

No. 22-7466

IN THE
Supreme Court of the United States

RICHARD EUGENE GLOSSIP,
Petitioner,

v.

OKLAHOMA,
Respondent.

ON WRIT OF CERTIORARI TO THE
OKLAHOMA COURT OF CRIMINAL APPEALS

[PUBLIC COPY—SEALED MATERIAL REDACTED]
JOINT APPENDIX
VOLUME 1 (PAGES 1-451)

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APRIL 23, 2024

PETITION FOR CERTIORARI FILED MAY 4, 2023
CERTIORARI GRANTED JANUARY 22, 2024

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[FILED UNDER SEAL]**

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GENERAL DOCKET
In the Court of Criminal Appeals
of the State of Oklahoma
OK Court of Criminal Appeal–Oklahoma
GLOSSIP V. STATE OF OKLAHOMA

Court of Criminal Appeals Docket #: PCD-2023-267

* * *

Date	#	Proceeding Text
03/27/2023	1	POST CONVICTION- DEATH INITIAL FILING
03/27/2023	2	RECEIPT # 85792 ON 03/27/2023. PAYOR: WAR- REN GOTCHER TOTAL AMOUNT PAID: \$ 0.00. LINE ITEMS: \$0.00 ON POST CONVICTION- DEATH INITIAL FILING.
03/27/2023	3	ISSUE CERTIFICATE OF APPEAL
03/27/2023	4	SUCCESSIVE APPLICA- TION FOR POSTCONVIC- TION RELIEF DEATH PENALTY-EXECUTION SCHEDULED 05/18/2023
03/27/2023	5	PETITIONER'S NOTICE OF CONFLICT AND RE- QUEST FOR RECUSAL EXECUTION SCHEDULED 05/18/2023
03/27/2023	6	PETITIONER'S MOTION FOR DISCOVERY

03/27/2023	7	PETITIONER'S MOTION FOR EVIDENTIARY HEARING
03/27/2023	8	PETITIONER'S MOTION TO FILE UNDER SEAL UNREDACTED VERSIONS OF ATTACHMENT 2 PROPOSITION ONE (B) WHICH ADDRESS A WITNESS'S CONFIDENTIAL MEDICAL RECORDS
03/30/2023	9	OBJECTION TO PETITIONER'S NOTICE OF CONFLICT AND REQUEST FOR RECUSAL
04/04/2023	10	JE: ORDER; HUDSON VPJ, LUMPKIN J, LEWIS J, MUSSEMAN J, WINCHESTER, JUSTICE BY SPECIAL ASSIGNMENT); ORDER ADDRESSING NOTICE OF CONFLICT AND REQUEST FOR RECUSAL; PETITIONER'S REQUEST FOR JUDGE HUDSON'S RECUSAL IS DECLINED. THE CODE OF JUDICIAL CONDUCT HAS BEEN, AND WILL CONTINUE TO BE, FOLLOWED IN THIS CASE. LASTLY, PJ ROWLAND'S PRIOR RECUSALS IN

PETITIONER'S CASES, NOS PCD-2022-589 AND PCD-2022-819, SUGGEST RECUSAL IN THIS CASE AND ALL FUTURE MATTERS RELATING TO PETITIONER'S MURDER CONVICTION IN OKLA CO. DC NO. CF-1997-244 IS WARRANTED. JUDGE ROWLAND IS HEREBY RECUSED FROM ALL MATTERS RELATING TO THIS MURDER CONVICTION.

04/06/2023

11

JE: ORDER; HUDSON VPJ; COPIES TO ATTORNEYS; ORDER GRANTING PETITIONER'S MOTION TO FILE UNREDACTED VERSIONS OF ATTACHMENTS UNDER SEAL; WE FIND THE PETITIONER'S MOTION SHOULD BE GRANTED. PETITIONER MAY FILE UNREDACTED VERSIONS OF THE ABOVE-DESCRIBED DOCUMENTS UNDER SEAL. PETITIONER SHALL FILE THE DOCUMENTS WITHIN 7 DAYS OF THIS ORDER.

- 04/06/2023 12 STATE OF OKLAHOMA'S
RESPONSE IN SUPPORT
OF PETITIONER'S SUC-
CESSIVE APPLICATION
FOR POST-CONVICTION
RELIEF DEATH PEN-
ALTY-EXECUTION
SCHEDULED 05/18/2023
- 04/20/2023 13 JE: OPINION DENYING
SUBSEQUENT APPLICA-
TION FOR POST-CONVIC-
TION RELIEF, MOTION
FOR EVIDENTIARY
HEARING, MOTION FOR
DISCOVERY, AND JOINT
MOTION TO STAY EXE-
CUTION~~~~~ AFTER
CAREFULLY REVIEW-
ING GLOSSIP'S FIFTH
APPLICATION FOR
POST-CONVICTION RE-
LIEF, WE CONCLUDE
THAT HE IS NOT ENTI-
TLED TO RELIEF, AND
RELATED MATTERS
ARE DENIED. THE
JOINT APPLICATION
FOR A STAY OF EXECU-
TION IN CASE D-2005-310
IS DENIED. ~~~~~ ;
LEWIS J; CONCUR: HUD-
SON VPJ, MUSSEMAN J,
WINCHESTER J; SPE-
CIALY CONCUR:
LUMPKIN J; COPIES TO

HON. HEATHER COYLE,
HON SUSAN STALLINGS,
DIST COURT CLERK,
MARK HENRICKSEN, JO-
SEPH PERKOVICH, DON-
ALD KNIGHT, WARREN
GOTCHER, LEON WOOD-
YARD, MARK OLIVE,
JOHN MILLS, AMY
KNIGHT, KATHLEEN
LORD, DA OKC, AG,
PRESS, WEST, OIDS, OBJ,
LEXIS-NEXIS, TERRI
CALLOWAY, DOC LEGAL
DEPARTMENT, DOC
RECORDS OFFICE, GOV.
KEVIN STITT, US DIST
COURT FOR THE EAST-
ERN DISTRICT, CRYST-
TAL KENNEDY REC-
ORDS OFFICE, PITTS-
BURGH COUNTY COURT
CLERK, U.S. COURT-
HOUSE, OKLA PARDON
& PAROLE EXECUTIVE
DIRECTOR, WESTERN
DISTRICT OF OKLA-
HOMA, BYRON WHITE
US COURTHOUSE, US
SUPREME COURT
CLERK, WARDEN OKLA
STATE PENITENTIARY,
FOR PUB ** 2023 OK CR 5
**

04/20/2023	15	MANDATE ISSUED
04/27/2023	16	RETURN OF COURT CLERK
04/27/2023	17	RECEIPT FOR MAN- DATE
01/26/2024	18	LETTER FROM USSC- RE: WRIT OF CERTIO- RARI GRANTED ... SEE LETTER

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 805
OKLAHOMA CITY, OK 73102
VOLUME 6

Filed March 23, 2005
BEFORE THE HONORABLE
RICHARD W. FREEMAN, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON JUNE 8, 1998**

* * *

- [92] A I used the key.
- Q Where did you get the key?
- A From Richard Glossip.

Q When did you get it from Mr. Glossip?

A When I first started working there, he gave me a whole set of master keys so I could go in any room that I needed to when I needed to, to fix whatever might have a problem or something.

Q So you already had the key to room 102?

A Yes.

Q How old were you at the time?

A Nineteen.

Q Tell us what happened when you went into room 102?

A I went in with my baseball bat, and basically when I opened the door, Mr. Van Treese woke up, and then I just hit him with the bat. And then he pushed me and I fell back into the chair, and that's how the window ended up getting broke because the bat hit the window. And then I just—Mr. Van Treese was trying to get out of the room, and I just grabbed the back of his shirt and slung him in the floor and then hit him a couple more times.

Q Do you know how many times you hit him?

A No, I don't. Maybe about 10 or 15, I guess.

Q Did you hit him because you intended for him to die?

A Yes, I did.

* * *

[94] room.

Q What did you do with the weapon?

A I put it in the dumpster.

Q And what was the weapon?

A A baseball bat.

Q Would you have just left the bat in the room had Mr. Glossip not told you to remove it?

A I don't know. I might have thought about removing it myself, but I probably would have left it in there longer than what I did.

Q What did you all do when you and Mr. Glossip went to your room?

A After we was in the room a little bit and I was telling him about the window being broke and stuff like that, he asked me if I knew for sure that Mr. Van Treese was dead, and I told him, yeah, and that if he wanted to we could go around to the room and he could see for himself. So we went around and went back into 102 and so that he could see that Mr. Van Treese was dead.

Q And so Mr. Glossip actually went into room 102 with you?

A Yes, ma'am.

Q How long did you all stay in there?

A I don't know, maybe for about 20 minutes, and then we left and we went in 101 and got a shower curtain, and then when we went back in there and taped the shower curtain over

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 805
OKLAHOMA CITY, OK 73102
VOLUME 7

Filed March 23, 2005
BEFORE THE HONORABLE
RICHARD W. FREEMAN, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON JUNE 9, 1998**

* * *

[128] willing to assist Mr. Sneed in the cover-up is because you were the mastermind of this murder?

A No, ma'am.

Q Well, Mr. Glossip, isn't it true if all you and Justin Sneed wanted was money, all you had to do was

break the window to the car and get the money, but that wasn't good enough, you wanted him killed, didn't you?

A No, ma'am, I didn't want money, nor did I want anything to happen to Barry. I already had my own money.

Q Isn't it true, Mr. Sneed, that you really wanted to get those breast implants for D. Anna?

A I'm not Mr. Sneed, ma'am.

Q I'm sorry. Mr. Glossip, isn't it true that you really wanted to get those breast implants for D. Anna?

A No, I was against that. You can even ask D. Anna.

MS. SMITH: Pass the witness.

THE COURT: Anything further?

MR. FOURNERAT: Thank you, Your Honor. Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. FOURNERAT:

Q Would you tell this jury how long you owned the vending machines that were in the office of the Best Budget Inn?

A I bought the vending machines for D. Anna so she'd have a little extra to do. I had them for a while.

[129] Q Did you make an income off of them per month?

A Yes.

Q How much?

A The Coke machine you could make anywhere from 850 to a \$1,000 depending on how much

business you had coming through the motel and then the candy went pretty well.

Q Pretty well is how much?

A I can't—I mean, it varies.

Q Then tell the jury what it varies at.

A I would say roughly between the three if you had a good month you could probably do \$1500.

Q Just in the vending machines alone?

A Yes.

Q And whose money would that be?

A Mine.

MR. FOURNERAT: No further questions.

THE COURT: Anything further?

MS. SMITH: Nothing further, Your Honor.

THE COURT: Thank you, Mr. Glossip.

THE WITNESS: You're welcome.

THE COURT: Okay. We'll take our lunch break at this point. Folks, be back here at 1:30, please. Remember my instructions to you .

(Thereupon, a recess was had, after which, the following was had in open court.)

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

JUSTIN BLAYNE SNEED,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 805
OKLAHOMA CITY, OK 73102

Filed September 18, 1998
BEFORE THE HONORABLE
RICHARD W. FREEMAN, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
COMPETENCY HEARING, HAD ON
JULY 31, 1998, AND FORMAL SENTENCING
AFTER PLEA OF GUILTY, HAD ON
JUNE 18, 1998**

* * *

[7] THE DEFENDANT: It's my step-father's name.

THE COURT: And your lawyers are Mr. Tim Wilson and Ms. Gina Walker, is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: And we have a court reporter taking this down. It shows here that you are 20 years of age and you completed the eighth grade, is that right?

THE DEFENDANT: Yes, sir.

THE COURT: Are you taking any kind of medication or substance that might affect your ability to understand what's going on today?

THE DEFENDANT: No, sir.

THE COURT: Have you been prescribed any medication that you're supposed to be taking but that you're not taking?

THE DEFENDANT: No, sir.

THE COURT: And have you been treated by a doctor or a health professional for a mental illness or confined in a hospital for mental illness and you have been, haven't you? You at least were examined by Dr. King while you were in the county jail?

THE DEFENDANT: Yes, sir.

THE COURT: And she found you to be competent. Do you recall that?

THE DEFENDANT: Yes, sir.

THE COURT: Is that the only time you've ever been [8] examined by anybody concerning your mental health?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand what we're doing here today, what's going on with this proceeding?

THE DEFENDANT: Yes, sir.

THE COURT: And have you and your lawyers had copies of the Information that is charged and filed against you?

THE DEFENDANT: Yes.

THE COURT: Have you had a chance to go over that with your lawyers?

THE DEFENDANT: Yes, sir.

THE COURT: And the crime, as you are well-aware, is a crime of Murder in the First Degree. You're aware of that, are you not? They've dismissed the Bill of Particulars.

THE DEFENDANT: Yes.

THE COURT: And this would carry the possibility of penalty of maximum and minimum, the minimum of life imprisonment and the maximum of life imprisonment without the possibility of parole. You're aware of that?

THE DEFENDANT: Yes, sir.

THE COURT: You've not been convicted of anything before this, have you?

THE DEFENDANT: No, sir.

THE COURT: Do you understand you have the right to a speedy trial before a jury, to have the jury determine

* * *

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

Case No. D-98-948

RICHARD EUGENE GLOSSIP,
Appellant,

v.

THE STATE OF OKLAHOMA,
Appellee.

Appeal from the District Court of Oklahoma County
Filed April 17, 2000

ATTORNEYS FOR APPELLANT
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MATTHEW D. HAIRE
APPELLATE DEFENSE COUNSEL
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CAPITAL DIRECT APPEALS DIVISION
OKLAHOMA INDIGENT DEFENSE SYSTEM
1660 CROSS CENTER DRIVE
NORMAN, OKLAHOMA 73019
(405) 325-3633

BRIEF OF APPELLANT

* * *

[32] credible or not. He did seem rehearsed and mechanical while testifying at trial.

(Exhibit 7 to Rule 3.11(B) Application) The impact of Fournerat's failure to use the Sneed tape as a potent weapon to attack the State's case cannot be underestimated. As stated by the prosecutor herself prior to trial, "[t]his case rests basically on the testimony of Justin Sneed." (M. Tr. 27) There can be no doubt that the failure to utilize the videotaped interview to impeach Justin Sneed with his own numerous inconsistent statements undermines the reliability and constitutional validity of Mr. Glossip's trial and sentence of death.

Likewise, Fournerat's failure to impeach Sneed with statements he made to Dr. Edith King during his competency examination was unreasonable and indicative of trial counsel's lack of preparation. At trial, the prosecution portrayed Sneed as a vulnerable and naive 19-year-old young man who, fearful of becoming destitute and homeless, did the bidding of criminal "mastermind" Mr. Glossip.¹⁶ Again, Sneed's own statements to Dr. King painted a much different picture: that of a

¹⁶ The prosecutor made the following comments to the jury:

"Mr. Sneed was a desperate sort of a 19-year-old-man. He was homeless." (Tr. III 8)

"Glossip also told Justin Sneed that night that if Barry fired him, that being Mr. Glossip, that Mr. Sneed would be on the street with no place to live, no money and nothing to eat." (Tr. III 12)

"But for Richard Glossip, Justin Sneed would have never killed Barry Van Treese." (Tr. VIII 14)

"Glossip could get Justin Sneed to do whatever he wanted him to do and blame it on Justin. And that's what happened." (Tr. VII 15)

"Now, Mr. Sneed's life has been spared, and he deserved the death penalty, but it's been spared because of his youth. He's 19 and his vulnerability and his remorsefulness and his cooperation." (Tr. IX 56)

streetwise individual with a criminal history, including writing “hot checks” and taking marijuana, cocaine, LSD, and methamphetamine, and who said “his only hope is to get out of the death penalty is to plead guilty.” (Rule 3.11(B) Application,

[33] Ex. 4)¹⁷ The report, filed of record in the case on July 17, 1997, and hence available to Fournerat, also indicated that Sneed said at that time he was medicated with lithium and it helped him “not to feel so angry,” that “he used to get angry quite often,” would “yell at teachers and reject everyone and get into fights,” and was expelled from school for violence and being “a trouble maker.” (Rule 3.11(B) Application, Ex. 4) In addition, far from describing himself as a malleable individual easily manipulated by someone like Appellant, Sneed told Dr. King that aside from his tendency toward violent outbursts, he had a history of “reject[ing] authority.” (Rule 3.11(B) Application, Ex. 4) Counsel’s failure to review the record and utilize this vital evidence to attack Sneed’s credibility and the State’s specious theory of the case provides yet another example of his ineffective performance.

The failure of trial counsel to cross-examine and meaningfully test the primary evidentiary bases of the State’s case against his client clearly runs afoul of the *Strickland* standard. The prejudice has been amply demonstrated, and Mr. Glossip’s conviction should be reversed.

¹⁷ This document was among those properly designated by Appellant yet not made part of the record by the Oklahoma County Court Clerk, and in part formed the basis of Appellant’s litigation to insure an accurate and complete record.

B. Trial counsel failed to adequately prepare by familiarizing himself with discovery obtained from the State

The record shows that trial counsel did not adequately investigate or prepare for trial by familiarizing himself with discovery materials provided to him by the Statl. Mr. Fournerat had been provided with police reports regarding Detective Bemo's telephone conversation with William Howard Bender, an individual who managed the Tulsa Best Budget Motel. During his cross-examination of Detective Bemo, Fournerat stated that as Marty Baker had been identified as the manager of the Tulsa motel, "there is no Howard Bender." (Tr. VI 75) Thereafter, Fournerat

* * *

FOR PUBLICATION

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA
2001 OK CR 21

Case No. D 98-948

RICHARD EUGENE GLOSSIP,
Appellant,

v.

THE STATE OF OKLAHOMA,
Appellee.

Filed July 17, 2001

OPINION

JOHNSON, VICE-PRESIDING JUDGE:

¶1 Appellant, Richard Eugene Glossip, was convicted in Oklahoma County District Court, Case No. CF 97-244, of Murder in the First Degree, in violation of 21 O.S.1991, § 701.7(A).¹ Jury trial was held June 1st through 10th, 1998, before the Honorable Richard W. Freeman, District Judge. The jury found two aggravating circumstances—(1) that the murder was especially heinous, atrocious, or cruel and (2) that Appellant would

¹ Appellant was charged jointly with Justin Blayne Sneed. (O.R. 5). The State filed its bill of particulars on April 23, 1997, alleging the murder was especially heinous, atrocious or cruel and that Appellant constituted a continuing threat to society. (O.R. 31).

pose a “continuing threat” to society – and recommended a penalty of death. Judgment and Sentence was imposed on July 31, 1998.

¶2 Appellant perfected his appeal by filing his Petition in Error on February 1, 1999. His initial brief was filed on April 17, 2000. The State’s brief was filed on August 15, 2000, and Appellant’s Reply brief was filed September 5, 2000. Appellant also filed on April 17, 2000, an Application for Evidentiary Hearing on Jury Misconduct Claims, an Application for Evidentiary Hearing on Sixth Amendment Claims, and Appellant’s Notice of Extra-Record Evidence Supporting Prosecutorial Misconduct and Violations of Due Process Clauses of the Oklahoma and Federal Constitutions. We remanded the case to the district court for an evidentiary hearing. *See Order Remanding to the Presiding Judge of Oklahoma County for an Evidentiary Hearing on Claims of Jury Misconduct, Ineffective Assistance of Counsel, and Prosecutorial Misconduct, etc.*, D 1998-948 (Okl.Cr. December 7, 2000)(not for publication). The hearing was held March 5, 2001, before the Honorable Twyla Gray, District Judge, and the trial court’s Findings of Fact and Conclusions of Law After Evidentiary Hearing were filed in this Court on March 16, 2001. Both parties filed Supplemental Briefs on March 23, 2001.

¶3 Appellant raised twelve propositions of error in his appeal. Two propositions required fact-finding outside the appeal record and were addressed at the March 5, 2001 evidentiary hearing. The claim of jury misconduct was also addressed at the evidentiary hearing. Having reviewed the entire record before us, we have determined that oral argument is not warranted or necessary as further argument on the claims and issues raised in this case would not be helpful or convincing to the Court.

¶4 Only a brief statement of facts is necessary, because Appellant’s claim of ineffective assistance of counsel is compelling and requires relief. For the reasons set forth below, we find Appellant’s conviction for Murder in the First Degree should be and hereby is **REVERSED AND REMANDED FOR NEW TRIAL**.

¶5 On January 7, 1997, the body of Barry Van Treese was discovered in Room 102 of the Best Budget Inn in Oklahoma City. Van Treese had been severely beaten and died as a result of blood loss and blunt force trauma to his head. Following the discovery of the body, Oklahoma City police detectives interviewed Appellant, who was the manager of the Best Budget Inn. They also interviewed Justin Sneed, who was charged as a co-defendant in this case and who worked for Appellant as a maintenance man in exchange for a free room at the motel. At Appellant’s trial, Sneed said he beat Van Treese to death by hitting him ten or fifteen times with a baseball bat. Sneed testified he killed Van Treese because Appellant asked him to do it. Sneed admitted he made an agreement with the State to testify against Appellant in exchange for a sentence of life without parole.

¶6 At all times prior to trial and during trial, Appellant denied involvement in the murder of Barry Van Treese. Although his statements to police officers changed somewhat between his first and second police interview, he consistently denied encouraging or telling Sneed to commit the murder. Appellant only admitted his involvement in the murder “after the fact.” He admitted he was afraid to tell the police what he knew and admitted he assisted Sneed by helping conceal the murder scene.

¶7 On appeal and at trial, the State’s theory of the case remained the same—Sneed was a poor,

vulnerable young man and Appellant masterminded the murder by manipulating (asking or telling) Sneed to do it. The State concedes the only “direct evidence” connecting Appellant to the murder was Sneed’s trial testimony. No forensic evidence linked Appellant to murder and no compelling evidence corroborated Sneed’s testimony that Appellant was the mastermind behind the murder.

¶8 The evidence at trial tending to corroborate Sneed’s testimony was extremely weak. We recognize a conviction cannot be had upon the testimony of an accomplice unless it is “corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely show the commission of the offense or the circumstances thereof.” 22 O.S.Supp.2000, § 742. However, we need not reach Appellant’s claim going to the sufficiency of the evidence,² because trial counsel’s conduct was so ineffective that we have no confidence that a reliable adversarial proceeding took place.

¶9 Appellant raised twelve propositions of error. Although several errors occurred at trial which alone might necessitate reversal, we only discuss those matters impacting our decision today and those which should be considered if Appellant is retried for this crime.

¶10 In Proposition Two, Appellant claims his trial counsel represented him “in a pervasively ineffective manner to the profound prejudice of Appellant, leading to a collapse of the adversarial process and a denial of Appellant’s right to counsel guaranteed by the

² Appellant raised sufficiency of the evidence in Proposition One of his Brief.

