questions.

5 What expert, what expert did they bring that  
6 said, "He will be a future danger"? What Travis Runnels will  
7 be is living in an area roughly this size for the rest of his  
8 life, is what he will be.

9 Now, looking at the issue of mitigation, yes, I  
10 asked if he were a violent person, if he fought in prison,  
11 because that's -- you know, those are the people he lived  
12 with, those were the people he was around all the time, those  
13 are the people who were in his face, except for the bosses.

14 And you know what really impressed me, we had  
15 seven -- seven inmates testify. Y'all recall that. Six  
16 black, one white. And while they were testifying on those  
17 back two rows, it was full of correctional officers staring at  
18 those seven prisoners. But the next day, the next day when  
19 the prisoners weren't testifying, there were not two rows of  
20 correctional officers back there.

21 When the correctional officers were testifying,  
22 they didn't have the support of their fellow correctional  
23 officers, but when the prisoners were testifying, the  
24 prisoners certainly had what appeared to me to be the  
25 intimidation of the correctional officers, the bosses.

1 You know the difference in slavery and the  
2 penitentiary? The slaves could escape. But now we've got the  
3 razor wire, we've got the double lock. We have Administrative  
4 Segregation, and we poke the animal in the cage and say, "Be  
5 tame. Walk this line, walk on this side, be tame. If you're  
6 not tame, if you don't behave good, we'll take away your  
7 radio. And if you don't behave good soon, we'll destroy your  
8 radio."

9 Now, certainly, they have a problem controlling  
10 people, but they're still human, they're still human.

11 The witnesses. Stan's sister. My heart, just  
12 as yours, goes out to Stanley's sister, both when she  
13 identified his picture and at the end when she testified about  
14 the void his death left.

15 Well, if the only issue in this case were  
16 revenge, then we might well just set up a guillotine or  
17 something and let Stan's sister pull the switch and chop off  
18 his head. But this is not a revenge society. That's not what  
19 it's about.

20 And I don't think that would give her closure.  
21 Nothing will ever close that void, no more than the void left  
22 by the death of her mother just a scant three months before  
23 her brother was murdered. A double hit. My heart goes out to  
24 her.

25 Then our doctor testifies. We knew he was

1 President Bush may have known she was going to withdraw, but I  
2 didn't. You can't predict the future.

3 Anyway, these seven inmates testified about his  
4 peaceable nature, about him not being violent. And, of  
5 course, there's going -- and from 1990, or something like that  
6 to 2003, 13 -- ten, 13 years, you're locked up, are you going  
7 to get in a little -- have some trouble? One incident before  
8 this murder with Officer Madigan, one incident in the previous  
9 ten years. Then he committed a murder.

10 Then he went in Administrative Segregation for  
11 months, 23 hours a day, right here, this size, 23 hours a day.  
12 Twenty-three hours a day if he was a good boy. If he was not  
13 a good boy, then they would take away his shower time, his  
14 outside time, and he would stay in his 54 square foot, one  
15 side with a bed and the little space in between, 23 hours a  
16 day.

17 The LVN and the RN who testified, testified  
18 that Mr. Wiley's injuries, those injuries were fatal. No  
19 question about it. That -- we didn't contest -- we did not  
20 contest for one minute that Travis killed Stanley Wiley. He  
21 did. That's a fact.

22 We didn't say, "Okay, take a week, a month and  
23 bring us DNA and test the knives and prove all this." We  
24 said, "We did, we bare our soul, we did." The first act of  
25 contrition is admission. The first act of contrition is

1 dead. We knew that when we came in or we wouldn't be here.  
2 We knew it was by his throat being cut. We knew that or we  
3 wouldn't be here. And Travis stood up and said, "Guilty. I  
4 am guilty of murder. I am guilty of murder." He bared his  
5 soul. "I am guilty."

6 And in effect said, "Okay, Mr. Sims, prove  
7 beyond a reasonable doubt I'm a future danger." And Mr. Sims  
8 did not prove he was a future danger. Instead, the  
9 evidence -- the seven prisoners were asked, "Is he a trouble  
10 maker? Has he caused trouble?" Something caused this, and  
11 the biggest -- the biggest question in my mind, and it may or  
12 may not be in your mind, is not the fingerprints, I understand  
13 fingerprints, but the biggest question in my mind is why. Why  
14 do we have such a system that we lock people up like animals,  
15 treat them like animals, and expect them to be citizens of the  
16 month? Why?