Sixth Amendment.” We agree and preface our analysis of this claim by emphasizing the State’s evidence was circumstantial except for the testimony of Justin Sneed.

¶11 Analysis of this claim begins with the presumption that trial counsel was competent to provide the guiding hand that the accused needed, and therefore the burden is on the accused to demonstrate both a deficient performance and resulting prejudice. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984). *Strickland* sets forth a two-part test which must be applied to determine whether a defendant has been denied effective assistance of counsel. First, the defendant must show that counsel’s performance was deficient, and second, he must show the deficient performance prejudiced the defense. Unless the defendant makes both showings, “it cannot be said that the conviction ... resulted from a breakdown in the adversary process that renders the result unreliable.” *Id.* at 687, 104 S.Ct. 2064. Appellant must demonstrate that counsel’s representation was unreasonable under prevailing professional norms and that the challenged action could not be considered sound trial strategy. *Id.* at 688-89, 104 S.Ct. at 2065-66.

¶12 Appellant claims his trial counsel: (1) failed to engage in meaningful cross-examination or utilize potent impeachment evidence;³ (2) failed to adequately prepare by familiarizing himself with discovery obtained from the State; (3) failed to conduct proper voir dire; (4) failed to object to improper double hearsay testimony;

³ This claim is the most egregious of the ineffectiveness claims. Specifically, this subclaim relates to trial counsel’s failure to utilize the videotaped interview of Justin Sneed and his failure to utilize the record of Sneed’s competency evaluation for impeachment purposes.

(5) failed to move the trial court to answer the jury's question regarding culpability for not rendering aid; and (6) failed to object to improper victim impact evidence. Appellant filed an Application for Evidentiary Hearing on Sixth Amendment Claims, pursuant to Rule 3.11(B)(3), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App.(2001). Although some of Appellant's ineffectiveness claims are obvious from simply reading the appeal record,⁴ several, including trial counsel's failure to utilize available and potent impeachment evidence against Justin Sneed, are supported by matters outside the record.⁵

¶13 Reviewing the claims in the Application, in conjunction with the serious allegations made and the record before us, this Court determined Appellant had shown "by clear and convincing evidence there is a strong possibility trial counsel was ineffective for failing to utilize or identify the complained-of evidence." Rule 3.11 (B)(3) (b)(i), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2001); *Order*

⁴ The record aptly demonstrates trial counsel's failure to object to extremely prejudicial double hearsay, failure to object to prejudicial victim impact evidence, and failure to offer a proposed response to the jury's question concerning culpability for failure to render aid. The record also demonstrates counsel's failure to obtain and review discovery and other evidentiary materials, his failure to obtain the presence of witnesses, and his general lack of advocacy skills.

⁵ The Exhibits attached to the Application for Evidentiary Hearing were not admitted at trial. They address trial counsel's failure to utilize available and important impeachment evidence against the State's star witness Justin Sneed (Exhibits 1, 2, 3, 4 and 7), his failure to adequately prepare for trial and present a relevant and sound theory of defense (Exhibit 6), and his failure to prepare proposed mitigation instructions or second stage closing argument (Exhibit 5).

Remanding to the Presiding Judge of Oklahoma County for an Evidentiary Hearing on Claims of Jury Misconduct, Ineffective Assistance of Counsel, and Prosecutorial Misconduct, etc., D 1998-948 (Okl.Cr. December 7, 2000)(not for publication). We remanded for an evidentiary hearing.⁶ We directed the trial court to enter appropriate findings of fact and conclusions of law and to determine: (1) the availability of the evidence or witness; (2) the effect of the evidence or witness on the trial court proceedings; (3) whether the failure to use a witness or item of evidence was trial strategy; and (4) if such evidence or witness was cumulative or would have impacted the verdict rendered. *See* Rule 3.11 (B)(3) (b)(iii).

¶14 The evidentiary hearing was held March 5, 2001, and the trial court’s Findings of Facts and Conclusions of Law were filed in this Court on March 13, 2001. Ultimately, the trial court found Appellant had shown by “clear and convincing evidence that he was prejudiced by the ineffectiveness of counsel and that this Court cannot have confidence in the outcome of the trial.”

¶15 As noted above, Appellant made six claims relating to ineffective counsel. Two claims—trial counsel’s failure to engage in meaningful cross-examination or utilize potent impeachment evidence and his failure to adequately prepare for trial by familiarizing himself with discovery obtained from the State—required fact-finding outside the appeal record and were addressed at

⁶ The matter was remanded for an evidentiary hearing on the Sixth Amendment claims asserted in Proposition Two and the Application, as well as to address other claims raised in the Application for Evidentiary Hearing on Jury Misconduct Claims and Appellant’s Notice of Extra-Record Evidence Supporting Prosecutorial Misconduct and Violations of Due Process Clauses of the Oklahoma and Federal Constitutions.

the evidentiary hearing. Prior to the hearing. Judge Gray⁷ reviewed the entire trial transcript, including the testimony of Justin Sneed, and watched the videotaped interview of Justin Sneed conducted on January 14, 1997, by Oklahoma City police Detectives Bemo and Cook.⁸

¶16 Trial counsel's failure to utilize important impeachment evidence against Justin Sneed stands out as the most glaring deficiency in counsel's performance.⁹ Evidence of counsel's failure to utilize the videotape of Justin Sneed is also apparent from the trial record. This interview was repeatedly referred to by trial counsel and by the State. During first stage deliberations, the jury requested to view the videotape of Justin Sneed even though it was not admitted into evidence. At trial, trial counsel attempted to impeach Detective Bemo with portions of the videotape, but was unable to lay an appropriate foundation. Judge Freeman talked trial counsel out of using the videotape to impeach Detective Bemo; trial counsel indicated he would use the tape to impeach Justin Sneed. However, when the time came to

⁷ We take this opportunity to commend Judge Gray for her serious and studied handling of this matter on remand. The details of her Findings of Fact and Conclusions of Law are excellent. The Judge put in many hours to complete her task. She is complimented for making a hard decision and not taking the easy way out by condoning trial counsel's conduct.

⁸ At trial, this videotape was identified as State's Exhibit 4 and was not admitted at trial; the videotape was attached to the Application for Evidentiary Hearing on Sixth Amendment Claims as Exhibit 1. A transcription of the videotape is attached to the Application as Exhibit 2.

⁹ In this subclaim, Appellant contends counsel should have utilized the Sneed videotape and Dr. King's report on competency to impeach Sneed.

impeach Sneed, trial counsel failed to utilize the videotape at all.

¶17 At the evidentiary hearing, Judge Gray determined the videotape was available and could have been used as impeachment evidence against both Detective Bemo *and more importantly* against Justin Sneed, but trial counsel never laid a proper foundation for its use against Detective Bemo and did not even attempt to confront Sneed with the discrepancies and inconsistencies on the tape. Judge Gray noted the numerous inconsistencies between Sneed's trial testimony and his videotaped confession. She identified at least seven material inconsistencies and noted at least five things in Sneed's trial testimony that he had completely omitted from his videotaped statement. The most obvious and prejudicial of these omitted statements was Sneed's revelation that Appellant told him "to pick up some trash bags, a hack saw and I believe some ... muriatic acid ... He was wanting to pour the acid upon the body and then saw up the rest of the body and put it in trash bags to be able to move it out of the room." Trial counsel did not impeach Sneed by pointing out that he had never mentioned that obviously material fact on the videotape. Judge Gray observed that trial counsel "missed multiple opportunities to test Sneed before the jury." Noting the State's star witness was Justin Sneed, the gist of Judge Gray's findings was that no reasonable trial strategy could have supported a decision not to utilize this impeachment evidence against him.

¶18 Judge Gray considered the testimony of Captain Charles Rexford on Appellant's claim that his counsel was obviously ill-prepared and had no cogent defense theory. After hearing Rexford's testimony, Judge Gray found trial counsel presented an ill-prepared, incomprehensible defense that other individuals

committed the murder based upon a five-minute telephone conversation with Rexford about a murder that occurred in 1984. She noted trial counsel did not review the State's investigative reports on the 1984 murder, did not arrange to have the other "suspect" testify, and had clearly not reviewed the law applicable to the trial court's determination whether Rexford's testimony would even be admissible. Ultimately, Judge Gray determined that Rexford's testimony showed the theory of defense put forth by trial counsel was "ill-conceived and unsupportable (sic). Having a theory of defense is very important. It cannot be trial strategy to misstate the facts to the judge and jury." She found trial counsel had not adequately researched the law and his ill-preparedness impacted his performance at all stages of trial.¹⁰

¶19 Judge Gray found trial counsel failed to adequately prepare for trial and the trial mistakes (addressed at the evidentiary hearing) were not part of any trial strategy. His failure to utilize available impeachment evidence against Justin Sneed, upon whose testimony the State's entire case relied, was deficient performance and was clearly prejudicial. She ultimately concluded Appellant met both prongs of *Strickland*.

¶20 This Court will give the trial court's findings strong deference if supported by the record, but we shall determine the ultimate issue of whether trial counsel

¹⁰ As to counsel's failure to utilize Dr. Edith King's report on Sneed's competency, Judge Gray found the report would not have been admissible at trial and it would have been improper to attempt to impeach Sneed with it. Judge Gray also found Pat Ehler's testimony on trial counsel's ill-preparedness for second stage was inadmissible and prohibited Ehler's from testifying at the evidentiary hearing under Rules 1.7, 1.9, 1.10 and 3.7, *Rules of Professional Conduct*, 5 O.S.Supp.2000 Ch. 1, App. 3-A.

was ineffective. Rule 3.11 (B)(3) (b)(iv), *Rules of the Court of Criminal Appeals*, Title 22, Ch. 18, App. (2001). After careful review and consideration of the record, we find the trial court's findings and conclusions are supported by the record and we shall address Appellant's remaining ineffective assistance of counsel claims in accordance therewith.

¶21 Although we find the claim that trial counsel did not conduct proper voir dire unpersuasive,¹¹ the remaining claims demonstrate trial counsel's ineffectiveness. There was no excuse for trial counsel's failure to object to inadmissible double hearsay—Detective Bemo's testimony that he talked to William Bender who said that Van Treese said he was going to move Glossip out of the motel. This testimony was inadmissible hearsay, was offered for no other reason than to prove the truth of the matter asserted, and was extremely prejudicial. It was arguably the only evidence presented at trial that tended to independently corroborate any portion of Justin Sneed's testimony implicating Appellant in the crime and establishing a motive.¹²

¶22 Further, trial counsel's failure to object to Judge Freeman's handling of the jury's question regarding culpability for failing to render aid also was unreasonable and constituted deficient performance. The record demonstrates Appellant always maintained his innocence as a principal to the crime; he always admitted his involvement after the fact. Trial counsel totally missed this opportunity to reargue his request for an instruction

¹¹ This claim was raised in Proposition Ten of Appellant's Brief.

¹² This claim was raised in Proposition Seven of Appellant's Brief.

on accessory after the fact at this juncture. This claim will be more fully discussed below.

¶23 Lastly, trial counsel's complete failure to object to the State's victim impact evidence was deficient under prevailing professional norms.¹³ The State did not comply with *Cargle v. State*, 1995 OK CR 77, 909 P.2d 806, 828, *cert denied*, 519 U.S. 831, 117 S.Ct. 100, 136 L.Ed.2d 54 (1996), and 22 O.S.Supp. 1999, § 984. The victim impact statement admitted here went *far* beyond what was admissible under the guidelines previously set forth by this Court and was so inflammatory and prejudicial it very likely influenced the jury's decision to impose a death sentence. It was unreasonable for trial counsel to allow this inflammatory evidence to be admitted and heard without any objection.

¶24 Trial counsel's lack of preparation is also apparent from his repeated statements prior to and during the trial referencing Appellant's ability to change his plea or Appellant's refusal to follow his advice to enter a blind plea to the murder charge. We also note other examples of unreadiness which are evident in the record: trial counsel's last minute requests for discovery which the State had already provided or had previously given counsel the opportunity to obtain; trial counsel's telling the jury "Howard Bender" was a fictitious person when his identity was known and obvious from discovery materials; trial counsel's failure to lay a proper foundation for the admission of evidence or testimony; trial counsel's objection to lack of notice withdrawn because trial counsel did have notice; trial counsel's failure to secure a witness whom counsel repeatedly referred to as a

¹³ A claim relating to the prejudicial victim impact statement was raised in Proposition Five.

suspect in front of the Jury: trial counsel's "calling" a witness (by yelling for him in the hallway during trial) to show the witness was not present; trial counsel's forgetting to demur to the evidence until prompted by the trial judge. Trial counsel also was not prepared for second stage. Although he prepared a list of mitigating factors for the jury's consideration, it was apparently one prepared in haste. Further, the only witness other than Appellant who testified during second stage was Appellant's mother, and counsel failed to ask her whether she wanted her son's life spared until prompted by the trial judge.

¶25 The record as a whole suggests that trial counsel was not prepared for trial, had not formulated any reasonable defense theory, fully expected Appellant to enter a plea, and never expected to get to the second stage of the trial. For the reasons noted by the trial court after the evidentiary hearing, and for the reasons noted above, we find counsel's performance deficient and we find his failures could not have been part of any sound or reasonable trial strategy. Under the facts of this case and considering the weight of the evidence presented at trial, Appellant was prejudiced by his trial counsel's performance and we cannot say his trial produced a reliable result. *Strickland*. For these reasons, we find this claim warrants reversal and hereby remand this case for a new trial.

¶26 Several other issues warrant discussion to prevent the same mistakes from occurring on retrial. In Proposition Five, Appellant argued the admission of Donna Van Treese's victim impact statement during the second stage of trial violated the Evidence Code, 22 O.S.Supp. 1999, § 984. and his state and federal constitutional rights. We agree. The trial court and the State failed to comply with the procedures set forth in *Cargle*,

1995 OK CR 77, ¶¶ 75-77; 909 P.2d at 828. The majority of the victim impact statement was outside the scope of permissible victim impact evidence, was unduly prejudicial and was not probative of “those unique characteristics which define the individual who has died, the contemporaneous and prospective circumstances surrounding that death, and how those circumstances have financially, emotionally, psychologically, and physically impacted on members of the victim’s immediate family.” *Id.*, 1995 OK CR 77, ¶ 75. 909 P.2d at 828; *see also Welch v. State*, 2000 OK CR 8, ¶ 42, 2 P.3d 356, 373, *cert. denied*,—U.S.—, 121 S.Ct. 665, 148 L.Ed.2d 567 (2000)(testimony about son placing flowers at grave and brushing dirt away did not fall within statutory guidelines had little probative value and was more prejudicial than probative); *Washington v. State*, 1999 OK CR 22, ¶ 62, 989 P.2d 960, 978-979 (references to God and a higher power are improper in victim impact statement).

¶27 Proposition Eight also warrants some discussion. Under the very specific facts of this case, Appellant was entitled to a jury instruction on the crime of accessory after the fact.

¶28 The trial court has a duty to instruct on all lesser-included or lesser-related offenses which are supported by the evidence. *Childress v. State*, 2000 OK CR 10, ¶ 14, 1 P.3d 1006, 1011; *Shrum v. State*, 1999 OK CR 41, ¶¶ 5-6, 991 P.2d 1032, 1036. A defendant is also entitled to an instruction on his theory of defense if it is supported by the evidence and is tenable as a matter of law. *Kinsey v. State*, 1990 OK CR 64, ¶ 9, 798 P.2d 630, 632-633. The test this Court uses to determine whether evidence of a lesser included offense is sufficient to warrant a jury instruction is no different than the test used to determine when the evidence is sufficient to warrant a

jury instruction on the defendant's theory of defense. *Bland v. State*, 2000 OK CR 11, ¶ 56, 4 P.3d 702, 719-720, cert. denied,—U.S.—, 121 S.Ct. 832, 148 L.Ed.2d 714 (2001). It is the judge's responsibility to determine whether *prima facie* evidence of the lesser included offense (or evidence of the proposed defense) has been presented to warrant the instruction. *Id.* at ¶ 57.

¶29 Certainly where, as here, a defendant maintains his innocence to a charge of murder which rests upon a theory that he “counseled” another to commit the murder and the defendant *defends* the case on the theory that he only knew of the murder after the fact and did not disclose what he knew, the evidence is sufficient to establish a *prima facie* case warranting an instruction on accessory after the fact. Under the evidence presented, we believe accessory after the fact was a related offense, was Appellant's “theory” of defense, and the instruction should have been given.

¶30 The last claim we address was brought to our attention in Appellant's Application for Evidentiary Hearing on Jury Misconduct Claims. This Application was filed with Appellant's Brief and raises, in part, a claim alleging one or more jurors utilized extraneous materials, a Bible, during deliberations and possibly in arriving at their verdict(s). Affidavits of two jurors were attached to the Application noting the discussion of and reading of the Bible by one or more jurors during deliberations. Because of the seriousness of allegations involving the jury's receipt and consideration of extraneous materials, we remanded this issue for consideration at the evidentiary hearing. We instructed the trial court to make findings regarding whether extraneous material, specifically a Bible, was physically brought by one or more jurors into the jury deliberation room; and,

whether the same was/were referred to and utilized by jurors during their deliberations in the first or second stage of Appellant's Jury trial.

¶31 Judge Gray considered evidence supporting this allegation at the evidentiary hearing held March 5, 2001. Nine of the twelve jurors from Appellant's trial testified at the hearing. Juror Casey Fine testified he brought his Bible into the deliberation room during both first and second stage deliberations. Fine said he opened and referred to it "when asked." He could not recall the name of the juror who asked him something about the Bible, but said it was not one of the jurors present to testify at the evidentiary hearing. Juror Jere Osburn saw the Bible in the deliberations room and testified it was physically opened or referred to or read from during deliberations. Juror James Hardy testified there was a Bible in the deliberation room, but said it was not opened or referred to during deliberations.

¶32 Jurors Rodden, Brooks, Chappell and Selensky each testified he or she did not "recall" or "remember" a Bible being physically present during deliberations. Juror McWilliams admitted one juror had a Bible with him everywhere and probably during both stages of deliberations, but McWilliams said it was not opened or referred to. Juror Armstrong said he was not exactly sure one way or the other.

¶33 After considering this testimony, Judge Gray found "credible evidence that a Bible was physically in the jury room during deliberations" and "credible evidence that the Bible was not actually utilized during deliberations." We review those factual findings applying the deferential abuse of discretion standard. *Young v. State*, 2000 OK CR 17, ¶ 109, 12 P.3d 20, *cert. denied*,—U.S.—, 121 S.Ct. 2200,—L.Ed.2d—(2001); *see*

e.g. Bear v. State, 1988 OK CR 181, ¶ 8, 762 P.2d 950, 954 (resolution of questions of fact are entitled to special deference by a reviewing court); *Ellis v. State*, 1990 OK CR 43, ¶ 11, 795 P.2d 107, 110 (trial court’s resolution of underlying factual questions subject to “clearly erroneous” standard of review).

¶34 Utilizing the above standard, we believe the trial court was presented with credible evidence to show that at least one Bible was, in fact, in the jury room during first and second stage and may well have been referred to in and during jury deliberations.

¶35 We were recently confronted with a similar claim in *Young, id.* There, we affirmed “there is no question that a jury’s receipt of extraneous material not admitted at trial may have an improper influence upon the jury’s verdict.” Because the trial court in *Young* determined there was no extraneous material, i.e. a Bible, in deliberations, we did not reach the question whether physically utilizing a Bible and its verses during deliberations constituted receipt of extraneous material and an improper influence on the jury’s deliberations. *Id.* at ¶ 113.

¶36 Again, because we reverse this case on Appellant’s claim of ineffective assistance of counsel, we need not fully address this claim and its impact upon the jury’s determination of guilt and sentence. However, we are compelled to caution trial courts to remind jurors they are to utilize *only* the jury instructions and consider *only* the evidence presented at trial in arriving at their determinations of guilt and sentence. Any outside reference material, including but not limited to Bibles or other religious documents, dictionaries, or any other reference book, should not be taken into or utilized during jury deliberations. Such documents and texts may be

left in custody of the bailiff and returned to the jurors at the conclusion of deliberations. Enforcement of such a procedure will foreclose future claims similar to the one raised in this case and the one previously addressed in *Young*.

Conclusion

¶37 Glossip's conviction for First Degree Malice Aforethought Murder is **REVERSED AND REMANDED FOR A NEW TRIAL**.

AN APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY THE HONORABLE
RICHARD W. FREEMAN, DISTRICT JUDGE

Appellant, Richard Eugene Glossip, was tried by a jury in the District Court of Oklahoma County, Case No. CF-97-244, before the Honorable Richard W. Freeman. Glossip was convicted of First Degree Malice Aforethought Murder. After finding the existence of two aggravating circumstances, the jury assessed punishment at death and the trial court sentenced accordingly. Glossip's conviction for First Degree Malice Aforethought Murder is **REVERSED AND REMANDED FOR A NEW TRIAL**.

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AT TRIAL**

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OPINION BY: JOHNSON, V.P. J.

LUMPKIN, P.J.: CONCURS
CHAPEL, J.: CONCURS
STRUBHAR, J.: CONCURS
LILE, J.: CONCURS IN RESULT

LILE, JUDGE: CONCURS IN RESULTS

¶1 Judge Gray's *Findings of Fact and Conclusions of Law After Evidentiary Hearing* was comprehensive and compelling. I concur in her conclusion that trial counsel representation was inadequate. This was not a fair trial. I agree that this case must be reversed and remanded for new trial for this reason alone.

¶2 I have full confidence that the retrial will be conducted according to law.

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

Case No. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

Filed June 17, 2002

**MOTION REQUESTING PRODUCTION OF ALL
STATEMENTS OF CO-DEFENDANT JUSTIN SNEED**

Comes now the Defendant, Richard Eugene Glossip, by and through his counsel undersigned below, and moves the Court to enter an order directing the State of Oklahoma, by and through the Oklahoma County District Attorney's office, to disclose any and all statements made by Justin Blayne Sneed, whether the State intends to utilize said statements at trial pursuant to 22 O.S. Subs. 2002 (A)(1)(c). Specifically, the Defendant requests that the State produce the following, to wit;

1. Any written or recorded statements and the substance of any oral statement the State has knowledge whether the State intends to offer said statements at trial.
2. Identify by name, address, social security number, date of birth or any other identifying descriptions the person(s) who obtained said statements whether oral or written.

3. Identify the time, place and circumstances of obtaining the statements.
4. Identify any and all law enforcement officer/agent who obtained or facilitated the obtaining any and all statements of the accused.
5. Identify and produce any and all statements made by Justin Blayne Sneed to law enforcement and/or the Oklahoma County District Attorney's office.

WHEREFORE premises considered the Defendant respectfully requests this Court to order the State of Oklahoma to produce any and all statements of the Justin Blayne Sneed.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

Filed June 26, 2002

**STATE'S RESPONSE TO DEFENDANT'S MOTION
REQUESTING PRODUCTION OF ALL STATEMENTS
OF CO-DEFENDANT JUSTIN SNEED**

COMES NOW the State of Oklahoma, by and through C. Wesley Lane II, District Attorney for Oklahoma County and moves this Honorable Court to declare Defendant's Motion moot.

The State intends to utilize the testimony of Justin Sneed's testimony elicited at the defendant's prior trial which has been transcribed by a qualified court reporter, and all of his previous statements previously disclosed to defendant including State's exhibit #4 (video tape).

The State has complied with 22 O.S. 2002(A)(1)(c) regarding the statements of Justin Sneed.

For the above and foregoing reasons, the State prays this Honorable Court rule defendant's motion is moot.

43

Respectfully submitted,

C. WESLEY LANE II
DISTRICT ATTORNEY

BY: [Signature]
FERN L. SMITH, OBA
#8347

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 4 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 14, 2004**

* * *

[25] testimony on these points and this case.

At the close of the evidence in this case I submit to you that it will clearly establish that it was Justin Sneed alone who committed this atrocious crime. And I submit to you at the close of this case the evidence will

show that Richard Glossip was guilty of a mistake in judgment in not telling what he knew when he knew it. Whether that makes him guilty of a different offense, that's going to be your call.

But I submit to you at the close of this case the evidence will not support a finding beyond a reasonable doubt of Murder in the First Degree. Thank you.

THE COURT: Thank you, sir.

Is the State prepared to open your case in chief?

MS. SMOTHERMON: We are, Your Honor.

THE COURT: You may call your first witness.

MS. SMOTHERMON: Thank you, Your Honor.

The State of Oklahoma calls Donna Van Treese to testify.

MR. LYMAN: May we approach?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

MR. LYMAN: We'd invoke the Rule of Sequestration. We've made, I think, some agreements as to some of the prospective witnesses whether or not there would be an [34] two grounds. First of all, we don't think it's proper. We're objecting. We know the state law has changed in showing a pre-done photo of the victim is now allowed. We also object to it being published in the first stage and ask that it only be published in the second stage.

Certainly, we don't have a problem with her describing it, but to have it published at this time, I think would be inappropriate. I know she hasn't offered it but she tells me she's going to at this time.

THE COURT: So if I understand correctly, you acknowledge that the law allows her to do that, but you're preserving the record?

MR. WOODYARD: It's allowable in second stage, is my understanding, Your Honor, and not first stage evidence.

THE COURT: That is not my recollection of the case. Let me ask—inquire of the State.

MS. SMOTHERMON: Your Honor, we had a pretrial motion on this and it could be that it was Mr. Burch has already argued that, which is why these gentleman may not know that, but there was a notice, a filed notice by the State. There was discussion in front of this Court with this Defense Counsel in which the Defense again acknowledged that that was the law. The law does not make a distinction between first or second stage.

There are guidelines. We have followed all those guidelines. [35] This is a single-person shot, head shot. It is not depicting any family gathering or any special event, it's a—it looks like a photograph that may have been taken for some type of business record.

THE COURT: I'm going to note your objection.

Did you need to add something, Mr. Lyman?

MR. LYMAN: I'd adopt any argument that Mr. Burch made on that. This is a contemporaneous objection, and I know there may be pretrial rules but I think in order to preserve it, I should have made the objection.

THE COURT: Your objection is noted and overruled.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Ms. Van Treese, let me show you a photograph that's been marked State's Exhibit No. 79. Who is that a picture of?

A. Barry Van Treese.

Q. Okay. He doesn't have a full beard here. Do you know when this photograph was taken?

A. It was taken in September of 1996.

Q. So a few months before his death, in between the time this was taken and the time that he was killed, he grew his beard back?

A. That is correct.

Q. Other than the missing beard then, does that accurately reflect what Barry Van Treese looked like around the time of [36] January 1997?

A. Yes, it does.

MS. SMOTHERMON: Move for admission of State's Exhibit No. 79.

MR. LYMAN: Our previous announcement.

THE COURT: Absolutely.

State's Exhibit 79 is admitted.

MS. SMOTHERMON: Your Honor, at this time the State of Oklahoma would request that with this and all introduced exhibits that we be allowed to publish to the jury at the time of their introduction.

THE COURT: You may do so.

Q. (BY MS. SMOTHERMON) Ma'am, tell us about the time period of 1996. Were there unique events that were occurring during that time?

A. Yes, there were. June 17th, 1996, my mother had been hospitalized and just a couple of days after her 55th wedding anniversary she passed away here in Oklahoma City. She had lived in Weatherford and that's where we buried her at that time, shortly afterwards.

My husband, Barry Van Treese, knew that this had been very devastating to me, as it is to everyone. He had said, I need to take you away and the children. So we left on a vacation. Different surroundings gave me lots of time to think.

[37] Q. I'm sorry. Do you remember where you went?

A. Yes. We went from here out through Arizona, visited with some cousins in Arizona, went up through California, Sequoia National Forest, went up the coast highway, went up through San Francisco, ended up in Vancouver, British Columbia. Went on the barge over to the island, Vancouver Island, toured the island, came back across, went back across Canada.

Decided that the motor home that we were in were not going to take the hills there very well so we came back down through Spokane, Washington, went over, went to Yellowstone, went to Mt. Rushmore. And then shortly after that he said, "I feel an urgent need that we need to get back to Oklahoma," and so we drove straight through, arriving back in Oklahoma City at the Oklahoma City motel on the early, 2:00 a.m., morning of July the 12th.

We learned at that time that Barry's mother was in Mercy Hospital. She was scheduled for a second bypass surgery at 6:00 a.m. that morning. We immediately showered and left the motel going straight to the hospital. We were able to visit with her for a short period of

time before she went into surgery. During that surgery she did not survive. They tried several attempts to take her off the heart and lung machine and she passed away on that day. Her heart was not strong enough to regain. So within a 25-day period I [38] had lost my mother and Barry had lost his mother.

Q. Let me talk to you a little bit about the few days after your mother passed away before you went on vacation. During that time period, were you able to focus on the business of the Tulsa and the Oklahoma City motel?

A. Of course not. We were taking care of family responsibilities.

Q. Were you checking in with those motels?

A. Yes, Barry was at that time.

Q. What did you do then or who did you rely on for the running of those operations?

A. The managers we had in place at the time in Oklahoma City. It was Richard Glossip. And at the Tulsa motel it was—Marty Bender was the manager at that time, her and her husband.

Q. During the time that you took this vacation—and you've told us a long route—do you remember about how many days you were gone?

A. We were gone approximately 16 days.

Q. Now, you need to help us orient ourselves back in time. In 1996, did you have a cell phone?

A. No, they were not available at the time. We did have the pager that we were told was nationwide. We did not receive any pages on that at that time. They were still developing the technology then for that.

[39] Q. So during these weeks that you were on this vacation, did you have any hands-on contact with the Tulsa and the Oklahoma City motel?

A. Yes, we would check in. We would stop in, Barry would call and say, "How are things going?" You know, "Is there any major problems that I can take care of over the phone?" And so it wasn't like we just walked off and left them and abandoned them at that time, we were checking in. It was our only source of income.

Q. Who were you relying on for the information of how things were going during that period of time?

A. The managers of the motels.

Q. You got back to Oklahoma City, Barry Van Treese's mother now passes away. Tell us—and if I've got us in the right place now, we're about July, July 12th, and a few days after that of 1996; is that correct?

A. That is correct.

Q. All right. Tell us then about your family life between July of 1996 and around Christmastime of 1996; tell us what was going on in your life and how that affected or if it affected your ability to run day-to-day operations of the motels.

A. During this time we had—you know, the entire family was devastated, both sides. I was trying to take care of my father. He had had triple bypass surgery done so I was [40] concerned about his health. My brother also had had a stroke and had to live with them. And he of course was devastated.

Barry's family, Barry's father lived in Lawton and he was very devastated by the loss, and it's understandable if you have been married to someone for 55 years,

and so Barry was spending a lot of time with his father. He wanted to make sure that he was coping with his loss.

Barry also had a sister that lived there in Lawton. So we were both checking on him on a daily basis and spending a lot of time with him, having him at the house.

We also had five children at home that it was devastating for them also to have lost both of their grandmothers within such a short period of time.

Q. Were you doing any activities or spending special time with the children in order to try to get them through this period?

A. Yes, we were.

Q. Were there any special activities that Barry Van Treese was focusing on that would take his focus away from any daily operations at the motel?

A. He was focusing on just having everyone—helping everyone cope, and being now the strong son, the strong son-in-law, the strong father figure for everyone that they could depend on him.

[41] Q. Compare for me then, Ms. Van Treese, your ability to have interaction and know what was going on at your motels which were your source of income, compare for me prior to these deaths that you were coping with and then during the time that you were coping with the deaths.

A. Prior to, Barry would leave Mondays, Tuesday sometimes in the week, would be gone all week long and coming home on Saturday evening normally, staying until Sunday, Monday morning and then going back to the different motels. So he was in between times. That was his part of the business operations. He was hands-on type person.

I was at the home taking care of the children. I would call and get their daily reports on a daily basis. I would speak to him. There were sometimes that he and I would both just get too busy and there may have been a day that we did not speak, so it wasn't alarming to me, you know, because I would normally speak to him either the night before or the next morning.

Q. I'm sorry. Let me—and you may be going there, but compare what you're telling us now about the hands-on, spend a lot of time at the motel, did that change during this time period, these last seven months of 1996?

A. Yes, it did, dramatically. During that last seven months he was at home. He would go to Oklahoma City and Tulsa every two weeks then. He was staying at home. During [42] that time period he was—only chose to spend four nights away from home during that time period and that was not—you know, it was a day here and a day there, four different times.

Q. Okay.

A. So he was depending on the managers to do their jobs.

Q. All right. So if I understand you, we went from him staying at the hotels, one of the two motels on site approximately four nights a week to four nights in a seven-month period?

A. That is correct.

Q. Okay. Let's talk about how your motel business was run and I want to—they may be similar, the way the Oklahoma City and the Tulsa motels were run, but I want to focus on the running of the Oklahoma City motel. Okay?

A. All right.

Q. You told us that Richard Glossip was the manager and he lived there on site; is that correct?

A. That is correct.

Q. Did anyone live there with him that you knew of?

A. Yes, his girlfriend, D-Anna Wood.

Q. Was she employed by you and Mr. Van Treese?

A. No, she was not.

Q. Was it your understanding that she was doing any type of work there at the motel?

[43] A. She would sometimes check in customers.

Q. Do you know a lady by the name of Billye Hooper?

A. Yes, I do.

Q. And who was Billye Hooper?

A. Billye Hooper was our daytime desk clerk.

Q. And what would her job responsibilities have been?

A. Her responsibility as being the daytime or in the morning, coming in in the morning, she would prepare the maid sheets showing what rooms were rented the night before, what rooms needed to be cleaned, she would coordinate and then check in any guests that needed to be checked in during that time or checkout.

Q. So she would find out what rooms needed to be cleaned, make a maid sheet, and give it to a housekeeper; is that correct?

A. That is correct.

Q. Did you know someone by the name of Justin Sneed?

A. Prior to January the 7th, I did not know him. I knew of him.

Q. And what did you know of him prior to January 7th?

A. That he had been, quote, unquote, hired as a part-time maintenance man/go-for.

Q. Did you know he was living there at the motel?

A. Prior to, no.

Q. Were you paying him a salary or a wage?

[44] A. No.

Q. You said he was hired. Did you and Mr. Van Treese hire him?

A. No, we did not.

Q. Who then hired—and you're saying, quote, unquote. Who did this hiring?

A. Mr. Glossip.

Q. Do you know whether or not to your accounting system was Mr. Sneed being paid?

A. No, not to my accounting system.

Q. All right. Let's talk a little bit about the Best Budget Inn then in Oklahoma City.

MS. SMOTHERMON: Your Honor, these are someone else's numbering systems and so I apologize.

THE COURT: Would you just hand them to me and let me take a quick look?

Q. (BY MS. SMOTHERMON) Ma'am, I'm showing you some more photographs. These are marked State's Exhibits 33, 16, and 18. State's Exhibit No. 33, do you recognize what's in this photograph?

A. Yes. It is the front of the Best Budget Inn. The carport or overhang in front of the motel.

Q. In front of the office?

A. Yes, it is.

Q. And when we're talking Best Budget Inn, we're going to

* * *

[56] Q. And would there be any other additions or subtractions that might be made to his net paycheck?

A. Yes. If any time—and this was an open policy for us, if any time between the 5th and the 20th if—you know everyone at time periods runs short of cash. We hope we can all make it without having to get any and most of us do, but if you were in need of cash, they were allowed to receive up to—and at that time I think we had set it at \$20 per day cash advance unless there was an emergency come up.

And you would have—the manager would have to call us and say, “Hey, I’m running short. I need a cash advance.” We would okay it. I would put a note on my records that I kept at my home of that. They were to fill out a piece of paper and put the dollar amount on it and sign for it and put it under a spot on the daily report that was listed as cash paid out.

Q. So between December of—December 20th of 1996—which would have been one of Richard Glossip's pay period, correct?

A. That is correct.

Q. —to January 5th would have been his next pay period?

A. Yes, that is correct.

Q. So if we counted those number of days, he was allowed to take, if necessary—although, was this supposed to be a regular habit?

[57] A. No, it was supposed to be on the case of emergency and if something came up and you called and we felt like it warranted it and we had the amount of cash there to give, you could get more than that, so ...

Q. All right. So on an emergency basis you could take up to \$20 a day. You had to get prior approval but if you needed something bigger, you could get that approval from you?

A. Yes, that is correct.

Q. Let's talk a little bit about then Richard Glossip and his conduct before your husband was murdered. Okay? That's what I want to concentrate on is Richard Glossip's conduct before the murder. Okay?

THE COURT: Before you get into that, let me just inquire.

Ladies and gentlemen of the jury, do you need me to give you about a 10, 15-minute break? We've got about 50 minutes left until the lunch hour. Are you going to be okay?

All right. I just wanted to kind of consult with you.

You may proceed, Ms. Smothermon.

MS. SMOTHERMON: Thank you, Your Honor.

Q. (BY MS. SMOTHERMON) All right. Ma'am, we were talking about the Defendant's activities before your husband was [58] murdered. I was trying to use the same word. I'm not sure I did. But you know what I'm talking about and where we were, right?

A. Yes, his conduct.

Q. All right. His conduct. Thank you.

We've got you to a time toward the Christmastime of 1996. You've been telling us what has been happening in your lives. Did you take any other trips in 1996 other than what you've told us about?

A. Yes. During the Christmas break we had—I always had a love for snow skiing and Barry said, “We need to take a family—we need to take a break here and we need to go take a family Christmas break.” So we loaded up everyone and went to Crested Butte, Colorado. We skied for four days and we returned home Sunday morning, January the 5th, 1997.

Q. Now, when you returned home, how long had it been since Barry Van Treese had made any significant visits, spent any significant time looking at the motels, the property, doing any repair, doing any significant audit there at the motel sites?

A. He had been periodically there for audits but to do any specific repairs, it had been prior to June the 17th.

Q. Did the two of you then make any plans for him to do any site visits once you got back from your ski trip?

A. Oh, yes, we had spoke on the way home and he said, [59] “Hey, I love everybody, but I have got to get back to work.” And I said, “I realize that.” And I said, “It's been a full six months and I think everyone is going to be okay.”

Q. Okay.

A. And he said, you know, "Spring is coming up." And normally during the January, February, March season is when we went through and repainted rooms if during the period that the carpets needed to be replaced or whatever repairs needed to be done, we tried to do all those during those three months of the year.

It was—that is typically for the locations where these motels were next to the interstate that was a slow period for us. So a lot of rooms would have been available to go into to do these repairs on to get ready for the spring and the summer season.

During the summer months, you know, we were almost to capacity and so you have to be prepared. It's guarding your assets and making sure that they are ready for your maximum amount of revenue that you needed to have because some of that had to sustain you through the slow months.

Q. When you made this plan then to do this January, February, March sort of clean up, did you believe that the motel—what was your belief about the condition of the motel? Did you think there would have to be significant repair in every room? Did you believe there needed to be [60] some cosmetic clean up? I mean, what was your opinion of the condition of the motel prior to January?

A. We had been told that, oh, you know, "We've been painting some rooms and we've been doing the repairs that need to be done to the motel rooms."

Q. Who was telling you that?

A. Mr. Glossip.

Q. Okay.

A. He would say, “Oh, I painted room 102,” you know, “yesterday,” for example, or this room number or this other room number and we had a leaky faucet in there and we fixed that. And so during the six months we were being told that these repairs were being done to the motel and so our impression was, you know, we need to go—Barry’s impression on this, and he discussed this with me, is, you know, I need to go check. I need to go make sure that everything is being done.

And that was his way. He had to see to make sure that everyone was doing their job that we were paying them for and that—you know, it had been our practice over the years if you weren’t doing your job, we gave you an opportunity to correct that and if you did not correct that, then we could find someone else. You were not indispensable.

Q. Well, let’s talk a little bit about that policy and [61] let’s talk a little bit about Barry Van Treese’s demeanor. Can you tell us in general what type of personality he had.

A. He was basically your Santa Claus. He was a very jolly, happy person. When we took trips, you know, he would make up silly songs with the kids and he was, you know, in some phases, you know, he was—had the demeanor and the actions of a child. He wanted to have fun with all of us.

Q. Your personal observations of him interacting with his employees on a general basis, was he—did he display that same type of demeanor with them, in general?

A. In general, yes. You know, if you were doing your job and you were doing what he thought needed to be done, you know—and our policy was no question is a

stupid question. You know, you are not going to learn unless you ask. And we didn't expect everyone to know everything because—and we all don't know that on any job until we ask that question.

He was always very cordial as long as you were doing your job, you were very polite, because he always wanted—he treated everyone the way he wanted to be treated.

Q. All right.

A. But if you weren't doing your job, you were going to know about it.

Q. Okay. Didn't hide his feelings if he was upset?

A. No, not at all.

Q. Had there been instances in the past where employees [62] had lied or stolen and he had reacted, there was a demonstrable reaction where they knew what was wrong?

A. Yes, ma'am.

Q. Had you let employees go for those reasons in the past?

A. Yes, we had.

Q. Were those policies and those types of expectations conveyed to Richard Glossip?

A. Yes, they were.

Q. All right. Now, we talked a little bit about what you expected the condition of the motel to be. Let's talk a little bit about what you knew as the financial officer or record keeper; what you knew about the finances of the Oklahoma City motel.

In the seven months of, you know, May, June of 1996 until January of 1997, did you have any concerns about how some of the money was being handled or some of the recordkeeping was being handled at the Oklahoma City motel?

A. Yes, we did have that concern.

Q. Tell me about the concern.

A. During—at the end of each month—let me back up. I'm sorry.

On a daily basis I would call the motel. That was part of my responsibility was to call the motel, get the number of rooms rented, get the deposit information, how much was cash, credit cards, and how much each room was rented for, [63] which we refer to as our ADR or Average Daily Rental and I kept all that information because we made projections on those figures that I got at different times.

You know, if we continue at—say, the 15th of the month, if we continue at what we've done from the 1st to the 15th, by the end of the month, well, we should—you know, you should rent this many rooms and this should be the amount of revenue. So we based that on, you know, what information I received.

Q. And based on what you had, did you become suspicious of how some of the finances were being done?

A. Yes. At the end of each month, I would do a report and then I kept a year-to-date report. There were significant shortages for the entire year of 1996.

If I may refer to my notes?

Q. Yes.

A. For the entire year of 1996 there was a deficit, a shortage of \$6,101.92. Of course, that is broken down over a 12-month period.

Q. Tell us what a shortage is.

A. The rooms were rented. The total amount of business volume. Okay. The business volume was on the right side of the daily report. At the bottom, that was the total number of rooms that were rented, their rate plus tax. That was your business volume for that day.

[64] Q. So what you charged, if you added all that up, you had a total?

A. You had a total. That was your business volume for the day. On the left side of the daily report there is a column for cash collected. The cash collected could be cash, Visa, Mastercard, American Express, traveler's checks, comp checks, however you took in money for that day. Those were added up. That was your cash collected.

Out of that, to balance for that day, that cash collected, you took less the cash that was paid out. There was a petty cash kind of allowance for the day. You know, if you needed to run to the store and buy a can of air freshener, because you can—you know, that's what we did. You know, that receipt was attached so you deducted that. You got your total cash that you were supposed to have in hand for the day.

Q. Which would represent supposedly room rentals?

A. Supposedly room rentals, yes, that is correct. You knew what you needed over here for cash. Now, what you actually had in solid green cash or other forms of monies. And that's how you balanced out.

Q. So the monies taken in are supposed to equal what the charges were for the rooms?

A. That is correct. There were some instances that people would pay ahead for their rooms. We had workers that would [65] come in, different construction crews, roofing crews, that sort of thing, they would sometimes come in on Monday and we really required for them to pay in advance.

They would come in, say, Monday morning or Monday evening and they would pay for Monday through Thursday and they would go home on weekends. Some stayed all the time.

There was one particular gentleman that I know of for sure that had lived at our motel for eight years.

Q. Do you remember his name?

A. Yes, his name was John Beavers.

Q. Have you seen him out here today?

A. I have not seen him here today.

Q. Okay.

A. But he would pay sometimes on a weekly basis, sometimes on a monthly basis, but more than likely on a weekly or every two-week basis so his amount collected would be more than those that paid for more than one day.

Q. But your accounting procedures, could you account for that and know at the—your bottom line, know this is how many rooms were rented at this rate, a total, this is how much money I have in my hand and those numbers were supposed to match up?

A. They were supposed to match up and at the end of each month that's where we determined the shortage.

Q. A shortage being not enough money to equal the rooms?

[66] A. Not enough monies collected to equal the business volume.

Q. Okay. So at the end of 1996, the Oklahoma City motel managed by Mr. Richard Glossip was \$6,101.92 short on the money you would have expected him to be able to turn over to you?

A. That is correct.

Q. Now, tell me, because I don't know the motel business, how did that make you feel? What was your reaction to the 6000—missing \$6,101.92?