17 Okay. What's going to happen in the future?  
18 Well, I'll predict that the sun will come up tomorrow in the  
19 east, and that's one of the few things that I feel pretty sure  
20 about without some evidence.

21 I'm not going to predict that Harriet Myers  
22 will be on Supreme Court, even though yesterday morning at  
23 this time I would have predicted it based upon the evidence.  
24 But it didn't happen. I couldn't see the future. I didn't  
25 know she was going to withdraw, and I doubt that -- I think

1 admission.

2 Now, he threw things at the guards. They  
3 weren't hurt, didn't hit them, splashed on them. Disgusting,  
4 disgusting. He didn't have a shiv, and we all know what shivs  
5 are. We've seen enough television or read enough stories or  
6 heard enough about the prison to know what shivs are.

7 So, you know, since the murder he threw three  
8 things, so, boy, that -- boy, he sure -- sure is a danger.  
9 If -- that probably will happen 20 times in the next hour at  
10 the prisons in Texas, something being thrown at a guard or a  
11 prisoner, with about the same result. And that certainly  
12 justifies taking a man's life.

13 In effect, they're asking you to speculate  
14 Travis into a death sentence. They have not brought you proof  
15 beyond a reasonable doubt. And you swore you would do that.  
16 You swore you would hold the State to their burden of proof.  
17 I tried to pick an intelligent jury that would follow the  
18 evidence, that would hold the State to their burden of proof,  
19 that would expect to hear expert testimony about how you  
20 predict future dangerousness.

21 Did you hear one word, one word from one expert  
22 who said, "He presents a danger in the future based upon my  
23 experience, my studies, psychological tests or anything?" Not  
24 one word, not one word.

25 Now, they're going to say, "Well, just answer

1 that yes and go down here," mitigation, what is -- mitigation  
 2 is like we told you on voir dire. Mitigation is whatever you  
 3 say it is. If you think -- let me tell you something.  
 4 Honestly, if I were on trial for my life and it were a choice  
 5 between life in prison and the death sentence, and knowing  
 6 that this area right here that I pace is my world, kill me,  
 7 just kill me. That's no punishment. Walking in a circle for  
 8 at least, at least, at least 40 years, to the age of 78 years,  
 9 or 68, whatever it is, remembering that he's still serving his  
 10 first sentence that has to be completed before he starts  
 11 serving this sentence, just kill me. I don't want to die. An  
 12 old man, doddering, not knowing anyone, not knowing anything,  
 13 not having a television, not getting to see Dallas play  
 14 football, a little thing. It's the little things in life  
 15 that, when they're taken away from us that count, like radios  
 16 and tobacco and things of that nature. Just kill me. That's  
 17 the easy decision, just kill me.

18 Well, Mr. Yontz talked about his tie. I have a  
 19 tie. And, you know, once there was a jury of one. That  
 20 jury's name was Pontius Pilate, and he washed his hands. He  
 21 ignored the evidence, he just washed his hands. He wasn't  
 22 bound by the evidence. It didn't have to be proven by this  
 23 man beyond a reasonable doubt. He just washed his hands, and  
 24 we now have the cross.

25 You can do what your oath said, hold the State

1 doubt that the defendant is guilty of this crime; thus, the  
 2 guilty plea.

3 I submit the evidence has showed that to you  
 4 and it had showed that to them. And I'm going to further  
 5 suggest to you that the evidence does substantiate beyond a  
 6 reasonable doubt that there is the probability that this  
 7 defendant will commit future acts of violence, and we'll get  
 8 into that in a minute. Jim touched on it to start off with,  
 9 but we'll get into that evidence. And that there is not a  
 10 single shred of mitigating evidence before you.

11 And you made an oath to make your decision  
 12 based on the law and the facts as you hear them in court. And  
 13 that is the issue. It is not if and but and candies and nuts  
 14 about what could be brought to you. The question is: Has the  
 15 State of Texas proved to you beyond a reasonable doubt with  
 16 the evidence that you have heard to answer this question yes?  
 17 And that's what you took an oath to do, is listen to the  
 18 evidence and make that decision and not speculate about  
 19 things.

20 Forgiveness. Jesus Christ stood on the cross  
 21 next to a thief, and he forgave that thief, but what else did  
 22 he do? He did not interfere with the punishment that had been  
 23 assessed. He allowed the death sentence to be imposed.