A. We were very upset.

Q. Okay.

A. And—

MR. WOODYARD: Your Honor, I need to object. May we approach, please?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

MR. WOODYARD: Your Honor, I'm concerned that we're getting testimony that is basically hearsay. I can't tell if it's her testifying because I hear this, "we," and the foundation is not laid as to whether this is personal knowledge that she's talking about or whether it was information that she's getting from her husband that's relayed to her that she's repeating as her testimony. And I've let some of this go and it's been somewhat innocuous. [67] I don't want to interrupt the proceedings unnecessarily, but I think I need to make an objection at this time because I'm afraid there's a lot of

hearsay information coming in from this witness so we object on that basis.

MS. SMOTHERMON: Your Honor, she's laid a foundation for her knowledge of the financial records. I've been specific in my questions as to what did the records reveal to you. What was your belief based on that. She ran this business for 18 years with her husband. I think it would be awkward for her to say, "Well, I believed this." I mean, I think it's a common answer for her to say we believed this, we believed that. But I've laid the foundation that she would have knowledge of these facts, independent knowledge of these facts, independent belief of these facts.

I can instruct her—she can hear what we're saying. But I can instruct her to be more specific in her answers. But—I mean, I don't think the record is unclear as to her basis of knowledge.

MR. WOODYARD: The use of the term, "we," implies that she's speaking for her husband which the Court knows is a hearsay problem and that's one of my concerns.

THE COURT: Well, part of the problem is, is that you have folks who are together running a business.

MR. WOODYARD: Right.

[68] THE COURT: And having conversations and probably reaching consensus about—as they share information, about accounting procedures. I'm not concerned about the "we." I think there may come a time when you need to be more specific about personal knowledge.

I'm sure you have explained to her that it would be improper for her to—that insert situations provide hearsay responses, although there may be some, you

know, hearsay exceptions as well. So at this point I'm not concerned about what's going on.

But I will allow you the latitude, Ms. Smotherman, to direct her to be more specific if that's necessary. Thank you, Counsel.

(Thereupon, the following was had in open court.)

Q (BY MS. SMOTHERMON) Ms. Van Treese, I believe what we were talking about is, you know, there's \$6,000 missing at the end of 1996. You tell me, I mean, is that a good thing, is that a bad thing, you would have expected worse? I mean, what was it that you were believing and feeling based on this shortage at the end of 1996.

A. I had compiled all of these records. That was part of my duties. And we had divided our duties, Barry and myself, we had divided our duties, you do this, I'll do this, and sometimes they overlapped each other and so we discussed, and he depended on me to have this information for him and [69] so I had compiled these records.

When I was doing these I looked at him with—red flags went up, I was alarmed. I immediately, you know, would contact him. He would call and say, "Hey, you got the end of the month stuff done?" And say, "Yeah, sure do."

I'd try to have it—keep it up on a daily basis so that at any point in time when he asked I would have it ready for him. You know, I felt like he was out working, he was being separated from the family, the least I could do was keep these records up to date. Because if you didn't, you were going to have to spend a whole lot of time doing it later.

And so when I realized that there were these shortages—and at the end of each month when I would get those numbers and those—whether there was a long—sometimes there was a long, sometimes there was a small shortage. We allowed a little, you know, people miscount change, that sort of thing. At the end of each month it wasn't like that we just let them go, Okay, they're \$600 short this month, okay, we're not going to say anything about it. That was not the case at all. We would call and we would say, Hey—

Q. Got a problem.

A. —Hey, there's a problem here, you know. These aren't balancing out. And some of those would be they had let [70] someone stay in the motel and, well, they're going to pay the first part of next month.

Q. Is that standard policy for your motel?

A. No, we always wanted to pay in advance. You pay—you know, we go to buy groceries we have to pay for the groceries before we eat it. We have to pay for the room before we go and stay in it. And so we would ask, Are there any of these? And on several of my notes that I did take during this time they will explain some of that. And then you think, well, okay, next month it will balance itself out.

Q. And at the end of 1996, it didn't?

A. No, it did not.

Q. All right. Now, without telling me at this time what Barry Van Treese's—what he said about this when you told him about that, tell us about his physical demeanor. How did he react? Did he appear to be visibly upset? Did he take it in stride?

A. He was visibly upset. He said, "Have you—" you know, "Are you sure of this?" I said, "Barry, here is all the records," you know, "double check it yourself."

Q. How do you find out then what's up with this money? I mean, if there's a shortage at the end of the year, how do you get answers to that?

A. He went directly to the source.

[71] Q. All right. And when was he going to go to that source?

A. On January the 6th, 1997.

Q. Other than—and who would be that source, I'm sorry?

A. Richard Glossip.

Q. Other than going to Richard Glossip and talking to him about this \$6,000 shortage at the end of the year, was he going to do anything else on this visit?

A. Yes. He was going to—

MR. WOODYARD: Your Honor, I'm going to object. I believe that calls for a hearsay response.

THE COURT: Overruled.

Q. (BY MS. SMOTHERMON) You may answer, ma'am, what he was going to do on his visit.

A. We had discussed this on our way home from our trip. He says, you know—

Q. No, not what he said, ma'am, just what was he going to do.

A. Okay. He was going to go to the motels, go room by room, take a maintenance sheet with him, evaluate what needed to be done in each one of the rooms, making

a list because you cannot remember what needs to be done in 52 rooms.

Q. Sure.

A. He made a list room by room, faucet needs to be fixed, new shower curtain, new caulking around the tub, needs paint [72] job, whatever. He was going to go room by room, evaluate what needed to be done, go and buy the needed supplies to repair what needed to be done to bring the motel up to his standard.

Q. And then was he going to stay there and do some of the repairs himself?

A. Yes, he was, like I had said, previously testified, that he was a very hands-on person. He did not expect for you to do something that he was not willing to do himself.

Q. Now, ma'am, we talked about the yearly shortage and I want to make sure that I gave you all the time that you needed to explain discrepancies. Do you have a way of tracking in your finances a cost for services, for example, maid service costs?

A. Yes.

Q. And then do you have a way of tracking revenues, how much money you're making each month?

A. Yes.

Q. Or how many rooms you're renting?

A. Yes.

Q. Okay. During those seven latter months of 1996, was there anything about those two numbers that concerned you?

A. Being in the motel business for 18 years you estimate what it will cost per room to have it cleaned. Those figures did not match up with one another.

[73] Q. What do you mean by that?

A. Well, the maid costs were down comparable to the rooms rented.

Q. Maid cost was down. I don't understand what you're saying there.

A. I'm sorry.

Q. That's okay.

A. We figured approximately and at that time 1.50 per room to go and clean, we figured about 30 minutes. And, of course, you know minimum wage was a lot less in 1997 than it is today. We could go through and go, Okay, there were 20 rooms rented times \$1.50 a room so our maid costs for today estimated would be approximately this amount.

Q. Okay.

A. Say that amount was—

Q. —forty dollars?

A. Forty dollars. The costs for maids that day was \$20, you know, after you've been in the business for a while there are signs and signals that just trigger you to be more alert and to go, Wait a minute, something is not quite right here, so

Q. I'm sorry. Go ahead.

A. I'm sorry. Then there were also times that there were rooms on the daily maid sheets that weren't over here on the daily reports. The explanation that we received for [74] those—

Q. Hang on. I want the explanation but let me make sure we understand what that means. So that means the daily maid sheets are rooms that needed to be cleaned?

A. That is correct.

Q. Why would a room need to be cleaned? Because?

A. Because it was rented the previous night.

Q. Okay. So if a room needed to be cleaned, on the maid sheet, you would expect it to be on the list of rooms that were rented?

A. Yes, on the daily report.

Q. So you had rooms that were on the Clean This Room sheet, maid sheet, that weren't on the this Room Was Rented sheet?

A. That's correct.

Q. Okay. Did you inquire as to the reason for that?

A. Yes.

Q. And let me ask you who it was that you asked?

A. Mr. Gossip.

Q. And what explanation were you given?

A. We were given, "Someone checked into that room, they didn't like—you know, they pulled back the sheets and the sheets were wrinkled," or, "There was a hair on the sheets so we moved them to another room."

Q. And the amount of times that this happened, did it

* * *

[97] Q. And who was it that called you?

A. Billye Hooper called me from the Oklahoma City motel.

Q. And about what time was that?

A. Around 3:30 in the afternoon.

Q. And did you learn something at that time that caused you some concern?

A. Yes, I did.

Q. And what was it that you learned that caused you some concern?

A. Billye had told me that they had called from the Weokie Credit Union, which is directly behind and across the field from where the motel sat, and then there was an open field and then the credit union. Which you entered and exited from the credit union on Reno rather than on Council.

She said that there was a concern that there was a car there parked in their parking lot that they thought was Barry's car.

Q. Was that a—I mean, your husband's car being over at the Weokie credit union, was that something that—did that in and of itself cause you some concern?

A. Oh, yes, it did. They had told me that the car was parked kind of catercornered and that one of the doors was ajar, the door was actually unlocked. Barry would never leave his car unlocked, even where we lived which was out in the country in a residential area that our house was set [98] back off, he would lock his doors even at our house.

Q. Was that his practice with his home and a motel room if he was staying there?

A. Oh, yes, yes.

Q. Did he make that practice known to other people?

A. Yes.

Q. At the time that you talked to Billye Hooper, about 3:00 that afternoon on the 7th, did you become aware of whether or not anyone knew where your husband was?

A. Well, I immediately started asking questions, where was Barry. Several months prior to that he had been diagnosed with diabetes and so knowing a little, very little about it and going to a couple of classes with him, I'm thinking did he have a medical problem. I was on, as what I consider myself, high alert when things like this happen, as you would if a child was hurt, you go on high alert status.

Q. So after your conversation with Billye Hooper, you didn't know where your husband was, you knew the car had been found?

A. That is correct.

Q. When is the next time that you talked to anyone in the Oklahoma City area?

A. I immediately called back later. And at one point during that afternoon I spoke with Richard Glos-sip.

Q. And you say "afternoon." Would that have been before [99] dinnertime?

A. No, it was after the 3:00 phone call that I received from Billye.

Q. Okay. Was it before dark?

A. Yes, it was.

Q. Okay. Now, when you made contact with Richard Glossip, was it because he called you or you called the motel and spoke with him?

A. I called him and said, you know, I'm trying to find Barry, his car is over there ajar. I said, When—you know—okay—when was the last time that you saw him?

Q. Okay. And did he respond to that?

A. Yes, he did.

Q. What did he tell you?

A. He told me that he had seen Barry some time between 7 and 7:30 a.m. on January the 7th and that Barry had told him he was going to buy supplies for the motel and he would be back later.

MS. SMOTHERMON: Your Honor, I apologize for not getting the easel out before. May I do that now?

THE COURT: Sure.

MS. SMOTHERMON: I meant to do it earlier.

THE COURT: That's okay.

Q. (BY MS. SMOTHERMON) When you asked Richard Glossip about your husband he told you that he had seen him that [100] morning on the 7th?

A. That is correct.

Q. And did he give you a particular time?

A. He said some time between 7 and 7:30 a.m.

Q. And what did he tell you was happening at that time when he saw your husband?

A. He said that he had seen Barry and that Barry had told him that he was leaving to go buy supplies.

Q. Did you ask him any questions about whether your husband looked okay, seemed ill?

A. I remember, you know, I was highly concerned so, yeah, I said, you know, did he look okay? Did he feel okay? Did he sound okay to you? And the indication I got was, yes, that everything was fine.

Q. Any other comments that Richard Glossip made to you in that conversation about when he had last seen your husband?

A. He had said that he had seen him the day before when he came to make the payroll checks and that, you know, that he had seen him that morning but he had not seen him since 7:30.

Q. And I want to put on here when this statement was said to you. So it was said to you on what date, on the 7th?

A. Yes, January the 7th.

Q. Okay.

A. And it was some time between the 3:30—3, 3:30 phone [101] call that I received and probably 4:30, you know.

Q. In the afternoon?

A. In the afternoon, yes, p.m.

Q. Do I have that recorded correctly?

A. That is correct.

Q. That's all I'm going to use of this easel. I can push it back.

THE COURT: Deputy Williams, do we need to move that a little bit?

Please proceed.

Q. (BY MS. SMOTHERMON) Ma'am, anything else of substance in that conversation or did you talk to anyone else at that time that you gained any other information from?

A. I had also asked him at that time, when he said that Barry had left and that's why his car was gone, because his car is over there now. And I said, "You are the manager. I need for you to go and check all the rooms. Maybe he came back. Maybe he had car trouble. Maybe he came back and is in one of the rooms working."

Q. Okay. And was that that conversation or a different conversation?

A. I made numerous calls back and forth and so, to be correct and true here, I was constantly on the phone with either the motel or the police or someone from the 3:30 phone call until late in the evening trying to figure out [102] what had happened to my husband.

Q. When you were on the phone, did you talk to Richard Glossip on more than one occasion?

A. Oh, yes, I did.

Q. Okay. So you're telling us either on that occasion or on another occasion you told him, "He might have come back. He's sick. He might be sick, check all the rooms"?

A. Yes, I said: Check all the rooms. Check the field in between, go next door. Go," you know, "everywhere."

Q. And what was his response to that?

A. "Yes, ma'am, I will do that."

Q. Okay. All right. And you said you were also talking to the police. So you knew there was an ongoing

police investigation looking for your husband; is that correct?

A. Yes, that is correct. And when Billye told me that the car was missing I had instructed her to immediately call the police.

Q. Okay. And so you knew the police were becoming involved?

A. Yes.

Q. So throughout the afternoon between 3:30 and the hours following it, you're talking to people at the motel and you're talking to the police?

A. That is correct.

Q. Okay. Several hours pass. Do you have any indication [103] during that time, from this Defendant or anyone else, of where your husband is located?

A. No, I do not.

Q. When do you find out that they have found your husband?

A. Approximately 3:00 a.m., the morning of the 8th, my brother-in-law had flown in from Salt Lake City. He had already scheduled to come in. When we found out that Barry was missing I had alerted other family members that lived here in Oklahoma City. Said, you know, "Hey, did Barry come by and have lunch with you? Have you seen him?" And they were all alerted that he was missing. And so approximately 3, 3:30 a.m., the morning of the 8th, my brother-in-law calls me and tells me—he said, "We found Barry." And he said, "He is no longer with us."

Q. Okay. Now, your brother-in-law's name is what?

A. Jim Van Treese.

Q. And Jim Van Treese was in Oklahoma City?

A. Yes, he was. He was at the motel.

Q. So he called you from the motel property?

A. Yes, he did.

Q. Ma'am, I want to talk about some items, some articles and ask you if you can identify them.

MR. ACKLEY: May I approach the reporter for just a moment?

THE COURT: You may.

[104] MS. SMOTHERMON: Your Honor, I don't anticipate asking for their introduction at this time.

Q. (BY MS. SMOTHERMON) Ma'am, I'm going to show you some photographs. Ma'am, I'm going to cover a portion of this photograph, but the portion that I am showing you, you see that that is part of a photograph?

A. Yes.

Q. And you see that it's marked with State's Exhibit No. 24?

A. That's correct.

Q. The portion of the photograph that you can see in State's Exhibit No. 24 shows an item, a jewelry item. What is that?

A. Yes, it is a wristwatch.

Q. And do you recognize whose wristwatch that is?

A. Yes, it's Barry Van Treese's.

Q. And on January 6th when he left your Lawton home, was he wearing the watch that is depicted in State's Exhibit No. 24?

A. Yes, he was.

Q (BY MS. SMOTHERMON) Ma'am, again, I'm going to show you a portion of a photograph. You can see something, an item in this photograph, correct?

A. Yes.

Q. And it's marked with a State's exhibit sticker, State's

* * *

[140] understands what I'm talking about. We're talking about the different documents from where the jury is at. I would like to just show to the jury exactly what we're talking about. If I can provide her my copy and then put her copy, which is the unmarked copy, onto the visualizer? If I may do that?

THE COURT: You may do so.

MR. WOODYARD: Thank you. Just disregard my scribbling on there.

Q. (BY MR. WOODYARD) Now, I've cut off on the visualizer the left part that basically shows the month, the year, and some other materials. But the part I'm interested in is the far right column. And with the exception of July, appears on your deposit versus volume document—

A. Yes.

Q. —that all of the months except for July have losses is that correct?

A. That is correct.

Q. This information was available to you and Mr. Van Treese on a monthly basis?

A. Yes.

Q. Did you, yourself, ever talk to Richard Glossip about these losses that you've indicated in each of these columns?

A. Yes, I did, because it was my responsibility to produce this report and at the end I would say, you know, "What is this?" And he's say, "Well, this person owes," or, "This [141] person owes." And then we'd say, "Well, maybe next month," you know, "when they pay then next month it will show." If you have a shortage this month and someone pays, you're going to have an overage this month.

Q. That only happened one time in the year 1996?

A. That is correct.

Q. And it was my understanding it was your husband's policy if he thought someone was not treating him fairly and was given the opportunity to correct the problem, that he would then fire them without hesitation?

A. That is correct.

Q. But this reflects almost a whole year of that conduct and Mr. Glossip was not fired, was he?

A. No, he was not.

Q. Thank you.

MR. WOODYARD: I believe I've moved previously, Your Honor, if I haven't, move for admission of Defendant's Exhibit 71.

THE COURT: I don't believe that we moved. We've published it, but we didn't move and admit it.

So does the State have objection?

MS. SMOTHERMON: Actually I believe where we were is he moved to admit it and I objected because of the Tulsa portion.

THE COURT: And we're going to redact that.

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 6 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 18, 2004**

* * *

[14] Richard Glossip and D-Anna Wood got there or do you remember?

A. I don't remember that actually.

Q. Okay. So Billye Hooper was the front desk clerk?

A. Yes.

Q. Did she live on site?

A. No, she did not.

Q. Did Richard Glossip and D-Anna Wood live on site?

A. Yes, they did.

Q. Okay. Do you know if there were any housekeepers that worked there and/or lived there around January of 1997?

A. I suppose some did, but I don't really have any direct knowledge of what their arrangements were.

Q. Do you know Kayla and Michael Pursley?

A. Yes, I did know them.

Q. And who are they?

A. Kayla worked next door at the Sinclair Station and Michael was her husband.

Q. And did they live there at the motel as well?

A. Yes.

Q. Did they have any kids?

A. I can't remember, to be honest with you.

Q. Okay. All right. And were they—did they live there like you did, it wasn't just one night at the motel, that was their residence?

[15] A. Yes, pretty much, as I understand it.

Q. All right. Tell me which direction the Sinclair station is.

A. Okay. The Sinclair station is directly south of the motel.

Q. So to get to the Sinclair station, you would walk this direction?

A. Yes.

Q. Off the bottom of—

A. Yes.

Q. —this map as we have it here?

A. Yes.

Q. Can you see the Sinclair station from the motel if you're standing here in the parking lot?

A. Oh, yes.

Q. And can you see the motel from the Sinclair station if you're standing in the parking lot?

A. Yes.

Q. Do you know a person by the name of Justin Sneed?

A. I didn't actually know him. I knew of him, but I really did not know him.

Q. Okay. Did he live there at the motel?

A. I really didn't know what his arrangements were. I saw him around the property and that's about it.

Q. Do you know for how long of a period you saw him around [16] the property?

A. I can remember seeing him for a week, two weeks maybe. I don't really know for exactly.

Q. Okay. Was he there every day or quite often or you saw him occasionally?

A. I saw him quite often, but I couldn't tell you how long.

Q. Did you have any interaction with him at all in an ability to talk to him or observe him?

A. Not more than a nod of, you know, acknowledgement. That's about it.

Q. Okay. Were you able to form an opinion about what you thought of his personality and intelligence?

A. I hate to—you know, I hate to just, you know, give somebody my opinion on this, but he just didn't strike me as having a whole lot going on for him.

Q. Okay. And do you mean he didn't have a lot of support or he didn't have a lot?

A. He didn't have a lot of mental presence. That's—but I—you know, I could be completely wrong. I didn't know him.

Q. And I appreciate that. Did you ever see Justin Sneed and Richard Glossip together?

A. Yes, walking around the property looking at repair jobs or, you know, just odds and ends.

[17] Q. Okay. Do you know if Justin Sneed worked there or not?

A. I assumed he did. I saw him doing a little bit of handiwork here and there.

Q. I want to talk a little bit about Barry Van Treese. Did you get along with Mr. Van Treese?

A. Oh, yes, generally.

Q. Okay. And tell us a little bit about his demeanor. How did he normally handle himself?

A. Well, I can only tell you how he handled himself toward me. I was a paying guest and he was always very

nice to me and that's—you know, that's just business, I guess.

Q. Did you ever see him act any differently toward anyone else, employees or other guests?

A. I saw his temper. I saw him get riled at employees over the years for just this and that and I couldn't give you any reason, I saw him not in a pleasant mood a few times toward other people.

Q. Okay. Well, were these employees that they wasn't pleasant with?

A. Yes.

Q. Okay. And when you say you saw him—I mean, how could you tell he was upset?

A. Oh, just as opposed to friendly or upset, he was upset, you know .

Q. Did he raise his voice?

[18] A. Yeah, I've heard him raise his voice.

Q. Did the type of words that he used and his tone of voice change?

A. Yes.

Q. Would you say that he had this type of behavior with just one employee or more than one employee?

A. More than one employee.

Q. But he never showed any displeasure with you?

A. No, not that I recall.

Q. Do you know whether or not he ever fired anyone there from the motel?

A. I assume he did but I never had direct—you know, I was never a direct witness to him firing anybody.

Q. And when you say you assumed he did, did you see him upset with employees who then no longer worked there?

A. Right. Right.

Q. Sir, I want to talk to you a little bit about Richard Glossip's demeanor. Did you get along with Richard Glossip?

A. Yes.

Q. And tell us a little bit about his personality and his demeanor.

A. Richard seemed like a real go-getter. He was always working hard. It seemed like he was working hard. It seemed like he always had plans to do this, that, and the other. I can't give you any specifics, but he always seemed

* * *

[45] Q. Well, did you see maids or—

A. Yes.

Q. —people going in and out of the rooms?

A. Yes.

Q. You had indicated that you had seen Mr. Van Treese at times raise his voice toward other employees if he was not happy with something?

A. Yeah, I had seen that before.

Q. You had never seen him fire anybody?

A. Not to my knowledge. Not exactly in front of me.

Q. You saw him work with Mr. Glossip, didn't you, when they were working together or around each other?

A. Yes.

Q. Did they always seem to be getting along?

A. Not always. Sometimes there seemed to be a little tension. Sometimes there seemed to be nothing. It's just—I can't put my finger on anything, really.

Q. There's no time did you see him fire Mr. Glossip or say he was going to fire Mr. Glossip?

A. Not to my memory.

Q. And up to the point in time of Mr. Van Treese's death, Mr. Glossip was still the manager, wasn't he?

A. As far as I knew.

Q. Now, you had indicated that after you had heard the glass break and after you had gone to the Sinclair station

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

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REPORTED BY:
THERESA L. REEL, RPR
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**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 19, 2004**

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[4] (Thereupon, on May 19, 2004, with all counsel, the Defendant and the jury present, the following was had in open court.)

THE COURT: Is the State prepared to call its next witness?

MS. SMOTHERMON: Yes, Your Honor.

The State of Oklahoma calls Billye Hooper.

BILLYE HOOPER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SMOTHERMON:

Q. Ma'am, would you state your name for the jury, please.

A. Billye K. Hooper.

Q. And, Ms. Hooper, are you currently employed?

A. No, not at this time.

Q. And are you retired?

A. I'm retired on my long-term disability.

Q. When you retired, what type of work were you doing?

A. I was working for Pharmacy Management Consultants, a division of the State of Oklahoma as their help desk.

Q. And this long-term disability, is it because of an accident or because of some medical problems?

A. Because of medical problems.

Q. All right. Ma'am, was there ever a time that you worked in the motel business?

[5] A. Yes, I did.

Q. Okay. Tell us how much years all total you worked in the motel business.

A. Well, let's see. I worked about six months for Howard Johnson's on south's 15th and then I worked for Best Budget Inn for approximately three years, and then I worked for the Super 8 Motel as night auditor on 39th and North May for two years.

Q. Let's talk about the time period when you worked at the Best Budget Inn. Do you know who owned that motel?

A. Yes. When I worked there it was owned by Barry Van Treese.

Q. And let me ask you if you know some individuals who might have been at the motel during some of the time period you were there. Do you know Richard Glossip?

A. Yes, I do.

Q. And you know D-Anna Wood?

A. Yes, I do.

Q. How do you know them?

A. They were the managers. Barry hired them as managers at the time I was still working there.

Q. Okay. So were you working there first and then during the time you were working there Richard Glossip and D-Anna Wood came in or they were there—

A. Yes. I came there first.

[6] Q. Okay. Let's talk a little bit about the time period then before Richard Glossip and D-Anna Wood came to be as managers. What was your position at the motel?

A. Well, I worked the front desk. But primarily it was Barry and I when I first started. And I work the desk during the day and took care of the housekeeping reports and just things like that.

Q. And you said it was primarily you and Barry. Did Barry Van Treese live on site then when you first started?

A. Yes, at that time, they had an apartment at the back of the office and that's where the managers lived and when Barry was up there in between managers, that's where he lived.

Q. So the motel was in between managers, Barry Van Treese had to live there?

A. Yes. When I was there, that's the way it was.

Q. And that's the way it was when you first started?

A. Yes.

Q. Any time during that time period before managers were hired did—were you ever left in charge of the motel?

A. When I first started working there, Barry and Donna took the children on Christmas vacation and at that time my sister was still living and we lived there in a room at the motel. And Barry left her and I in charge of the motel while he went on Christmas vacation.

[7] Q. Now, let's try to see if we can put this in time perspective. Which Christmas would that have been?

A. That was the first Christmas that I worked there, so I believe that would have been the Christmas of '94.

Q. When Barry Van Treese got back from vacation in Christmas of '94, did he have an opportunity to look at the condition of the motel and the books and what had been going on while he was gone?

A. Yes, he did.

Q. Okay. And did he express to you, without telling us the words, but did he express to you whether or not he was pleased or displeased?

A. Yes. No, he was very pleased and he said he was really surprised that everything went so well and he made as much money as he did.

Q. All right. Over the time that you worked for Barry Van Treese, did he ever express displeasure with your work?

A. No.

Q. Now, you said that at first when you started working there in '94, before Christmas of '94, that Barry Van Treese was kind of acting as the motel manager because they were in between managers. Was there ever a time when managers were hired?

A. After they came back from Christmas vacation, I'm not sure exactly the exact date but earlier that year, maybe [8] February or—he hired a young couple to manage the place.

Q. Okay.

A. Before Rich and D-Anna.

Q. All right. And did that young couple stay very long?

A. About three months, I think.

Q. And do you know if they voluntarily left or if they were fired?

A. No, they more or less left voluntarily.

Q. After they left, then did Barry Van Treese come back and live on site because he was in between managers again or?

A. For a while he did, but he was—while he was trying to find somebody else.

Q. And then did he hire someone?

A. That's when he hired Rich and D-Anna.

Q. Okay. And so now would we be some time in 1995, I suppose.

A. Yes.

Q. Mid to late 1995?

A. Uh-huh.

Q. Yes?

A. Probably in the springtime, I think.

Q. Let's talk about you working there. Did you receive—were you paid? Did you receive a salary?

A. Yes, I did.

[9] Q. Okay. And do you remember how many times a month you were paid'?

A. Twice a month, I think.

Q. Now, you said—

A. I'm not really sure. Every other Monday, so it would be twice a month.

Q. Okay. You said that when you first started living there you and your sister lived in a room there at the motel?

A. Yes, we did, for about three months.

Q. And after that then did you live off site?

A. Yes, we rented an apartment.

Q. Did you ever live again on the premises of Best Budget'?

A. No.

Q. Okay. Did Barry Van Treese have employees other than the managers who lived on site at the motel?

A. Sometimes he had some of the people that worked for him, like the housekeepers, he would let them live on site.

Q. Now, tell me about how that worked. Did they get their room for free or reduced rate or was it part of their salary?

A. Well, they would get a reduced rate on the room, but they would get a paycheck every pay day along with myself. And then they would pay back what they were being charged for their rent. They didn't work for free.

[10] Q. So was it not the policy, as I'm understanding it then to comp a room for an employee? That wasn't the policy?

A. No.

Q. Okay. They worked, got a salary, and then paid a reduced rate for living there?

A. Yes.

Q. And was that—the whole time you worked there, was that Barry Van Treese's policy?

A. Pretty much.

Q. Okay.

A. Depending on the circumstances of the people he hired.

Q. Sure. I want to talk a little bit about another person there at the motel, Justin Sneed. Do you know Justin?

A. Yes, I did.

Q. Okay. And about how—did Justin live there at the motel?

A. Yes, he did.

Q. About how long did he live there?

A. It seems like he came in the summertime. He had come up with a group, I believe, of roofers or some type of construction workers from Texas.

THE COURT: Excuse me. I guess they're opening the cans for lunch. I don't know what they're doing in the alley. So I know it's really hard to concentrate with this clanging.

[11] So speak up, Ms. Hooper. Okay?

THE WITNESS: All right. I'm sorry.

THE COURT: No, you're doing fine. It's not your fault. Thank you.

Q. (BY MS. SMOTHERMON) So you think he came in the summer with some roofers?

A. It seemed like the weather was warm. I don't remember the exact month, but it seemed like it was in the summertime.

Q. And would this—

A. Late summer, maybe.

Q. And would of this been summer of 1996?

A. Of '96.

Q. Let talk a little bit about Barry Van Treese and Justin Sneed. Can you tell me how much contact they had or how well they knew one another?

A. To my knowledge, they had very little contact, if any at all. And they knew each other—I'm sure Barry might have known him on sight. I'm not really sure of that. I know Justin would have known Barry on sight. But I don't think they ever had that much interaction.

Q. Is there—well, did Barry Van Treese visit the motel, I mean, while Justin was there? Had Barry Van Treese come to the motel?

A. Well, on paydays and when he'd bring the payroll and [12] come up and check on how things were going.

Q. Is there a reason then why Justin Sneed didn't have interaction with Barry Van Treese?

A. Well, he usually just kind of pretty much, like, stayed out of sight.

Q. Do you know why that is?

A. Well, I believe it's because that he wasn't supposed to be there in a free room working for—working for a room rather than a paycheck.

Q. Okay. Were there other employees that were there or had been there that weren't—and when you say "Not supposed to be there," you mean Barry Van Treese?

A. Didn't hire them and say you can live here and work here and get a paycheck.

Q. Okay. So they didn't have permission from the owner of the motel to be there?

A. No.

Q. Okay. Were there other employees other than Justin Sneed that you saw that did jobs there and but they weren't supposed to be there?

A. Well, there were some that were getting like a reduced rate for maybe doing some maintenance or get a room that they didn't live there every day but they might go and do like a day or two's worth of work for a room.

Q. And was that something that wasn't supposed to happen?

[13] A. It had not happened prior to that.

Q. Who was responsible for these individuals, Justin and these other individuals, being there in a manner that they weren't supposed to be?

A. At that time Rich was the manager.

Q. Okay. Was he the one that—

A. He would be the one that would make that decision, whether it could happen or not.

Q. Okay. Let's talk a little bit about your relationship with Barry Van Treese. We've talked a little bit about how it was at different points. What do you think about your relationship with him?

A. Barry and I got along very well. We never had any problems. We liked each other. I knew his wife and

his children and was just almost maybe not close as a family member, but we were all close.

Q. Tell me a little bit then about Barry Van Treese's demeanor. How did he come across to people just on a normal day?

A. Well, there was times when he could be gruff and kind of come across like a bear.

Q. Okay. Did you ever tell him that?

A. I used to tell him that he was named appropriately because he sometimes acted like a bear.

Q. Okay.

[14] A. But as a rule, he was a nice person.

Q. Okay. Had you ever seen him mad or upset?

A. I'd seen him mad. Yes, I had.

Q. How was that? How did he act when he was—

A. Well, he could get angry and kind of—I mean, when he was mad, you knew it.

Q. And you said he could get angry. And did he—if he was mad, did he have a temper?

A. I would say so.

Q. And had you seen him display that to different people at different times?

A. At times.

Q. Okay. What are some things that would make him show his temper?

A. It's kind of hard to—that's kind of—I'm not sure if I know how to answer that.

Q. All right. You can't think of any specific examples right now?

A. Well, I mean, if somebody wasn't doing their job or he didn't like especially anybody to lie to him. He didn't like that. He wasn't fond of drinking people. Pretty much was nice to everybody, but he expected you to do your job and if you didn't do your job correctly, he would let you know that right off the bat. And sometimes, you know, he might be—have a conversation or something with someone [15] that I wouldn't know who was on the other end and he might, you know, kind of start slamming around papers and things. You could usually tell when he was not in a good mood.

Q. Okay. Let's talk a little bit about Richard Glossip. How much of—interaction did you have with Richard Glossip and D-Anna Wood?

A. I saw them both every day that I was on my work schedule.

Q. Okay. And did you ever see Richard Glossip interact with Barry Van Treese?

A. Yes, I did.

Q. Okay. Tell us over the course of the relationship—and I guess if I've got the timing right, we're talking a little over a year, a year and some months that Richard Glossip was the manager there; is that correct?

A. Yes.

Q. That Barry was alive. Tell us about your observations of their relationship and if it stayed the same or if it changed.

A. Well, it seemed like when Rich first started, him and Barry got along very well. He did a really good job. He was doing a lot of maintenance and trying to fix the

place up and I couldn't observe any problems going on between him and Barry. But then, again, if there had been a problem going on with him and Barry, they would not have been

* * *

[26] lights, because it's a—I mean, it's a dark night and we can see—of course, that's probably the flash. But we see that there are some lights underneath here; is that correct?

A. There were lights under the canopy, yes.

Q. And where is the switch for those lights?

A. On the inside of the office in a box.

Q. Is there any other way to turn those lights on or off other than being inside the office?

A. Not to my knowledge.

Q. All right. Let's talk a little bit about Justin Sneed and then I think maybe we've got all the players going here.

Did you have interaction with Justin Sneed?

A. Yes, I did.

Q. What was your observations of him, his personality?

A. Well, I—he was always kind of quiet, never did have too much to say, was always very polite to me, never smart-alecky or offensive in any way. I got along with Justin quite well.

Q. Did you ever see him be confrontational or aggressive to anyone verbally?

A. I never did, no.

Q. Did you ever see him be confrontational or aggressive physically toward anyone?

A. No, I never did.

Q. Did you ever see anyone pick on him or be mean to him?

[27] A. Well, I don't think so.

Q. Okay. Did Justin Sneed—did he work there at the motel?

A. Yes, he did.

Q. And what did he do?

A. He was kind of like a maintenance assistance to Rich. He cleaned rooms. He worked in the laundry. He helped Rich with maintenance. Pretty much whatever Rich asked him to do is what he did.

Q. Did he get paid for that?

A. Not in a paycheck.

Q. Okay. What did he get?

A. He got a room.

Q. And was it how you told us the policy was that Justin Sneed got some money and then he had to pay the motel back for the room or did he just get his room for free?

A. He just got his room free, that I know of, and if he received any money, he did not receive it in the form of a paycheck.

Q. Okay. Do you remember what room Justin Sneed was in?

A. It was downstairs on the north side, but I don't remember the exact room. Two-something, one-something, I guess, would be on the bottom.

Q. Okay. Give us —

A. Like 127 or 125. Somewhere kind of right in the [28] middle.

Q. All right. Give us just a ballpark figure, if you can, about what that room was worth, if you were just going to rent it to me in 1996 and—if you were just going to rent it to me, about what would you have charged for it?

A. Well, I think at that time the minimum charge depending on if we were busy or—you know, it fluctuates in the motel room, but right around \$30.

Q. Okay. Tell me the relationship between Justin Sneed and Richard Glossip?

A. As far as I could tell, Justin and Richard were very close. I know Justin thought a lot of Rich and Rich appeared to be quite fond of Justin.

Q. What did Justin do for food if he didn't get any money?

A. Well, I know a lot of times that I would see him eat with Rich and D-Anna, but other than when I was there, I don't know.

Q. Okay. You said that Justin Sneed was fond of Richard Glossip. After this all happened and you found out that Justin Sneed had beat Barry Van Treese to death with a baseball bat, did you have thoughts on how that works together? I mean, that would have gotten Richard Glossip in quite a bit of trouble, right, for Justin to have done that?

A. Yes.

Q. Okay. Did that seem like the type of relationship that [29] they had?

A. I wouldn't have thought that Justin would have done anything to have tried to get Rich into any trouble.

Q. Was it your belief when you heard what was going on that Justin would have done it without Richard Glossip's knowledge?

MR. LYMAN: Objection, Your Honor.

THE COURT: Would you approach, please. (Thereupon, the following was had at the bench.)

MR. LYMAN: Calls for speculation. She's asking her what Mr. Sneed or Mr. Glossip thought and she doesn't know what they thought.

THE COURT: Do you want to respond?

MS. SMOTHERMON: Well, I'm trying—maybe I'm wording it poorly, but I'm trying to ask her based on her vast knowledge of their personalities and in their relationship if it seemed like it fit with what she knew that Justin Sneed would act alone or that—or did it fit that they would have done it together, that Richard Glossip would have had the knowledge. I'm not asking her to speculate that he did, because she doesn't know.

THE COURT: The question that you asked, I believe, does call for a speculative answer, but she's entitled to give an opinion based on her knowledge of both individuals. And so if you ask it right, I'm going to allow [30] it.

MS. SMOTHERMON: Okay.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Ms. Hooper, I'm going to ask you this question but I'm going to word it just a little bit differently. Okay? So listen to what I have to say.

I believe you told us that based on what you knew of the personality of Justin Sneed and Richard Glossip and their relationship, that it would be your opinion based on that that you wouldn't have thought Justin would ever do anything to hurt Richard Glossip; is that correct?

MR. LYMAN: Objection. Your Honor, it's leading.

MS. SMOTHERMON: Well, I'm just getting us back to where we were. Yes, it's leading, but she's already testified to it.

THE COURT: Overruled. I'm going to allow it.

MS. SMOTHERMON: Okay.

THE WITNESS: No, I don't think that Justin would have got—I don't think Justin would have done anything that would have harmed Rich because he thought—he was real close. You just had to kind of know the two parties to understand, but, no, I don't think he would have.

Q. (BY MS. SMOTHERMON) Okay. If I were to—knowing the personalities then of both and knowing their relationship, do you believe that in order for Justin to do something like **[31]** that, Richard would have had to have been a part of it

MR. LYMAN: Objection, Your Honor. Speculation and leading.

THE COURT: Well, I'm not troubled about leading. I'm going to sustain the objection.

MS. SMOTHERMON: Okay.

Q. (BY MS. SMOTHERMON) I'm going to try one more time and then I may have to get help on my wording. Okay?

You said that you were—it wouldn't make sense for you that Justin acted alone. Knowing what you know about each one of them and their relationship, would it make sense to you that—because we know this happened. We know Barry was murdered at the motel, right?

Would it make sense to you that knowing who they are and their relationship, would it make sense to you that Richard Glossip was involved?

MR. LYMAN: Objection, Your Honor. Speculation.

THE COURT: Would you approach, please.

(Thereupon, the following was had at the bench.)

THE COURT: It would be my understanding of the law that the witness is entitled to give her opinion.

MS. SMOTHERMON: Okay.

THE COURT: If she has an opinion based on her knowledge and her knowledge of both parties and how they interacted and their relationship, her opinion about **[32]** whether—I think she can express opinions about a variety of things. And even on the ultimate question as a lay witness, I think she's entitled to do that. It doesn't invade the province of the jury if it's just her opinion based on her knowledge of individuals.

Now, if she does not have an opinion, then we're calling for speculation. I think that would accurately reflect.

MR. LYMAN: Well, so the record reflects, the basis of my objection is it's speculation. It also does go to the question of fact that she does not have the basis of knowledge. She wasn't present at the time of the killing. She doesn't know. And just because she knows one person or another person, I don't think she's qualified to voice that type of ultimate fact opinion.

THE COURT: But think about that for a minute.

No, she wasn't there when the murder was committed. She knew all the parties, had dealings with them every day, knew how they interacted. And the law is that she can give an opinion based on her knowledge of the individuals, including the victim. And it is just that, an opinion. It is not fact for the jury. And so it doesn't invade the province of the jury.

MS. SMOTHERMON: Your Honor, Mr. Ackley has suggested my wording and I'm going to run it past everybody [33] up here then ask the question. I know Ms. Hooper can hear me and know that this is the question I'm proposing. Based on what you know about their personalities and their relationship, what is your opinion—is it your opinion that Justin Sneed would have.

THE COURT: Well, you can't state her opinion.

MS. SMOTHERMON: Okay.

THE COURT: I mean, that is leading her.

MS. SMOTHERMON: Okay. Okay.

THE COURT: So it would be do you have an opinion and if you do, what is it.

MS. SMOTHERMON: And an opinion about what, though? I need to know about whether or not Richard Glossip was consulted.

THE COURT: About whether or not—

MR. LYMAN: About whether or not he, you know, goes to—that goes to the point of my objection, the opinion she seeks goes to the ultimate fact of whether or not Mr. Glossip—

THE COURT: Whether or not Mr. Sneed would have done anything without consulting Mr. Glossip, because it would have affected Mr. Glossip, and if she has an opinion, then I think she's entitled to speak it. And I will note your objection.

(Thereupon, the following was had in open court.)

[34] THE COURT: I dispatched the clerk to check on whatever is going on in the alley. Nobody wants to eat at the snack bars during lunch, but other than that, I think it's going to calm down little bit.

You may proceed, Ms. Smothermon.

MS. SMOTHERMON: Thank you.

Q. (BY MS. SMOTHERMON) Ma'am, I want to ask you about your opinion based on your knowledge of the parties and of Justin Sneed and Richard Glossip and the relationship between them. What is your opinion about, if you have one, about whether or not Justin Sneed would have ever done anything like murder Barry Van Treese without first consulting Richard Glossip?

A. In my opinion, Justin would not have murdered Barry Van Treese, I don't believe because, for one, he didn't know the man hardly at all. He probably had no—very few comments even made together and I wouldn't see, in my opinion, why he would have a reason to do such a violent act to someone that he hardly knew.

Q. And my question was: What's your opinion about whether or not he would have done it without consulting Richard Glossip?

A. I do not believe he would have done it acting on his own volition because he didn't know Barry that well.

Q. Okay.

[35] A. Why would he?

Q. All right. Let's talk a little bit about then the end of 1996. I believe you said that the Van Treese family had gone through some tragedies, some personal tragedies?

A. Yes, they had.

Q. All right. Did you ever know of a time at the end of 1996 when they were going to take a vacation?

A. Yes, when Barry came up right before Christmas, I'm not exactly sure of the exact date but I know that he was planning on taking Donna and the children on a Christmas vacation and go out to Arizona, I believe, to see his new granddaughter.

Q. Okay. Now, at the time that he came or prior to the time that he came right before Christmas, did you have any concerns about how Richard Glossip was managing the motel?

A. When Barry came up, I'm not sure if it was the day he brought our paychecks or if it was just the day that he came to gather receipts—he came sometimes to gather receipts without it necessarily being payday—and we were alone in the office and I told him—I said, “Barry, I think that you and I need to have a talk outside of the office. Maybe you and Linda and I could go out for dinner or something.” He knew my sister, too, as well he knew me. I said, “Because we really need to talk.”

And his—what his comment back to me was, “I know that we do.”

[36] MR. LYMAN: Objection, Your Honor.

THE COURT: Sustained.

MR. LYMAN: And ask that what she did say be stricken.

MS. SMOTHERMON: What she said?

MR. LYMAN: Well, she started to answer it. I ask that it be stricken.

THE COURT: Well, I mean, the record reflects everything that is said in the courtroom. And the jury probably knows by now that witnesses can't repeat what somebody else said because we consider that hearsay. So it should not be considered by the jury.

Q. (BY MS. SMOTHERMON) Ma'am, when you spoke with Barry Van Treese and told him that you thought that he needed to have a conversation with you off—outside of the motel—

A. Yes.

Q. Okay—did he indicate—and don't say what he said, but did his demeanor indicate to you a specific intent? In other words—

A. His behavior—

MR. LYMAN: Objection, Your Honor. May we approach?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

MR. LYMAN: Hearsay objection as to her [37] description of his demeanor. His demeanor is a

nonverbal conduct that she's using to infer that he had a certain opinion. You might have well just asked him what his statement was. It's hearsay.

MS. SMOTHERMON: First of all, his demeanor and how he acted or how he looked is not a statement. You have to be a statement in order for it to be hearsay so it's not hearsay. I intend on asking her what he said, but I'm going to lay the foundation for a hearsay exception first and part of that would be to start with his demeanor.

THE COURT: Overruled.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Ma'am, without telling us what Barry Van Treese said to you. Okay. You've told us what you said to him, We need to go away from the motel and talk about this.

A. Yes.

Q. Without telling us his words, could you tell from the way he was acting whether or not he had—whether or not he was responding to what it was that you were saying?