24 When you are driving down the road, ladies and  
 25 gentlemen, and you make that comment, "I just want to kill

1 to prove their case beyond a reasonable doubt, prove beyond a  
 2 reasonable doubt that he's a future danger, or you can wash  
 3 your hands, automatically answer it yes. You're the judges of  
 4 the evidence. You're the jury. Thank God we have juries.  
 5 Thank God that we don't have lynchings, that we don't have  
 6 summary execution. Thank God that we can live and not worry  
 7 about notes being passed to us in our cell that says, "Nigger,  
 8 you're going to die."

9 Look at the entire panorama of Palo Duro  
 10 Canyon. Do not look only at the polluted gas spot. Thank  
 11 you.

12 THE COURT: Mr. Sims?

13 STATE'S FINAL CLOSING STATEMENT

14 MR. SIMS: May it please the Court, Counsel.

15 Ladies and gentlemen of the jury, in voir dire, we talked  
 16 about common sense. Genius, common sense is genius dressed up  
 17 in work clothes. And when we looked for a jury, we looked for  
 18 a jury that was intelligent and one with common sense. And I  
 19 told you then and I'm telling you now, I ask you to use both,  
 20 use both.

21 We accept our responsibility for the burden of  
 22 proof in this case. We were ready to do so in guilt/innocence  
 23 beyond a reasonable doubt. Our burden of proof on the first  
 24 issue is beyond a reasonable doubt. We have no burden on the  
 25 second issue. And folks, I submit to you that there is no

1 that somebody," you're right, you don't mean it. When this  
 2 defendant told Bud Williams, Jr., before he committed this  
 3 crime he wanted to kill Mr. Wiley, guess what, he meant it and  
 4 he did it. Premeditation. He went to three different people  
 5 before he got the knives, and he duped Mr. Elkins out of his  
 6 knife, and I'll come back to that in a minute.

7 An expert witness would have been just a  
 8 witness. That word is not gold. That witness would do the  
 9 same thing you're going to be asked to do, just make a  
 10 decision based on the evidence. And that's what would have  
 11 happened. Folks, y'all can do that just as good as anyone can  
 12 in this case because it is clear, and we'll talk about that  
 13 again a little more in the future.

14 All that is needed for evil to flourish is for  
 15 good men and women to do nothing. Inmate Yow. I asked him,  
 16 "Why did you hurt Mr. Wiley," something to that effect. And  
 17 his response, "Any offender or inmate" -- the defendant's  
 18 response, "Any offender or inmate, as long as they were  
 19 white." Anybody, anybody.

20 Then Mr. Yow, inmate Yow said something to the  
 21 effect of, "Don't you realize if he dies, you can get the  
 22 death penalty?" Can you recall those chilling words, "Dead  
 23 men can't talk," was his response. And he's absolutely right,  
 24 dead men can't talk directly to you. Mr. Wiley can no longer  
 25 talk directly to you. He silenced him, and the defendant



Page 31

1 relied on the code of silence of the inmates --  
 2 MR. DURHAM: I'm sorry, I don't recall there  
 3 being evidence about a code of silence among the inmates and  
 4 I'm going to object to that --  
 5 THE COURT: The jury will recall the evidence.  
 6 MR. DURHAM: -- as being totally outside the  
 7 record.  
 8 MR. SIMS: The code of the inmates. And we had  
 9 seven come in, murder, aggravated robbery, aggravated sexual  
 10 assault, injury to a child, aggravated robberies. But you  
 11 know what, folks, they stood up and they spoke for Mr. Wiley  
 12 and they told you about the facts and circumstances of this  
 13 offense and what occurred as they saw it; that it was  
 14 premeditated. I submit to you that it was unprovoked. Words  
 15 allow for the killing of an individual? That person in the  
 16 car is dead if that's the case. Words do not justify death.  
 17 Premeditation. He told inmate Johnson he was  
 18 going to do it and he did it. He asked two different people  
 19 for the knife before he went to Mr. Elkins and finally got the  
 20 knife.  
 21 Mr. Elkins, how sad. A man who referred to  
 22 Mr. Wiley as a good boss, through his tears, a good guy. And  
 23 he now believes that it was his knife that was used to kill  
 24 that man, and that is why he wept, because he --  
 25 MR. DURHAM: Your Honor, that -- that's --