A. In my opinion, yes, he intended—

Q. All right. Now, hang on. Don't tell us what he intended yet. But did he have a physical response? Did he get upset or could you tell that he was responding?

A. No, he did not get upset, but I knew this man very [38] well. We worked together for quite a while day in and day out, sometimes 12, 13 hours a day depending on who didn't show up and et cetera, so I knew from expressions on his face and his reactions, not that I could read his mind, but when you work close with somebody,

you know what they're going to say that they don't say it.

Q. Okay.

A. And in my opinion, he intended to come back from vacation—

MR. LYMAN: Objection, Your Honor.

THE WITNESS: —and make changes.

MS. SMOTHERMON: All right. Hang on just a second.

MR. LYMAN: Same grounds.

THE COURT: Ms. Hooper, there are some things that would be fine in a conversation, but in a court of law we have to kind of limit how we do things. We have rules that we have to follow.

THE WITNESS: I'm sorry.

THE COURT: That's all right. So I need to listen real carefully to the questions asked and just answer those questions and not expand it any further.

THE WITNESS: Okay.

THE COURT: If your answers can be expanded upon, I trust that she will ask those questions and elicit those [39] answers. Okay?

THE WITNESS: I'm sorry.

THE COURT: That's all right.

Q. (BY MS. SMOTHERMON) Ms. Hooper, I'm going to ask you some questions about the statement that Barry Van Treese made to you. But I'm asking you questions about the statement, I'm not asking you at this time to repeat the statement. Okay?

A. Okay.

Q. All right. But he did make a statement to you; is that correct—

A. Yes, he did.

Q. —in response to yours? Okay.

Was that statement about an answer to what you had said to him? In other words, was it about the subject that you were talking about?

A. Yes.

Q. Okay. Did that statement express to you his mental feeling about the subject that you were discussing with him?

A. Yes.

Q. Okay. Did that statement that he made express his state of mind about this subject that you were discussing with him?

A. Yes.

Q. Did that statement that he made express his intent or [40] his plan about the issue that you were discussing with him?

A. Yes.

MS. SMOTHERMON: Your Honor, at this time I would ask for the admission of the hearsay statement based on the proper foundation of 2803 (3) the state of mind exception to the hearsay rule?

MR. LYMAN: Note our objection, Your Honor.

THE COURT: Your objection is noted.

And you may ask the question.

Q. (BY MS. SMOTHERMON) We have to do things in order. Now, we're going to talk about his statement. Okay? You told him we've got to go off and we've got to talk about things. Okay?

A. Yes.

Q. What did he say to you?

A. He said that he knew things had to be taken care of but that he was taking his family on vacation for Christmas and going to see his new grandbaby and for me to smile my smile, like I always did, and make the motel some money. He knew that would happen.

Q. Okay. And did you trust him that when he got back from vacation he was going to take care of things?

A. In my opinion that was what was going to happen.

Q. Okay. Now, I want to talk a little bit about what you believe, what concerned you that would make you say to him, [41] "We've got to go someplace and talk." Okay? So we're going to talk about those concerns.

When you told us—and let's just see if we can have a natural break here. You told us that you were gone for eight weeks starting when?

A. I believe I had my heart attack in the early—first week or so of August. I'm not sure of the exact date, but I know it was early August.

Q. Of 1996?

A. Of 1996.

Q. And you were gone from eight weeks from when you had your heart attack until?

A. I came back some time, I believe, right before my birthday. I believe in October.

Q. Okay. Before you left, before you had your heart attack, the first few months of 1996 and the end of 1995 when Richard Glossip and D-Anna Wood were managing the motel, did you have any serious concerns about the way that the money was being taken in and things were being recorded, the bookkeeping?

A. No, everything at that time seemed like Rich was doing a really good job.

Q. When you came back in October, somewhere around your birthday, when it was time for you to come back, who did you contact to say, Hey, I can come back to work now?

[42] A. When I first found out from my doctor that I could come back to work, because I did office work and it wasn't that strenuous physically, that I notified Rich and told him that I could come back to work.

Q. Okay.

A. But he told me not to come back at that time, you know, to take a little bit longer, that he'd have to check with Barry and get the okay and that sort of thing.

Q. Okay.

A. After a period of time I was at the financial point where I either had to go back to work or I had to go find another job—

Q. Now, were you being—I'm sorry to interrupt. But were you being paid during this eight-week period of time?

A. Barry was giving me half my salary.

Q. Okay.

A. Because, you know, he knew what kind of situation, I was a single woman, my sister and I, so...

Q. Okay. So—

A. He knew that job was my only means of support.

Q. Okay.

A. So he did pay me half pay while I was off.

Q. But you've been cleared medically to go back to work, you tell Richard Glossip, he says, you know, not yet I've got to check with Barry, and then does he call you or do you [43] call him and say, "Hey, have you talked to Barry yet?"

A. I called maybe once and said, "When did Barry say I could come back to work?" And he said, "Well, he would have to get back with him." Don't remember the exact conversation word-for-word, but then I took it on my own self to call Barry at his home in Elgin.

Q. Okay.

A. And to express to him that I needed to come back to work or I was going to have to do something different. And he said

Q. All right. Hang on just a second. Remember—

A. Sorry.

Q. That's okay. Let me ask you just a question. Okay? So you were concerned, you call Barry, you tell him, "Look, I've got to come to work or I've got to go do something else"?

A. Yes.

Q. Based on that conversation, did you go back to work then at the motel?

A. Yes, I went back to work that Monday.

Q. Okay. When you got back, what was your opinion of how Richard Glossip was treating you?

A. Well, Rich was never really at any time like not nice to me, that he was mean to me or rude to me or mistreated me in any manner. I couldn't say that he did.

[44] Q. Okay. Did he ever—did you ever get the impression that he was glad you were back?

A. I don't think that he was really happy that I came back, no.

Q. Okay.

A. In my opinion.

Q. Okay. And is that anything specific that you can tell us now or is it just your general feeling?

A. Well, I really don't know how to answer that.

Q. Okay. Fair enough. And you and I talked. We're not going to answer anything that you don't have an answer for, right?

A. Well, I'm not sure.

Q. Okay.

A. I don't want to say something that I'm not supposed to say and throw something in there that I'm not supposed to throw in there.

Q. I know. And I appreciate that and I know that everyone here appreciates that. But as you have seen, Ms. Hooper, if you start to say something that legally can't go before this jury, we're all capable of stopping you. That's our job. Okay?

So I need for you, if you've got an answer, to give an answer. If it starts getting into an area that legally can't

go before this jury, you've got to trust us. I mean, [45] we'll stop you.

A. Well, Rich never confronted me and said, I didn't want you to come back to work, you've come here on Barry's wishes, not my own. No, that—nothing like that ever transpired, it was just that I could tell by his attitude towards me at first. And the attitude then was that, in my opinion, he would have just been just as happy if I had not been able to come back to work.

Q. Okay. After you got back, did you see any differences in the way the motel was being managed and the way the books were being kept?

A. Well, I didn't see any difference in the way that it was being managed but when I would give the—Rich always made the daily report every morning before he went back to his room. I worked the day shift. He worked the evening, night shift so he usually slept during the day. And I—Donna would call during every day and get the daily report and I would read it to her.

Q. Okay.

A. And I just noticed that prior to how it had always been in the past up until it was at that time that it was always right around the same amount of rooms. In fact, more than once I would make the comment to Donna that it seemed like the old Best Budget couldn't seem to get under 19 rooms, but they couldn't seem to manage to rent anything over 21. [46] Because it was always right in there, 19, 20, 21, 19, 21, 20.

Q. So you noticed as you gave the daily reports over the phone that the room rental, the number of rooms rented, seemed to be fairly consistent?

A. Yes.

Q. Now, why did that concern you or raise a red flag?

A. Well, because all the time that I had worked there, some days there might be a day when we would make the daily report that there might be 14 rooms on there and the next day there might be 40. I mean, it just fluctuated depending on the time of the year, the time of the week, the weather.

Q. Okay.

A. But it never was just ever consistently between this number. It was either feast or famine, either have a whole lot there or not very many there or the regulars there or that sort of thing.

Q. What did that tell you when the room rate was the same or the room number—let me say that again.

When the number of rooms rented was consistent night after night, what did you think?

A. Well, what I thought was that it seemed—I mean, I just thought it seemed strange that the whole period of time that I worked there it fluctuated. Nothing ever remained that consistent. So in my opinion, I felt like that there [47] was probably rooms that were not being written down but I wasn't there, so I couldn't say that's what happened.

Q. At the time that these documents, these records were being compiled, whose responsibility was it? I mean, you said you were reading it to Donna, but where were you going those numbers?

A. I got the report that Rich made. He did the daily report every morning.

Q. Okay.

A. Or at night. But he did the daily report.

Q. Okay. Did you ever see any records altered or changed or new ones made?

A. Well, there were a couple of times. You see, I wrote down on some of the things that I did. We had a sheet that we kept and as I wrote down rooms when I went rented I put the room number and the amount and so on and so forth. That's what—and then whoever came on after me was supposed to continue to do that.

Q. Okay.

A. And then that's the one that Rich made the report off of.

Q. Okay.

A. But I know there was a couple of times when I would see that my handwriting wouldn't be anywhere on that report and that I was instructed that something, a mishap had happened [48] to it, coffee spilled on it or got wet or handwriting didn't look good and that sort of thing.

Q. So he had to generate a whole new report?

A. Yes.

Q. Now, you said that it was Richard Glossip's responsibility to make the daily reports. How about rooms? Were there housekeepers that cleaned the rooms?

A. Yes, we had housekeeping department.

Q. And how did the room cleaners, the housekeepers, know which rooms needed to be cleaned?

A. I usually did the housekeeping report from the daily report to write down the rooms that had been

rented and put on the housekeeping sheet so they would know which rooms to get. I would get that from the daily reports and then sometimes from the keys, you know, we checked the keys against the rooms.

Q. So if there were keys missing, you would assume that there was somebody staying in that room that had been given the key?

A. Yes. If a key was missing, I would assume that room had been rented. If there was a key on the board, I would assume that room had not been rented.

Q. Okay. Were there are times when you looked at the daily report and it didn't show a room rented that there were missing keys for?

[49] A. Well, not so much that I would notice that there was missing keys but that I would notice in my moving around the motel that there were sometimes doors open to rooms that I did not show to have been rented that appeared to be dirty.

Q. So there were rooms that needed to be cleaned that you didn't show were rented?

A. That's correct.

Q. Okay. So what did that mean to you?

A. Well, that means that they didn't get rented out. It wasn't on the housekeeping report but it was dirty. So somehow someone got in there and dirtied it up, but I wouldn't have any way of knowing who that might be.

Q. Okay. Well, let's talk about your policy, ma'am. Would you—what was the motel policy on renting rooms? I mean, did you always write it down when somebody rented a room?

A. We always filled out a registration card and we always wrote it down on the report that we had there. You always, any time you rented a room, you had to record it.

Q. Okay. If someone rented a room and took—and did you take cash? Is that one of the ways that you took in money?

A. Yes, we took cash, credit card.

Q. If someone rented a room and took the cash but didn't write it down, that would be one way that someone could get, I guess, just money, just pocket the money, right?

[50] A. Yes.

Q. Ma'am, D-Anna Wood has suggested that you took some money from Barry Van Treese's motel that way. Did you ever steal money from the Best Budget Inn?

A. No, I never, never stole money from the Best Budget Inn. If I had have needed money bad enough to have to steal it, I believe I could have gone to Barry and asked for it.

Q. Did Barry Van Treese give cash advances?

A. I don't know, I can only speak for what he did for me.

Q. Okay. What was that?

A. I, very few times, probably went to him and asked him for a cash advance but if I had needed to, he would have.

Q. Did you ever see his type of personality display itself like this where someone needed something, needed

a room and they didn't have money or needed some money and he would?

A. He would have helped anyone. Yes, he would have.

Q. And are you saying that because that's what you think he would have done or are you saying that because you had actually seen?

A. No, I've actually—I've seen him help out people that were in dire need.

Q. Okay.

THE COURT: Is this a logical place maybe just take a little break?

MS. SMOTHERMON: I believe so, Your Honor, because

* * *

[60] somewhere plus or minus 10:00 p.m. on January 6th; is that correct?

A. I believe that to be correct.

Q. Okay. And let's see. I'm going to put, "Ask her to go by and pay cable bill in the morning."

A. Yes.

Q. Okay. Because? Tell me again.

A. Because he wanted to get it turned back on before Barry found out that it was off.

Q. Did he make any other statements to you about why he was concerned about Barry Van Treese finding out that the cable had been disconnected?

A. He just asked me to go and pay it that morning on my way to work because he didn't want Barry to find out it had been disconnected.

Q. Okay. How—

A. He said—he asked me if I would just go ahead and pay the bill, that he would reimburse me when I got to the office.

Q. So you were supposed to use your personal money and then he would reimburse you?

A. Yes.

Q. Okay. Now, on January 7th, did you go by the cable company and pay the cable?

A. Yes, I went by the cable company on my way to work. I [61] believe it was that one Direct TV or something off of Santa Fe.

Q. Okay.

A. And I wrote a check for the cable bill and brought back the receipt, gave it to Rich and he reimbursed me the money.

Q. Okay. And do you remember about how much it was?

A. I believe it was maybe around 100-and-something.

Q. So you wrote a personal check?

A. Yes, I did.

Q. Okay. Do you know about—you told us you worked from 8 to 5.

A. Yes.

Q. Did you get to work that day at eight?

A. No, it was probably, oh, closer—I tried to leave early enough to get to the cable place when they first opened, so probably it was maybe around 8:30 to 8:45, somewhere along—somewhere in there.

Q. And when you gave the receipt to Richard Gossip, he reimbursed you? How did he do that?

A. He just went back into the apartment and came back out with the money. I didn't see him take it out of the cash register or anything like that.

Q. And so he gave you cash?

A. Yes, he did.

Q. When you got to the motel that morning, did you see [62] Barry Van Treese's car?

A. No, I did not.

Q. Did you expect to see Barry Van Treese's car?

A. Yes, I did.

Q. Okay.

A. Well, sort of because I wasn't really sure maybe if he was going to spend the night in Tulsa or not or drive back. Sometimes he stayed up there in Tulsa. So that when I got there and didn't see the car, I asked about him.

Q. Okay. And who did you ask?

A. I asked Rich.

Q. Okay. So you asked him?

A. Where Barry was, did he come back from Tulsa or did he stay up there or where was he at.

Q. Okay. Well, what did Richard Gossip say to you?

A. He said that he had got up early that morning and had gone to get breakfast and was going to go get some materials. They were going to start working on the motel.

Q. Now, did he tell you how early he got up?

A. He just said he left maybe an hour ago, somewhere in that realm.

Q. And so we're at about 8:30, 8:45, he said about an hour ago Barry had gotten up and gone to breakfast and to buy some supplies?

A. Somewhere around there. He said—I don't remember [63] exactly. Maybe he said he left around eight or a little before—about an hour, because it was probably about around 8:45 maybe when I got there.

Q. Okay.

A. But that's what—he said he had gone to breakfast and had gone to get some materials. They were going to work on the motel.

Q. Okay. What did you think about someone telling you that Barry Van Treese was up at 7:30, 8:00 in the morning?

A. Well, I just kind of laughed and said, Well, that's weird. I didn't expect that. Because as a rule when Barry was up there, he was not in the office at 8:00 in the morning ready to go have breakfast or buy materials.

Q. Was he an early riser?

A. Well, I don't really know. As a rule when he was on the property and spending the night, he was not in the office prepared to do work or to eat breakfast at 8:00 in the morning. As a rule, prior to that it had never happened.

Q. Okay. I've written on January 7th, somewhere around 8:45, Richard Glossip told you that—you asked where Barry was. Richard Glossip said Barry left about an hour ago to go get some breakfast and some materials to start working on a room?

A. They were going to start working on the motel.

[64] Q. Okay. Did you talk to Richard Glossip about any of the rooms at the motel and anything that had happened to any of the rooms the night before?

A. Well, when I first came in and after we did, you know, morning pleasantries he had said—

Q. And I'm sorry, "he," who?

A. I'm sorry, Rich.

Q. Okay.

A. —had said not to put room 102 on the house-keeping report because him and Justin were going to clean that room their self because the night before Barry had rented the room to a couple of drunks and they had busted out a window.

Q. Okay. Did he tell you how they had busted out a window?

A. No. He just said, I guess they had had a raul and busted out the window.

Q. Okay. What did you think when you were told Barry Van Treese had went rented room 102 to a couple of drunks?

A. I made the comment that I found that hard to believe and sort of laughed and said, "Well, if he rented 102 to a couple of drunks, he must have rented it for a couple of hundred dollars as well because he would not have rented 102." I don't think, in the past he had never

rented a room, the best room in the place to somebody that was so drunk he thought they might do damage.

[65] Q. So he told you that Barry had rented the room and not to put it on the housekeeping list because he and Justin were going to take care of it?

A. Yes.

Q. Did you know Richard Glossip to clean rooms? I mean, was that something he normally did was the housekeeping chores?

A. Well, as a rule he didn't, but there were times when he would go out and—when some of the housekeepers or something didn't show up that he might be forced to have to go out and clean a room. So I didn't really question it all that much.

Q. Okay.

A. Especially if it required—any room that would have required maintenance, Rich would have personally taken care of that himself.

Q. Okay. Did he say anything to you about the drunks? I mean, he said Barry rented the room. Did he tell you what happened to the drunks?

A. He said that they had got into a fight or something like that and the window had got busted out and that he had ran them off, made them leave.

Q. Now, when you say "he" ran them off?

A. Rich ran them off.

Q. So Rich told you he had run the drunks off?

[66] A. Yes.

Q. Ma'am, if I were to put a time on this, is it that same time when you're having the initial conversation with him around 9:00 a.m. on the 7th?

A. Somewhere, well—somewhere after 9:00.

Q. Okay. All right. Ma'am, I wrote that Richard Glossip said to you that Barry had rented a room, had rented room 102 to a couple of drunks and that they had busted out the window. Is that correct?

A. Yes.

Q. And that Richard Glossip told you after the drunks busted out the window that he, Richard Glossip, ran the drunks off?

A. Yes.

Q. And that Richard Glossip told you don't put room 102 on the housekeeping list because he, Richard Glossip, and Justin Sneed were going to take care of it?

A. Yes.

Q. Ma'am, did you ask Richard Glossip what room Barry Van Treese stayed in that night then if the drunks were in room 102?

A. I asked him and he said that he stayed in room 108.

Q. Is that at the same time or another time, later?

A. I think more than likely it was probably a little later.

[67] Q. Okay. Did you stay and perform your job there at the motel office that morning?

A. Yes, I did.

Q. How about—well, let's talk about Richard Glossip. When you first got there, I mean, how do you get

in? Do you have a key to the office or does somebody have to get up and let you in?

A. No, I used to have a key to the office but prior to that I had given my key back to Barry. So usually I had to knock on the door to get in the office. And as a rule, most every morning that I got to work I would have to knock loud or go knock on Rich's window or something. Not every morning, but most mornings he was not up when I got there.

Q. Okay. And then once you woke him up, would he stay up or would he go back?

A. No, he would usually just come in and open the door, let me in the office, say good morning. If he had any special instructions for me, he'd give them then and then he would go back in the apartment and shut the door.

A. Okay. On this particular morning when you got there, did you have to do the same thing? Was the office locked or ...

A. No, when I got there that morning the office was open. He was up. He was kind of going in and out. In my opinion, he seemed a little nervous.

[68] Q. Okay. And you told the police that that day when they asked you, right?

A. Yes.

Q. That you had that opinion that he was acting nervous?

A. Yes, I did.

Q. Did he stay up with you and talk to you or did he go back to bed?

A. Well, mostly he just kind of went in and out of the office taking care of things, that he said. I mean, he didn't give me his—ever give me everything he did when he walked out the door. He just said, I'm taking care of things. Then when he came back in, he said he was going to go lay down for a while.

Q. Do you know about how long he had been—that had been? You don't have to give me a time, but I mean, had you been there for 15 minutes, 30 minutes, couple hours?

A. No, I'd say maybe at least an hour.

Q. Okay.

A. Maybe a little longer. He said he was going to go in and lay down and to get him up at like 12:00 because him and D-Anna had some errands they were going to run.

Q. And did you wake him up?

A. No, he had woke up prior to my having to wake him up.

Q. And did he and D-Anna go do their errands?

A. Yes, they did.

[69] Q. Did you know where they were going or at least some of the places they were going?

A. He had just said that morning that he had—was going to get some new eyeglasses and they had—they were going to go shopping at Wal-Mart and that he had some errands to run.

Q. Okay. During the time that he was gone, were you ever made aware that something was wrong with Barry Van Treese and where he was?

A. Well, I sort of wondered why that he didn't come back, you know, if he had gone to get materials. And as the rule, most of the times when Barry was on the property pretty much everybody that worked there was on property as well. And I just wondered why that Barry didn't come back when it got to be like one, 2:00.

Q. Okay.

A. I hadn't heard anything from him, he hadn't called, he hadn't come back in. I was curious but at that time not necessarily concerned.

Q. Okay. And let me stop you for a moment. You said, "When he was there most people stayed on property." Do you mean Richard Glossip and D-Anna Wood?

A. Yes.

Q. Okay. So when Barry was visiting, would it have been unusual for them to leave and go to Wal-Mart and the [70] eyeglass place?

A. Yes, it would.

Q. So you had these two things, curious things, going on but you're not worried yet?

A. No, just confused maybe of things being so much out of the ordinary, but not actual concern about anything.

Q. Okay. Did you get any information that caused you to be concerned?

A. Approximately some time in the afternoon, I think maybe it might have been around 2:30 to 3, somewhere in there, I received a call from the Weokie Credit Union where the Best Budget is facing Council Road, like at Reno is east and west and Council was north and south, we were facing Council and the Weokie Credit

Union was right behind our parking lots. Our fields touched.

Q. Okay.

A. And they called me and said that they had found the car there at the parking lot. And when, I guess, they kind of like the door was ajar and they looked inside and where they had seen papers that indicated that it was from the Best Budget and they called over there and said the car was there. They were—their security was concerned about why was it there, why hadn't somebody come and moved it or whatever.

So at that time I said, Well, I didn't know, I would [71] come and check. So I called Justin because he was sort of like, you know, watched things, run errands, and asked him—told him, Well, that they had called and said that Barry's car was back there in their parking lot, would he run back there and see if that really was Barry's car. They didn't say what kind of information they found, they just said something indicated it might have come from the Best Budget.