Page 32

1 that's entirely outside the record.  
 2 THE COURT: Objection is sustained.  
 3 MR. DURHAM: May I have an instruction?  
 4 THE COURT: Jury is instructed to disregard.  
 5 MR. SIMS: I'll suggest that he has remorse  
 6 over what happened to Mr. Wiley, and you have seen that, and  
 7 that for a life sentence to be worse than death, a person must  
 8 have remorse. If they don't, it's not.  
 9 And the evidence in this case, from the actions  
 10 this defendant took that day, show he has no remorse for this  
 11 offense. He took a knife like this and pulled his head back  
 12 and cut his throat. And in that action, he turned this man  
 13 into this man. (Indicating) And will you please look at the  
 14 look on his face?  
 15 It was an intentional and knowing killing. I  
 16 submit to you it was cold-blooded, I submit to you it was  
 17 cowardly. He attacked him from behind, with no warning, no  
 18 chance to defend himself, and killed him with no chance to  
 19 tell his family goodbye and with no due process, and for what?  
 20 Asking a guy to work, asking him to do what he was supposed to  
 21 be doing. He had committed no offense to justify the death  
 22 penalty. We cannot say the same thing about this defendant.  
 23 And he calmly walked away and sat down. Those are the things  
 24 he did.  
 25 By striking that blow, this defendant struck a

Page 33

1 strong and severe blow for injustice because Mr. Wiley had  
 2 done nothing to deserve it.  
 3 A dead man can't talk. Well, what if -- but  
 4 what else can speak besides the inmates in regards to what  
 5 occurred that day? What is the best method of predicting the  
 6 future? Even Mr. Durham uses it. He predicts the sun will  
 7 rise in the east tomorrow morning. Why? Because it has  
 8 always risen in the east.  
 9 He's using the past to predict the future. And  
 10 that is the only way you can do it. That is the best way to  
 11 do it. And now we're going --  
 12 MR. DURHAM: Your Honor, we're going to object.  
 13 That is not the only way to predict the future, Your Honor,  
 14 and I'm going to object to that as being outside the record.  
 15 THE COURT: Sustained.  
 16 MR. DURHAM: Thank you. May I have an  
 17 instruction?  
 18 THE COURT: Jury is so instructed.  
 19 MR. DURHAM: Thank you, Your Honor.  
 20 MR. SIMS: The best way to predict the future,  
 21 I'll submit to you, is to look at past conduct. Who's  
 22 responsible for their actions? The person that commits them.  
 23 Who is responsible for this? This defendant.  
 24 And, folks, who is responsible for this?  
 25 Mr. Wiley's -- or this defendant's background? It is the

Page 34

1 defendant. Not you, not I, not Mr. Wiley, not the prison  
 2 system, but this defendant.  
 3 And let's look at it a minute. Born July 21,  
 4 1976, commits a burglary of a building when he's 17 and gets  
 5 ten years probation, gets that revoked very shortly thereafter  
 6 and sentenced to five years in prison. Gets out of prison,  
 7 very shortly thereafter, because in less -- about a year  
 8 later, he's committing an aggravated robbery. He gets a 70-  
 9 year sentence, folks, from a jury, Exhibit No. 26 over here, a  
 10 70-year sentence for an aggravated robbery with a firearm.  
 11 And while in prison -- he struck an officer  
 12 because the officer asked him to go do something, he committed  
 13 this capital murder, and since that time, he threw urine on a  
 14 guard from his cell where he was in closed security, while the  
 15 inmate was -- while the guard was dealing with another inmate,  
 16 wasn't even dealing with Mr. Runnels, threw the bulb at  
 17 Lieutenant Brown who was on the stand for quite some time, who  
 18 was just going -- only contact with the defendant was to go  
 19 give him some papers. Another act of violence.  
 20 Is it -- is it severe? No. Does it say it has  
 21 to be severe violence, folks? Other acts of criminal  
 22 violence. Threw the bulb at her. While he is incarcerated in  
 23 the highest security they have on that unit, he goes after an  
 24 inmate -- a worker.  
 25 Then he threw feces at another inmate [sic] who

1 had had no dealings with him at all. He was dealing with  
 2 another inmate, was not directed toward him at all.  
 3 And what do these show, folks, lack of  
 4 authority, lack of respect, a lack of willingness to conform,  
 5 and a lack of willingness to comply with the prison structure  
 6 which is very structured for everyone's safety, the workers  
 7 and the other inmates.  
 8 You heard A.P. testify there's been murders on  
 9 death row, there's been murders on the highest level security  
 10 that we have, and it was an inmate on another inmate, and  
 11 they're supposed to be kept separate. And he said, "There are  
 12 no safe places in prison, nowhere."  
 13 These things show his unwillingness to conform.  
 14 He's in for a 70-year sentence, folks. We didn't get his  
 15 attention with a long sentence in prison. Look what he's done  
 16 since, including this. It's an escalating chain of events  
 17 because he's gone from this to striking to killing and now to  
 18 attacking however he can those who don't even have anything to  
 19 do with him.  
 20 Those who forget the past are condemned to  
 21 repeat it. Do not forget the past.  
 22 Mr. Durham missed a shiv -- mentioned a shiv.  
 23 I'll let you just -- he hasn't had a shiv yet. He's had  
 24 feces, he's had urine, he's had a light bulb, and he got this.  
 25 After using a firearm, what will be his next weapon that he

1 today the last words of Mr. Wiley's life will be spoken. The  
 2 last words, the last three words written for his life will be  
 3 spoken. They will be spoken by you. Stan Wiley cannot speak.  
 4 You must strike that strong blow for justice according to your  
 5 intelligence, your common sense, the law and the evidence.  
 6 And you must, based on that, speak three words, "guilty,"  
 7 "yes," "no."  
 8 THE COURT: All right. Members of the jury,  
 9 you'll now retire to consider your verdict.  
 10 Gary where are the jury charges, please? Have  
 11 you got them all there?  
 12 THE BAILIFF: Twelve.  
 13 THE COURT: Okay. If you'll step down now,  
 14 please.  
 15 (Jury left the courtroom)  
 16 THE COURT: Okay, folks, you were the  
 17 alternates. This will conclude your service. Thank you very  
 18 much for being with us. We'll see you next time the computer  
 19 brings you down. If you'll stop by on the first floor and  
 20 tell them that I have discharged you. Thank you very much.  
 21 We're in recess.  
 22 (Recess)  
 23 THE COURT: Okay. Let me see the lawyers up  
 24 here a minute, please.  
 25 (At the bench, on the record)

1 gets or makes? Based on this, it's not a question of if, it  
 2 is a question of when. And an expert doesn't have to get up  
 3 here to tell you that. Your intelligence and your common  
 4 sense tells you that, folks.  
 5 Before -- be just before you're generous. Why  
 6 ask for life if it is such a bad punishment? Why seek the  
 7 punishment if it is worse than death? Common sense, folks,  
 8 common sense, use it.  
 9 Mr. Wiley clung to his last breath of light  
 10 because it's the most precious thing every living human being  
 11 has. And while he could not speak, he spoke to Mr. Askins to  
 12 make sure that the person that killed him was identified and  
 13 caught, and I would submit, in hopes of a successful  
 14 prosecution.  
 15 The inmates have spoken for him. I submit the  
 16 defendant's past speaks for Mr. Wiley as well. Mr. Wiley is  
 17 now silenced, but you are not, and the defendant cannot  
 18 silence you. You speak today and you must strike just as  
 19 strong and just as severe a stroke for justice as was struck  
 20 by this defendant for injustice. It will not be pleasant, it  
 21 will not be enjoyable, but I submit to you if you do that, you  
 22 will look your face in the mirror tomorrow, and I will suggest  
 23 you will know you have done the right thing.  
 24 Today is the last day of Mr. Wiley's life. He  
 25 is not here to speak, but others have spoken for him, and

1 THE COURT: You're objecting to both these  
 2 responses that we found because you think that this note does  
 3 not certify a dispute. Is that your objection?  
 4 MS. HAMILTON: Yes, sir.  
 5 THE COURT: It's overruled. Okay.  
 6 MS. HAMILTON: But I thought you were -- just  
 7 to be clear, I thought you said on the second part, you  
 8 weren't going to read that unless they --  
 9 THE COURT: I'm not. This is going to be --  
 10 MS. HAMILTON: Okay.  
 11 THE COURT: -- if they come back. I just  
 12 didn't want to have to get you guys --  
 13 MS. HAMILTON: Okay.  
 14 THE COURT: -- up here and do it again.  
 15 MS. HAMILTON: Okay.  
 16 THE COURT: Yes, but I'm not going to do that  
 17 at this first juncture.  
 18 MS. HAMILTON: Okay. Thank you.  
 19 (Open court)  
 20 THE COURT: Okay. Bring the jury in.  
 21 (Jury enters the courtroom)  
 22 THE COURT: Members of the jury, you have sent  
 23 me a letter telling me that you have -- the jury has a dispute  
 24 as to what was said by the first or possibly the second  
 25 witness about Mr. Runnels giving him the barber combs.