Q. Okay.

A. So I asked Justin if he would walk back there and identify it as Barry's car. Because it could have just been a receipt maybe from the Best Budget. And I waited for him. He said that he would, but then he never did come into the office or never did go there. So when I called him back after —

Q. And I'm sorry to interrupt, ma'am, but you're calling him in his room?

A. Yes.

Q. So he's sitting in his motel room and—

A. At that time he was.

Q. And you're able to get a hold of him?

A. Yes.

Q. But he doesn't come, so you call him back. I'm sorry.

A. Right. I called him back. And he said, Well, he didn't want to go over there. So I said, Well, then just [72] come in the office, come watch the office for a few minutes. I closed the cash register, took the key, left him in the office and walked around to the Weokie Credit Union parking lot and that's where I observed that it was Barry's car.

Q. How was it parked?

A. It was kind of parked kind of jammed up into the—kind of like where the curb, you know where it was kind of up on the—I don't know what they call those bump things, just kind of—not parked proper.

Q. Okay. It was parked awkwardly?

A. Yes.

Q. And we've got some people that are going to describe it and things, so. But suffice it to say, did that concern you when you saw that it was Barry's car, first, at the credit union and that it was parked awkwardly?

A. Well, yes, it concerned me quite a bit, so—

Q. What did you do?

A. I went—you know, I hurried on back to the office and I called Donna at home and told her that Barry's car was parked in the parking lot and that I hadn't heard from Barry all day long and it was kind of awkwardly parked and—I mean, I didn't just inspect it, I just, you know.

But I was very concerned at the time about something may have happened to Barry, you know, maybe that he got ill or something.

[73] Q. Okay. Other than his wife Donna, did you call anyone else and kind of tell them what was going on?

A. At that time Donna was the first person that I called at the office, I called her home and told her that Barry's car was found at the Weokie Credit Union and explained the circumstances to her, that I hadn't heard from him all morning. She instructed me—asked me if I would please call some of the local hospitals because he had been having some health—she had been concerned about some health problems that she was aware of, and then also to call his friend Cliff, but I don't remember his last name.

Q. At the time did you know his name?

A. At the time I knew his name, yes.

Q. And did you have a number or a pager or something, a way of getting a hold of him?

A. Yes, his number, him and Barry had been friends and Barry had his number in with the—where we kept on the bulletin board where we had numbers. And Donna asked me if I would do those two things and then call Cliff. And then I did call the local hospitals, the ones around that area, and then I called Cliff and—

Q. His last name is not a secret. It's Everhart.

A. Everhart. I just couldn't remember it.

Q. That's fine.

A. And—

[74] Q. We all know it. I'm not going to keep it from you.

A. No. Everhart. Anyway, then I called Donna back and said that I had called the hospitals and Barry was not in the hospital. And some time between, Donna and I had several conversations on the telephone during that timeframe. And then after I called Donna and I called the hospital and I called Cliff, Donna, Cliff, then the hospital, then I remembered that Rich had said that among their errands that morning they were also going to Wal-Mart, so I knew that as a rule, they went to that Wal-Mart Super Center or that one up on 23rd and McArthur.

Q. Okay.

A. And that's the one that I called and had him paged.

Q. And did you actually get a hold of him?

A. I got a hold of him at Wal-Mart and I told him what was going on, briefly, Barry's car had been found, Barry was nowhere around and that maybe he should get back to the office. And he said, I will come back.

Q. And did he?

A. He did come back.

Q. Okay. When he got back, how was he acting?

A. Well, by that time, Cliff had already arrived and I believe that Rich may have got back a few minutes before or maybe, I think, like when Cliff got there he called Donna and they talked. And then, I think—I can't remember if [75] I—I might have dialed the number for the police.

By that time, John Beavers, one of the people that had been a permanent resident had come in the office. He had got off work and he usually came in the office and said, "Hello." And I was telling him what was happening

because I was very upset, worried about something might have happened to Barry.

And then at that time, I was having a conversation also with Donna. And John got on the phone and, I believe he talked to her for a minute and then he said, "Call the police. We better call." So I dialed the number, and I believe he's the one that talked to the police.

And then about that time is when Cliff got there, and then shortly thereafter Rich got there, and then everything like that started transpiring.

Q. Okay. How was Richard Glossip responding to all of this news about Barry's car being found but couldn't find Barry? I mean, did he seem upset? Concerned?

A. Well, he didn't seem to be that upset, in my opinion.

Q. Okay. Did—you said that they had gone to Wal-Mart. Do you know if they bought anything? Did you see if they brought anything back?

A. Well, earlier they had—Rich had got some new glasses so I guess they went by the optometrist, and D-Anna showed me the ring that he had bought her, and then they brought in [76] sacks and purchases from Wal-Mart but I don't know what they were.

Q. Okay. Ma'am, at any time after that did you see Justin Sneed?

A. I think Justin may have come in the office. When Cliff got there, he instructed Justin to go check all the rooms that were not rented at the time.

Q. Okay.

A. To check all the rooms. And then he left, because they had a master key.

Q. Okay.

A. And he left to go do that. And at that time I never saw Justin after that.

Q. Do you know if Justin Sneed was still at the motel when Richard Glossip and D-Anna got back from Wal-Mart?

A. Yes, he was.

Q. Do you know if—did you ever see Richard Glossip and Justin Sneed talking after? Don't tell us what they said, but did you ever see them interact?

A. Well, they left together to go out to check the rooms and things, but I didn't hear any conversation they had.

Q. And I'm not going to ask you. I don't want you to repeat the conversation, but they did interact?

A. Yes, they did.

Q. And they left together, Richard Glossip and [77] Justin Sneed, to go check the motel?

A. Yes.

Q. Ma'am, at some time—and not that day but later, after Barry was discovered murdered, were you asked by the Van Treese family to look at the financial records, records that you didn't normally look at, but to look at the financial records to see if you could discover how much money Barry Van Treese might have had on him?

A. Yes, they asked me if I would kind of tally up the books to approximate how much money that Rich might

have given Barry at that—when he came in for the money and the payroll. He usually picked up the receipts—every time he came into the Oklahoma City he picked up the receipts.

Q. And with the records you had or they provided for you, were you able to come up with an amount, an approximate amount —

A. Seems like it was probably somewhere around maybe like 3,500 to 4,000. Some point in there.

Q. Okay. When you were looking at the records, did you see where Richard Glossip and D-Anna Wood had sold anything to the Best Budget Inn?

A. They had sold—let me see. Like on that one—on that report Rich had paid himself back, I believe, for the Coke machine and the fish tank, I think, and things that he had purchased there at the motel that he was, like, going to [78] leave behind.

Q. Was Richard Glossip leaving?

A. Well, I don't know for a fact that he was leaving but, I mean, I'm sure that no one was aware of what was going to happen about the motel—

Q. Sure.

A. —at that point in time.

Q. These items that Richard Glossip sold to the motel, do you know about how much money he got for them?

A. I don't recall. I would say probably pretty much whatever he had invested in it.

Q. Okay. If you had testified earlier that it was somewhere around 100 to \$150, does that sound about right to you, or do you just not remember at all?

A. I would think it might have been a little bit more than that, but I really don't remember.

Q. Okay. Now, ma'am, at some point were you asked by the police or by the family or someone, were you asked to look through the registration cards and see who room 102 was registered to?

A. Yes, I was.

Q. Okay. And were you able to locate the registration card for room 102 for the night of January 6th, 1997?

A. No, I was not.

Q. Now, is there a problem with missing registration [79] cards?

A. Not as a rule.

Q. Would there be a problem if a card was missing?

A. Well, it would just be out of the ordinary. I mean, you just—the Best Budget was a family-owned business, not run exactly like you would be running the Holiday Inn or somewhere like that.

Q. But, normally, you wouldn't have a missing registration card?

A. Not as a rule.

Q. Okay. How about the key? Did you ever—were you ever—did you ever look for the keys, the keys to room 102?

A. I don't recall doing that.

Q. After Glossip went to look in the rooms with Justin Sneed, did you ever see Richard Glossip again that day?

A. I'm sure that I did but at that point I was very upset. You know, I had become quite close to Barry and

his family and I was quite concerned about what was going on and his whereabouts, so I wasn't really reacting in my normal behavior that I would have at the office.

Q. Ma'am, you've told us some things that concerned you and we can talk about those things now as you look back. I mean, after you know that Barry Van Treese was murdered. At

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 8 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 20, 2004**

* * *

[12] were being paid during the period of time that he was employed there, right?

A. Yes, sir.

Q. And he had the opportunity and if wanted to, the ability to buy things for himself, didn't he?

A. Yes, sir.

Q. Now, you indicated that Mr. Van Treese' room preference was 102?

A. Yes, sir.

Q. It had a waterbed?

A. Yes, sir.

Q. It was a nice room?

A. Yes, sir.

Q. Probably the nicest room there at Best Budget Inn?

A. One of them.

Q. So there were more than one nice room?

A. Well, they weren't all bad rooms but some of them were in just a little bit better shape than others.

Q. Most of the rooms rentable? I mean, they were being rented, weren't they?

A. There was some of them that were under construction, I believe, but they weren't—they were—all rooms were rentable. They had some down that were being worked on.

Q. When you say "some down," are we talking about two or three, 10, 20, what, how many?

[13] A. Well, I wouldn't be as aware of that as the managers would, but I wouldn't say 10 or 20 at a time, but I—maybe two or three.

Q. So two or three that would be under construction or remodel?

A. Yes, sir.

Q. The rest would be rentable?

A. Yes, sir.

Q. Now, you knew Mr. Van Treese carried money on his person and put it in his vehicle?

A. Yes, sir.

Q. Mr. Glossip knew that, to your understanding?

A. To my knowledge he did.

Q. And D-Anna Wood would be aware of that, to your knowledge?

A. To my knowledge, I would think so.

Q. Would Mr. Everhart be aware of that?

A. I wouldn't know but they were friends. Possibly.

Q. Mr. Glossip, to your knowledge, didn't make deposits in the bank for Mr. Van Treese, he would turn the money over to him?

A. Yes, sir.

Q. To your knowledge, Mr. Van Treese didn't utilize a bank in Oklahoma City for the Best Budget Inn of Oklahoma City?

A. Not that I knew of.

[14] Q. You described yesterday Justin Sneed as someone that was polite, quiet, fairly pleasant to you?

A. Yes, sir.

Q. You got along with him?

A. Yes, sir.

Q. At times you would actually have—well, you'd have daily contact with him, wouldn't you, as far as cleaning the rooms and things like that?

A. Yes, sir.

Q. And on these daily times, he always behaved that way, pleasant with you?

A. To me, yes, sir.

Q. Has your opinion changed about Mr. Sneed since you learned he beat to death Barry Van Treese?

A. I would think so.

Q. Prior to the death of Mr. Van Treese, were you aware that Justin Sneed used methamphetamine?

A. No, I did not.

MS. SMOTHERMON: And, Your Honor, I'm just going to object to that being improper. He used it at some point, not prior to the death, not that day, so I don't think the evidence is going to reflect this question.

THE COURT: Well, I'm going to remind you I'd prefer speaking objections made at the bench.

MS. SMOTHERMON: I apologize.

[15] THE COURT: And I'm going to sustain the objection.

Q. (BY MR. LYMAN) Were you aware of his use of drugs prior to the death of Mr. Van Treese?

A. No, I was not.

Q. Would that change your opinion about him?

A. I don't know.

Q. Now, you indicated yesterday that in your opinion Justin Sneed would not have harmed Mr. Van Treese

without some connection to or activity by Mr. Glossip. Do you recall that?

A. Yes, sir.

Q. But you also, would you not, acknowledge that you do not know the circumstances of Mr. Van Treese's death?

A. No, I do not.

Q. Now, you indicated yesterday, I believe, that at some point in time you wanted to engage in a conversation with Mr. Van Treese about some concerns you had at the hotel?

A. Yes, sir.

Q. That was before his vacation and Christmas of 1996?

A. Yes, sir.

Q. And was that after you had returned in October of 1996 from your second medical leave?

A. Yes, sir.

Q. Was it closer to when you returned or closer to the [16] vacation time? Approximately when was it?

A. It was probably in December.

Q. Now, you get paid twice a month?

A. Yes, sir.

Q. You got paid twice in December?

A. Yes, sir. I did.

Q. Of 1996?

A. Yes, sir.

Q. And you received your checks from Mr. Van Treese?

A. Well, sometimes they came through the mail. He didn't always bring them personally, but he always signed them.

Q. Did you see him in person in December of 1996?

A. Yes, I did.

Q. And did you tell him at that time of your concerns?

A. I told him that I would like to speak to him outside of the office, yes, I did.

Q. Did you tell him of your concerns at any time?

A. Well, I didn't get an opportunity to be specific, but I expressed my concern that I wanted to speak with him outside of the office.

Q. From October 1996 until Mr. Van Treese's death, not only did you continue to get paid but did Mr. Glossip, to your knowledge, continue to get paid?

A. Yes, sir.

Q. Now, when Mr. Van Treese would come in and look at the [17] daily reports, would he do that before or after he paid you your check?

A. Well, I wouldn't really—sometimes I would be busy or maybe doing other things around the office. I don't know exactly that he would come in and pick up the reports and then pass out the paychecks. Sometimes they came through the mail. Sometimes he would sit down and write them and then I would get mine and leave.

Q. On January the 6th when he came in, his routine was to, he came in, he exchanged pleasantries with everybody, correct?

A. Yes, sir.

Q. He gathered the information from Mr. Glossip, the deposits and things of that nature?

A. Well, as far as I can remember, my recollection is that when he came into the office he was kind of hurried because he had forgot that that was payday and he was trying to write the paychecks. So the only thing that I observed him to do was to be kind of frazzled and sit down and get the timecards and get out the checkbook and write the checks. I did not observe that he went through the daily reports and business at that time.

Q. But he came in and—busy and going about his business in a busy fashion?

A. Yes, sir.

* * *

[30] Q. (BY MR. LYMAN) Is it your understanding that Justin Sneed left the property that day and did not return?

A. I don't know. When I was still there—when I left the property, I believed him to be still on the property because I had seen him prior to my leaving. But after I left, I wouldn't know what was going on. He may not have been after—I don't know.

Q. Did you work the following day or go into the Best Budget Inn the following day?

A. I don't think so. I don't remember. But I don't know—no, I didn't.

Q. And you do not have any personal knowledge as to why Justin Sneed killed Barry Van Treese, do you?

A. No, I do not.

MR. LYMAN: Just a moment, Your Honor.

Q. (BY MR. LYMAN) Did you ever get any bonuses or any extra money when you and your sister ran the motel for Mr. Van Treese?

A. Well, he gave me a Christmas bonus and then he paid me manager's salary that Christmas that we watched it.

Q. Did you get a Christmas bonus in 1996?

A. Yes, I did.

Q. Do you know whether or not Mr. Glossip did?

A. No, I do not.

MR. LYMAN: Pass, Your Honor. Thank you.

[31] THE COURT: Thank you.

Ms. Smothermon.

MS. SMOTHERMON: Thank you. Your Honor.

REDIRECT EXAMINATION

BY MS. SMOTHERMON:

Q. Ms. Hooper, I warned you that I'd have a few more questions but I promise just a few, and I'm going to try to keep to that. Okay?

A. All right.

Q. Ma'am, during this time I get an opportunity to talk about a few of the areas that you talked about with Defense Counsel and I want to do that. The first area

that I'd like to talk about is the—this shortage versus missing money.

There's a difference between money that's just missing, I mean, somebody has reached their hand in the till and taken money out, a difference between that and books not balancing?

A. Yes.

Q. Okay. All right. If the books didn't balance, is that something that you would have been aware of?

A. No, ma'am.

Q. Okay. If there was money missing from the till, I mean, somebody actually stuck their hand in and grabbed some, is that something that Barry Van Treese would have made you aware of?

[32] A. No, I don't believe so, unless it had been me, maybe.

Q. Okay. Unless he was accusing you of it?

A. Yes, ma'am.

Q. Okay. All right. I think that we started today with a question to you that if there was \$4,000 or more shortage where the books didn't balance and you thought that would probably get somebody fired, an employee of Barry Van Treese's fired; that's your opinion, right?

A. Well, I really wouldn't presume to know what Barry would really do, you know, because of the kind of person that he was. He was a nice person, so I couldn't say what he would do.

Q. Okay. Well, it certainly sounds like a lot of money that somebody should get fired for, right?

A. Yes, ma'am.

Q. Okay. Do you know anything about what was happening with the Van Treese's in late 1996 that might have prevented Barry Van Treese from firing the person he thought was responsible for that?

A. Well, he was having a lot of personal problems. He was having experiences in bad health that he had told me about. His—Donna's mother had passed away. He had lost his own mother. He was concerned about some health issues of his own and he was wanting to take the family on Christmas vacation and go see his new grandbaby.

[33] Q. Okay. And I think you told us yesterday, when you were talking about his state of mind, that you believed he was aware of what was going on. He was just choosing not to do anything until he got back from Christmas; is that right?

A. That was my opinion, yes, ma'am.

Q. Okay. You told us you were concerned about what was going on, right?

A. Yes, ma'am.

Q. So much so that you told Barry you needed to talk to him?

A. Yes, ma'am.

Q. Tell us, because I think we sort of piecemealed it yesterday, tell us why it was that you were so concerned that it was time to talk to Barry about it.

A. Well, prior to that, I had—in my observation and in my own personal opinion—had felt like that Rich was doing a good job. He was trying to upgrade the property both cosmetically, but also to upgrade the clientele and I

really felt like that he was—whatever the circumstances, he had the Best Budget at heart.

Q. Okay.

A. But after I returned from my heart surgery I began to observe not necessarily so much money discrepancies but less interest, more, not the kind of people that he had previously been trying to bring in. Less desirables.

[34] Q. And these daily reports that were redone—and you told us those happened during this time period?

A. Yes, ma'am. Just things that just were things that I didn't think was necessarily the right thing.

Q. Okay. You told us that it was your understanding that when Barry Van Treese came back after his Christmas break that he was going to take care of things, going to take care of these problems, right?

A. What he expressed to me was that he intended to take care of things, but he didn't tell me exactly what. He just said, "I know," more or less, "I'm going to take care of it when I come back from vacation. I want to take my family on vacation. Smile and do like you do and make me some money."

Q. Okay. I believe that there was a question posed to you on cross-examination and I don't know that you had a chance to answer. I want to make sure I give you that chance. The question was: When you left on January 6th, did you expect, in your opinion, that Richard Glossip would be manager when you got there on January 7th?

A. In my opinion, I didn't really expect that, no.

Q. And did you believe that because Richard Gossip was going to leave voluntarily or because he was going to be fired?

MR. LYMAN: Objection, Your Honor.

THE COURT: Overruled.

[35] Q. (BY MS. SMOTHERMON) You can answer that, ma'am.

A. I believed that he was probably going to be dismissed, yes.

Q. Okay. Let's talk a little bit about the rooms that the employees got. You said that employees got reduced rate. And I don't know that we've had anybody really talk about that. Can you just tell us about that very quickly, what that means?

A. Well, sometimes we would get people that were maybe in between places to live and they would need a place to stay, so Barry would like rent them a room for less money and mostly hire them for housekeeping or maintenance. Then he would—and we all punched in on a timecard, the hourly help, and then he would pay them their pay and would deduct their rent from their pay.

But he always made sure that everybody had some money—you know, had money on their paycheck and he would reduce the rate of a room for less than what if we were renting it just to a customer.

Q. Ma'am, you told us, I believe, that Barry Van Treese didn't say on the 6th that he was going to remodel. I mean, the way you said that made me think that there was somebody. Was there somebody who said remodeling on the 6th and 7th?

A. Barry didn't say anything to me when he came in, but the next morning when I came to work and asked

Rich where [36] Barry was, if he had come back from Tulsa or not, because I didn't know that at the time, and he said that Barry had left about, oh, an hour or so, half hour to go to breakfast and was going to go pick up some materials, that they were going to remodel on some of the rooms that—a couple of the rooms that were down, that Rich was wanting to fix up.

Q. Okay. So the only remodeling talk you heard was from Richard Glossip?

A. Yes, ma'am.

Q. Okay. When you left the Best Budget Inn in February of 1997, I think you testified to Defense Counsel that D-Anna still lived there; is that correct?

A. Yes, ma'am.

Q. Was she in a relationship with somebody else at the time?

A. Well, at the time she was, in my opinion, friendly with one of the people that was acting manager, Jim, I believe his name was.

Q. And if I said Jim Gainey, is that who you're talking about?

A. That would be correct.

Q. And did you have an opportunity a few months after that to see D-Anna Wood again?

A. When we had to come back down here for the original trial.

* * *

[59] A. Yes, ma'am.

Q. Let you know he wasn't happy?

A. Yes, ma'am.

Q. But, I mean, did he fire you over it?

A. No, ma'am.

Q. Well, tell us a little bit about Barry Van Treese's demeanor then. I mean, you've done something against policy?

A. He was a little upset but when he understood what the circumstances were he said, Just don't let it happen again, in the future that the deposits had to be made the following day, don't wait a couple days and let them build-up. He wanted them in every day by noon.

Q. And so after that, did you make sure they were in every day by noon?

A. Yes, ma'am.

Q. Did you believe there would be consequences if you let it slide again?

A. Yes, ma'am.

Q. Talk to me a little bit about Barry Van Treese's demeanor. Was he—well, just tell me in general how he was.

A. Barry was the most jovial person I've ever met in my life. He was a very happy, go lucky guy. He was like Santa Claus.

[60] Q. Okay.

A. All year round.

Q. All right. Did you ever see him when he was upset or angry?

A. A couple times.

Q. And on those occasions, do you remember why it was that he was upset or angry?

A. Both times, yes, ma'am.

Q. Okay. And just tell us in general terms—well, you've told us about one, right, in the deposits; is that one of the times?

A. Yes, ma'am.

Q. Okay. In general terms, what was the other time?

A. We had a water heater that broke down one time. He was pretty upset about that. We weren't allowed to make that decision on our own, to buy a new water heater, so I had to call Barry in Lawton. He had to come down to the motel and we put a new water heater in together, and went out and got it. But he was pretty upset that the water heater had gone out.

Q. Fairly expensive, I would imagine.

A. Yes, ma'am.

Q. Did you ever have an occasion to observe Barry Van Treese when he was upset with someone for lying or stealing from him?

[61] A. Just the night of January 6th.

Q. Okay. And we're going to get to that in a minute. Did he ever stay the night at the Tulsa motel?

A. Yes, ma'am.

Q. Did he have his own set of keys?

A. No, ma'am.

Q. Okay. What was his policy on that?

A. He'd show up and ring the overnight bell if it was after hours or he'd come straight to the desk, come in straight to the desk and get a key from us to be let into a room.