1 The lawyers have suggested I say, "I'm sorry,  
2 there's no dispute because it was the third witness." But  
3 they have -- they have helped the court reporter find that  
4 portion of the testimony and she will now read it to you.  
5 THE REPORTER: Direct Examination of  
6 Mr. Williams by Mr. Simms.  
7 QUESTION: "Did you wake up one morning and  
8 find anything under your door?"  
9 ANSWER: "I woke up and there were some barber  
10 combs up under my door."  
11 And then later, in direct examination,  
12 QUESTION: "So you talked to this defendant when you said  
13 Mr. Runnels; is that correct?"  
14 ANSWER: "Yes, sir."  
15 QUESTION: "And he told you what?"  
16 ANSWER: "That he put the barber combs up under  
17 my door."  
18 QUESTION: "What happened at that point, very  
19 next thing?"  
20 ANSWER: "He had a letter in his hand and asked  
21 me would I mail this letter off to his mom if he don't come  
22 back, and I asked him, 'Where are you going?' And he said, 'I  
23 might not come back. I ain't going to be coming back.'"  
24 THE COURT: The second portion of your request  
25 simply says, "Also testimony about Mr. Runnels saying

1 MR. DURHAM: All right. Thank you.  
2 (Open court)  
3 THE COURT: Okay. Bring the jury in, please.  
4 (Jury enters the courtroom)  
5 THE COURT: Members of the jury, have you  
6 reached a verdict?  
7 JURY FOREPERSON: We have.  
8 THE COURT: All right. If you would give the  
9 verdict form, please, to Colonel Johnson.  
10 Special Issue No. 1, the answer is, "We, the  
11 jury, unanimously find and determine beyond a reasonable doubt  
12 that the answer to Special Issue No. 1 is 'Yes.'"  
13 Signed, Kathryn Foster, Presiding Juror.  
14 Special Issue No. 2, "Answer: We, the jury,  
15 unanimously find and determine that the answer to this Special  
16 Issue is 'No.'"  
17 Signed, Kathryn Foster, Presiding Juror.  
18 Members of the jury, is that each of your  
19 verdicts?  
20 JURY PANEL: Yes.  
21 THE COURT: State wish the jury polled?  
22 MR. SIMS: No, Your Honor.  
23 THE COURT: Defense?  
24 MR. DURHAM: No, Your Honor.  
25 THE COURT: Okay, folks, I'll receive your

1 something about Mr. Wiley that morning prior to going to the  
2 boot factory."  
3 That does not indicate any sort of dispute  
4 about anything.  
5 So I'll send you back now. If you determine  
6 that you do have some -- some dispute you wish to certify to  
7 about this second portion, then I'll send this note back in  
8 with you, just let me know. Okay.  
9 (Jury left the courtroom)  
10 (At the bench, on the record)  
11 MR. DURHAM: While it's not necessary to  
12 request, I would request that the Court instruct the audience  
13 not to have any reaction to the verdict.  
14 THE COURT: Well, it's not going to be  
15 necessary. They are all going to remain in their places  
16 before we exit, until the jury is completely out of here.  
17 They --  
18 MR. DURHAM: Well, I mean no clapping or  
19 cheering or --  
20 THE COURT: Well, if anybody does that, they're  
21 going to jail.  
22 MR. DURHAM: Okay. All right.  
23 MR. SIMS: I've already said something to them,  
24 Your Honor.  
25 THE COURT: Okay.

1 verdict, then. Thank you very much for your attention and  
2 your deliberations in the case. I will release you now from  
3 the instructions I've previously given you with regard to the  
4 secrecy of your deliberations. You may feel free to discuss  
5 your verdict or your deliberations with the lawyers, or anyone  
6 else, for that matter, that you wish to. At the same time,  
7 you may certainly decline to do that. That declination is  
8 binding on everyone and no one will bother you further about  
9 that.  
10 Okay. You are released now. If you'll step  
11 through this way and leave your badges with us, we thank you  
12 very much for your service.  
13 (Jury excused)  
14 THE COURT: Okay, folks, I've released the  
15 jury. I'll require each member of the gallery, though, with  
16 the exception of the law enforcement officers that work with  
17 me here in the courthouse to remain in your place until the  
18 bailiff signifies that all jurors have left the building.  
19 Mr. Runnels, do you have any legal reason you  
20 should not formally be sentenced, sir?  
21 MR. RUNNELS: No, sir.  
22 THE COURT: Travis Trevino Runnels, you having  
23 been found guilty of the offense of capital murder, and in  
24 accordance with the verdict of the jury returned in this case,  
25 I do now sentence you to death. That sentence, of course, is

1 subject to review by the Court of Criminal Appeals. In a case  
2 like this, you have an automatic appeal to the Court of  
3 Criminal Appeals. At the same time that your direct appeal  
4 will be running, there will be a writ of habeas corpus, which  
5 is a procedural test that will be moving at the same time.

6 I assume that you have no funds still to this  
7 point with which to hire your own attorney or to pay for a  
8 transcript of the testimony in this case, and so I will  
9 provide those to you. Those will be two separate lawyers.

10 Now, what I guess I need to explain to you at  
11 this point is, while you have the right to request that I have  
12 the same lawyers representing you on appeal that represent you  
13 in trial, my preference and my experience has been that I not  
14 do that. And the reason for that -- and this is completely up  
15 to you. The reason for that is, new lawyers on appeal get an  
16 opportunity to view it differently and get a new view of  
17 things, and just gives it a better idea. All right?

18 So if that's all right with you, I'll appoint  
19 two lawyers to represent you in those areas.

20 MR. RUNNELS: Can I represent myself?

21 THE COURT: You have the right under both the  
22 Texas Constitution and the United States Constitution to do  
23 that, Mr. Runnels. I would advise you, though, to consider  
24 that seriously before you make that decision.

25 You're going to have some time here. You -- I

THE STATE OF TEXAS )

COUNTY OF POTTER )

I, JILL ZIMMER, Official Court Reporter in and for the

320th District Court of Potter County, State of Texas, do

hereby certify that the above and foregoing contains a true  
and correct transcription of the proceedings in the above-  
styled and numbered cause, all of which occurred in open court  
or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record  
of the proceedings truly and correctly reflects exhibits, if  
any, offered by the respective parties.

WITNESS my hand this the \_\_\_\_ day of

\_\_\_\_\_, 2006.

JILL ZIMMER

Official Court Reporter

Certificate Number 533

Expiration Date: 12-31-2006

Potter County Courts Building

Amarillo, Texas 79101

(806) 379-2372

1 mean, your appeal is automatic, but you have some time to  
2 file -- 30 days in which to file a Motion for New Trial.  
3 You've got time to talk with your lawyers, your present  
4 lawyers. I'm not going to do anything until they tell me  
5 they've discussed these things with you.

6 But while it's your right, it's not the wisest  
7 right. Do you understand what I'm saying, Mr. Runnels?

8 MR. RUNNELS: Yes, sir.

9 THE COURT: You're not trained in the law and  
10 it's just something you probably ought not to do. But I'll  
11 leave that -- I mean, that decision is yours to make. But  
12 that's where we stand at this point. The transcript --  
13 transcription will start being prepared in the case, and I  
14 stand ready to get your lawyers on track. You just need to  
15 let me know after visiting with Ms. Hamilton and Mr. Durham.

16 Okay. Thank you.

17 All right. You can remove him.

18 (Defendant left the courtroom)

19 THE COURT: Okay. Everyone is free to go.

20 Thank you very much.

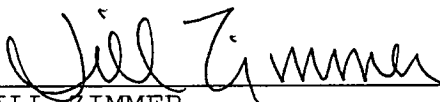
21 (End of proceedings)

THE STATE OF TEXAS            )  
COUNTY OF POTTER            )

I, JILL ZIMMER, Official Court Reporter in and for the 320th District Court of Potter County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of the proceedings in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record of the proceedings truly and correctly reflects exhibits, if any, offered by the respective parties.

WITNESS my hand this the 25<sup>th</sup> day of  
April, 2006.

  
\_\_\_\_\_  
JILL ZIMMER  
Official Court Reporter  
Certificate Number 533  
Expiration Date: 12-31-2006  
Potter County Courts Building  
Amarillo, Texas 79101  
(806) 379-2372