Q. Okay. Prior to January 6th of 1997, the day before Barry was murdered, how long had it been since you had seen him?

A. About three to four months.

Q. On January 6th, 1997, was that a payday?

A. Yes, ma'am.

Q. As the day went on, during the day, had you received the paychecks in the mail like you would normally have gotten?

A. No.

Q. Did that concern you? I mean, did you think, Well, gosh, the money is not going to get here, or did it have to be by a certain time?

A. It had to be paid by midnight. Our housekeeper's [62] checks had to be in by midnight on payday. If they didn't show up by Federal Express or direct mail or something like that, Barry was going to show up with them by midnight.

Q. By midnight. So he had a midnight deadline to get to Tulsa to make the payroll?

A. Yes, ma'am.

Q. Okay. On January 6th, prior to any time that you might have seen him, did you talk to him or Donna Van Treese prior to that?

A. That day or?

Q. Yes that day.

A. No, ma'am, not that I know of.

Q. Okay. All right. Did you eventually see him?

A. Yes, ma'am.

Q. Okay. And about what time was that?

A. It was after 11, but before midnight.

Q. Okay. Were you getting worried that the payroll wasn't going to be there or you figured it would be there somehow by midnight?

A. Barry would—he was going to be there.

Q. Okay. All right. When he got there, did he come—I mean, where were you? Were you in the office? Were you in an apartment?

A. I was sitting in the office in a chair watching TV right in front of the front door when he pulled up.

[63] Q. Okay. And did he park there at the front door?

A. Pulled up right at the front door and came in through the front door.

Q. Okay. Now, I don't want you right now to tell me what he said. We're going to talk a little bit first. But when he came in, did you have an opportunity to observe his demeanor, how he was acting?

A. Yes, ma'am.

Q. And did you have a conversation with him?

A. Yes, ma'am.

Q. Okay. Tell us how he was acting. Without telling us what he said, tell us how he was acting.

A. He was all puffed up. He was upset. He was mad.

Q. Okay.

A. He was all red in the face.

Q. Okay. And that's how he looked. What he was saying, was he saying it in just a normal manner that you knew him to be or was he saying it in a different manner?

A. He was very gruff, very short, very gruff.

Q. Was he agitated or louder than normal?

A. Yes, ma'am.

Q. You said that you had seen him upset on two previous times when the money didn't get deposited and when the boiler broke—or I'm sorry, the water heater?

A. Yes, ma'am.

[64] Q. Okay. Compared to those two times, how upset was he when he came on January 6th?

A. Five, 10 times worse. He was really hot.

Q. Have you ever seen him that upset before?

A. No, ma'am.

Q. How long did he stay?

A. Half an hour, 45 minutes.

Q. Okay. Was he upset the entire time he was there?

A. Pretty much. He had calmed down by the time he left, a little bit.

Q. Now, again, before we get into what he actually said, you did say that he did talk to you; I mean, you interacted with him some, right?

A. Yes, ma'am.

Q. Okay. Did he pay the payroll, make the payroll?

A. Yes, ma'am.

Q. Did he tell you when he first got there—and don't tell me the words—but did he tell you why he was he was more upset than you had ever seen him?

A. Not when he first got there, no.

Q. During the time that he was still upset, did he tell you why it was he was so upset?

A. Yes, ma'am, after he asked questions and asked to see things.

Q. So he asked some questions about the Tulsa motel?

[65] A. Yes, ma'am.

Q. And then he told you why it was he was so upset?

A. Yes, ma'am, as we were walking the floors on the motel.

Q. Okay. When he was telling you this, was he still visibly and verbally upset?

A. Yes, ma'am.

Q. The explanation that he gave you about why it was he was upset, did that explanation seem to you to be a logical explanation for why he was upset? In other words, did it make sense to you?

A. Yes, ma'am.

Q. So the explanation he gave you fit what you observed his demeanor to be?

A. Yes, ma'am.

MS. SMOTHERMON: Your Honor, at this time I intend to ask Mr. Bender the comments of Barry Van Treese based on the excited utterance exception to the hearsay rule, *Smallwood V State*, 907 Pacific 2d. 217.

MR. LYMAN: May we approach, Judge?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

MS. SMOTHERMON: 2803, 2, page 363 in the little book we all have.

MR. LYMAN: Two or three?

MS. SMOTHERMON: Two.

[66] Your Honor, in **Smallwood V State**, 97 P2d. 217, which is a 1995 case—and the reason I use this is because there have been dozens of cases since **Smallwood**, all quoting **Smallwood**, so I quote **Smallwood** as the **Seminole** case in this area. They state that excited utterance is a well-founded and well-rooted exception to the hearsay rule. That the foundational requirements—these are their words—“that must be met for this exception to apply are: One, a startling event or condition; two, a statement relating to the startling event or condition; and, three, the statement must be made while a declarant is under the stress of excitement caused by the event or condition.”

MR. LYMAN: We object. First of all, there's been no startling event or condition. All he's done is arrived and his arrival up there has no relationship to what she's getting ready to solicit from this witness. But we'd object on those grounds.

This is not a proper use of that particular exception to the hearsay rule. In addition, we'd ask for—if it is overruled and allowed, we'd ask the jury to be admonished on how they are to receive this evidence.

THE COURT: And what admonishment would you request extemporaneously?

MR. LYMAN: The jury would be receiving this evidence—what I anticipate is, he's going to talk about

* * *

[78] Q. And he made statements to you about why?

A. Yes, ma'am.

Q. Those statements, can you tell me generally—I'm going to ask you a leading question and they may object, so just wait a minute, a moment.

Were those statements—were those statements that he made telling you why he was upset, were they generally—or were they about events that had occurred at the Oklahoma City motel?

A. Yes, ma'am.

MR. LYMAN: Objection, Your Honor.

MS. SMOTHERMON: I'm trying so that we don't.

THE COURT: I know and it is a leading question, but I'm going to allow it for the limited purposes of laying this foundation.

MR. LYMAN: If we could approach real quick, Your Honor.

THE COURT: Sure.

(Thereupon, the following was had at the bench.)

MR. LYMAN: I don't mind leading for purposes of admissibility questions here. My understanding was that the event or condition was going to be what occurred there at the Tulsa. So if the leading questions is did he make comments or statements about what he was showing you there.

THE COURT: Well, I said two different things. I [79] said, first of all, if I heard that they were about the events in Oklahoma City and on that day, I wanted to limit it to a certain time and place. And then, secondly, that they were looking at records together and his statements were involving the discussion of records. So I was really headed two directions.

MR. LYMAN: Two directions. Now that I'm clear on that, note our continuing objection to both.

THE COURT: Thank you, sir.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) You have a plane this evening. I understand that. Don't think I forgot.

All right, sir. I think my question to you was—we've got some statements that Barry Van Treese made when he was madder than you've ever seen him, that the statements were about why he was mad, and my question to you was: The event that caused him to be mad, did that occur at the Oklahoma City motel?

A. Yes, ma'am.

Q. And did that event occur—was it your understanding that he had just come from the Oklahoma City motel to Tulsa?

A. Yes, ma'am.

Q. And did the event that upset him occur when—in that night when he was visiting at the Oklahoma City motel?

A. Yes, ma'am.

[80] Q. Okay. In addition to him making statements to you, did he also show you any documents about why he was mad?

A. Yes, ma'am.

Q. And tell us what those documents were.

A. Well, first, he demanded to see the daily receipts and the year-end receipts.

Q. For the Tulsa motel?

A. For the Tulsa motel.

Q. Okay.

A. Then he made me show him the current daily sheet and daily report and made me walk him around to some of the rooms and knocked on doors and went in doors to make sure that there was nobody in those rooms. And as he was doing that, he pulled out some more pieces of paper that had three columns on them that showed the last three years' receipts for both the Tulsa hotel and the Oklahoma City hotel, the difference in how many rooms would be rented per month for the entire year for those motels.

Q. And using what had happened to him at Oklahoma City prior to coming to see you and using this, these reports that he had on the activity in the two motels, did he make statements to you about why he was so upset?

A. Yes, ma'am.

MS. SMOTHERMON: Your Honor, I believe then that the proper foundation has been laid and we ask that these **[81]** statements be allowed.

THE COURT: Ladies and gentlemen of the jury you've heard me make the comment to other witnesses that we don't repeat what somebody has said because that's normally called hearsay. And, of course, nothing is ever simple and there are a number of

situations in which the law says that hearsay statements are admissible. And sometimes we disagree about the law and then I have to make rulings about whether the law applies here. It is the decision of the Court that I think the law allows this and the Defense objects.

And I'm going to allow you to ask the question.

MS. SMOTHERMON: Thank you, Your Honor.

Q. (BY MS. SMOTHERMON) Sir, what is it that Barry Van Treese told you was going on that made him so angry?

A. He said that there was a matter of registration cards missing, a number of registration cards missing. There was—weekend receipt money had not been deposited and was missing. There were people in rooms that weren't registered.

Q. And was this at your motel?

A. No, this was—that's why he took my daily report and went around and walked the motel and knocked on doors and—to check to see who was in rooms because he thought I was doing the same thing in my motel.

[82] Q. Okay. So had he just discovered; I mean, had he just seen these missing registration cards and missing weekend—

A. Yes, ma'am, it was January 6th. That's what he was doing. He was handling the paychecks on that pay period and picking up the year-end receipts that were all supposed to be boxed up and ready.

Q. And that wasn't what he found in Oklahoma City?

A. No, ma'am.

Q. And because—and that made him mad so he was looking at yours pretty hard?

A. Yes, ma'am, he assumed we were doing the same thing in Tulsa that was going on in Oklahoma City.

Q. Okay. Did he make any statements to you about what his intentions were because of the condition he found the records at the Oklahoma City motel?

A. Yes, ma'am, he said he had given, I believe his name was Rich, the matter of time it took for him to get to Tulsa and back to Tulsa to come up with the week-end's receipts that were missing and if he came up with that, he was going to give him another week to come up with the registration cards and get all the year-end receipts together.

Q. Give him that amount of time or what, did he tell you?

A. He was going to call the police.

Q. You said that he didn't stay, that Barry Van Treese didn't stay in Tulsa very long. I think you said 45 [83] minutes, an hour?

A. Forty-five minutes, an hour.

Q. Was he able to get the financial records from you that he needed for his year-end reports?

A. Yes, ma'am.

Q. When he left, were you under the impression that you were going to be fired?

A. No, ma'am. No.

Q. When you left, did you think that you might have a job different than what you had as manager of the Tulsa motel?

A. Yes, ma'am.

Q. Okay. What did you think your new job might be?

A. Well, Barry wanted us to take over the Oklahoma City motel.

Q. And he discussed that with you? That was -

A. Yes, ma'am.

Q. Okay. Did you have any—well, and where did you think Barry Van Treese was going when he left the Tulsa motel?

A. He was headed back to Oklahoma City.

Q. Did you have any further conversations with Barry Van Treese that night, on the 6th?

A. He called from the bypass on the way to Oklahoma City.

Q. Okay. Now, I need for you to stop here because we haven't done the proper form for that statement to come in. [84] Okay? So don't tell me what he said, but he called while he was on his way to Oklahoma City—

A. Yes, ma'am.

Q. —is that correct? Okay.

And you had a conversation with him?

A. Actually my wife had a conversation with him.

Q. Based on that conversation, did it change what you thought your plans were that you were going to go be the managers in Oklahoma City?

A. No, ma'am.

Q. Okay.

A. We didn't want to be the managers there anyway. Our kids were stable in the school that they were in where we were in Tulsa and we had planned on staying there.

Q. Okay. So you were going to turn down that offer?

A. Yes, ma'am.

Q. Except for that phone call that he made while he was on the turnpike, is there any other contact that you had with Barry Van Treese on that night?

A. Never heard from him again.

Q. On January 7th then, the next day, did you get a call from anyone about Barry Van Treese?

A. From Mrs. Van Treese.

Q. Okay. And what was she calling for? What was her reason?

* * *

[120] A. I don't know that.

Q. Did you ever see Justin with money buying food or anything like that?

A. No, ma'am.

Q. I want to talk about the night before they found Barry Van Treese murdered in room 102. Okay? That night during the night, were you asleep in your room or in your apartment, in your room from 2:50? Were you in there during the night?

A. Yes, I was.

Q. I'm sorry, I worded that very incorrectly. And then was your boyfriend, was he in there with you?

A. Yes, ma'am.

Q. At some time during the night did you hear something that caused you a little bit of concern?

A. Yes, ma'am.

Q. What did you hear?

A. Something like a boom like, because I asked my children to cut the TV down and I asked them did they hear that. It was like a boom noise.

Q. Do you know—when you say boom, was it like something was falling or what kind of boom was it?

A. It was really hard to say.

Q. What did you think was going on? What did it sound like to you?

[121] A. It was really hard to say.

Q. Was it one noise or more than one noise?

A. I can't remember that.

Q. And about what time did that happen?

A. I don't know.

Q. Your children were still awake?

A. Yes, ma'am.

Q. So it wouldn't have been the middle of the night? It would have been earlier, or did they stay up in the middle of the night?

A. I can't remember.

Q. Was it after dark?

A. I think it was.

Q. Okay. On the morning—I'm sorry, before, on January 6th when—the day before Barry Van Treese was found murdered, did you have an occasion to walk by or to go in room 102?

A. No, ma'am.

Q. When is the last time you went by room 102?

A. I can't remember.

Q. Okay. The last time that you saw it before Barry Van Treese was murdered, was the window broken or was it not broken?

A. Can you repeat that.

Q. Uh-huh. Before the day he was murdered. Okay? Before **[122]** that, when you saw room 102 and the window there, was it broken or not broken?

A. Not broken.

Q. Okay. On January 7th, the day that Barry was found, did you come to work as usual around 8, 8:30, something like that?

A. Yes, ma'am.

Q. And you're upstairs. Do you come down the stairs?

A. Yes, ma'am.

Q. And where is the first place you would have gone?

A. Straight down the stairs to the office.

Q. And when you came down the stairs to the office, did you come in contact with anyone?

A. Yes, I did.

Q. And do you remember who that was?

A. Richard.

Q. Okay. And did you see Justin Sneed at that time?

A. No, ma'am.

Q. And when you saw Richard that morning, did he say anything to you?

A. Yes, ma'am, he had told me to do the upstairs only, not the downstairs.

Q. And what did you think about that when he told you that?

A. I didn't know.

[123] Q. Had you ever been given that type of instruction before?

A. No, ma'am.

Q. Okay. Did he give you any specific instructions about any certain rooms?

A. No, ma'am.

Q. After that, did you see Justin Sneed?

A. I think it was later on.

Q. And did he give you any instructions about a certain room?

A. Huh-uh. He just said he was going to do the downstairs.

Q. Okay. What time approximately would it have been when you saw Richard Glossip and he told you just to do the upstairs?

A. I can't remember.

Q. Would it have been about the same time that you went to work every day?

A. Around in there.

Q. So what would that have been, about?

A. About 9, somewhere in there.

Q. Okay. All right. Okay. So somewhere around 9:00 on January 7th he told—Richard Glossip told you to clean the upstairs rooms only; is that what he said?

A. Yes, ma'am.

[124] Q. Okay. And what did he say about the downstairs rooms, anything?

A. I can't remember.

Q. Did he say not to clean them or that somebody else would clean them or he just didn't mention them at all?

A. He just told me to do the upstairs.

Q. Okay. Were you ever told anything specifically about room 102?

MR. WOODYARD: Your Honor, objection. Asked and answered.

THE COURT: Overruled.

Q. (BY MS. SMOTHERMON) You can answer that. Were you ever told anything specifically about room 102?

A. Yes, I was.

Q. And who told you something about room 102?

A. Justin.

Q. What did he tell you?

A. He said room 102 is where the owner stayed when he comes to town.

Q. Uh-huh. And were you told whether or not to clean 102 that day, or not?

A. No, ma'am.

Q. At any time during the day on January 7th when you were in and around the motel, did anyone talk to you about a window being broken or did you see a window that was broken?

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 9 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 21, 2004**

* * *

[15] A. Oh, yes.

Q. And in just a straight line?

A. Yes.

Q. Could you drive there from this parking lot to your parking lot?

A. No.

Q. How would you have to get there from this parking lot to your parking lot?

A. You went out Sinclair's parking lot and right directly back into Best Budget's.

Q. Ma'am, I asked you if you knew a person named Justin Sneed. Did you know the manager of the motel at the Best Budget Inn?

A. Yes, I did.

Q. And who was that?

A. Richard Glossip.

Q. And do you know if anyone lived with him there at the motel?

A. Yes.

Q. Who was that?

A. D-Anna.

Q. Do you remember D-Anna's last name?

A. No, I don't.

Q. Did you know anyone else that worked there at the Best Budget?

[16] A. Ms. Jackie worked there also.

Q. Okay. Do you remember Ms. Jackie's last name?

A. No, I don't.

Q. What was Ms. Jackie's job?

A. She did housekeeping.

Q. Did she live there as well?

A. Yes.

Q. So she lived and worked there?

A. Yes.

Q. And did you know anyone else that might work in the front office?

A. Billye.

Q. Do you know Billye's last name?

A. No.

Q. Billye a man or a woman?

A. She's a woman.

Q. Anyone else that you knew that worked there?

A. Justin worked there also.

Q. And what was—do you remember Justin's last name?

A. It was Sneed.

Q. Okay. And do you remember Justin Sneed's job?

A. He did laundry and some maintenance, and housekeeping also.

Q. Did you have any opportunity to interact with Justin Sneed?

[17] A. Yes.

Q. How did—tell me the circumstances under which you and your family interacted with Justin Sneed.

A. I had broken my foot and was on crutches so he did a lot of my leg work. I mean like going and getting

things to either for the boys and myself and then he also played with my boys.

Q. Now, what age were your boys have been at that time?

A. Seven and nine.

Q. And how old was Justin at that time, do you know?

A. I think he was 19.

Q. So when you say he played with them, what kinds of things did they play?

A. He literally got down in the floor and played Hot Wheels or if they were putting together a puzzle.

Q. Okay. And was he playing with them in the form of a babysitter or was he playing with them like a peer?

A. More as a peer.

Q. Okay. Tell us your opinion of Justin Sneed's personality and intelligence.

A. He was very childlike. He fit kind of in with my boys, you know, he played and he was real simple. He had a skateboard and that was his life. He rode his skateboard back and forth. He didn't make a lot of decisions. You had to tell him sometimes what to do.

[18] Q. Okay. Did you ever see him verbally agitated or aggressive toward you, your boys, or anyone?

A. Oh, no.

Q. Did you ever see him physically agitated or aggressive?

A. No.

Q. At the time that he was playing with your boys, did you have any concern about him being violent?

A. No.

Q. Now, you know now that he beat Barry Van Treese to death in room 102?

A. Yes.

Q. So has your opinion now changed of his personality?

A. Yes.

Q. You said that he had to be told what to do. What are some things that you had to tell him to do?

A. Well, like if he was going to get something to eat, I would have to ask him had he ate. And then he'd say, no. And I'd say, Well, then you need to make sure you get something to eat.

Because he didn't eat unless you—you know, unless you kind of told him to eat, or maybe he was imposing. But you had to tell him to do these things, you know. Other than that, I really didn't have to tell him a whole lot, you know, because he was just playing with the boys there.

Q. This type of behavior and demeanor and personality that **[19]** you saw in Justin Sneed, was that the same up until the time that Barry Van Treese was murdered?

A. Yes.

Q. Okay. Did you ever see Barry Van Treese interact with Richard Glossip. I'm sorry, I don't mean Barry Van Treese, I mean Justin Sneed. I'm trying to stay with this relationship first.

Did you ever see Justin Sneed interact with Richard Glossip?

A. Yes.

Q. And tell us what you observed between the interaction in the relationship between Richard Glossip and Justin Sneed?

A. Him and Justin were—Justin was like behind him. Usually he'd follow Rich.

Q. Physically he would follow him?

A. Right. I mean, because Rich would have to tell him what to do and how to do it. And he would do things for Rich. Like if he needed something from the store, then he would go get it.

Q. And I just want to make sure the lady next to you is taken down words, but she can't do inflections so when we say "he," it's obvious who you're talking about because of the tone of voice and you're using your hands. But we need to use names just so that the words next to you make sense. **[20]** Okay?

A. Okay.

Q. So who would tell who what to do?

A. Rich would tell Justin what to do.

Q. Okay. Did you ever see Justin Sneed tell Richard Glossip what to do?

A. No.

Q. Would that have ever surprised you, Justin Sneed—I mean, how would you react if you had heard Justin Sneed—

A. I would have been shocked.

Q. What types of things did you hear Richard Glossip tell Justin Sneed to do?

A. As far as he would tell—Rich would tell Justin what rooms to get ready to be cleaned as far as stripping the beds or what he did, doing the laundry, going to the store.

Q. Now, when you say “the store,” you mean your Sinclair.

A. To Sinclair, yes. That was the only store in the area.

Q. All right. I think you mentioned the word, “errands,” earlier. Did Richard Glossip send Justin Sneed on errands?

A. Yes, to get cleaning supplies, anything that they may need, laundry soap, things like this for the motel.

Q. Okay. How about personal errands, to buy cigarettes or—

A. Yes.

Q. And would Justin Sneed come into the Sinclair station [21] for those things?

A. Yes, he would.

Q. And you knew through conversation that those things were for Richard Glossip and D-Anna Wood?

A. Right.

Q. Did Justin Sneed make any money, any cash money from working there at the motel?

A. No. I don’t know for sure. I don’t think so. I think his room and food and things was taken care of.

Q. By whom?

A. By Rich.

Q. Okay. Did you ever see Justin Sneed have the ability to buy food and the finances to buy food on his own or buy clothing on his own or take care of anything on his own?

A. Buy cigarettes and that was about it.

Q. Okay. Do you know where he got the money to buy cigarettes?

A. He would have had to have gotten it from Rich. There was no one else he really knew.

Q. When you talk about this relationship between the two, was it an equal relationship or was it an unequal relationship?

A. Rich had more control over Justin. Justin would have never, you know. I mean, he was held at everybody's hands.

He didn't have anywhere to go other than there at the motel.

[22] Q. Do you see the person that you know as Richard Glossip in the courtroom?

A. Yes, ma'am.

Q. And can you tell us where he's located?

A. He's sitting at the table.

Q. Okay. And there's more than one person sitting at a table.

A. He's in the center.

Q. Okay. And there are two tables. This is table one, table two.

A. Table two.

Q. Sitting in the center of table two?

A. Yes, ma'am.

MS. SMOTHERMON: Let the record reflect identification of the Defendant.

THE COURT: The record will so reflect.

Q. (BY MS. SMOTHERMON) Did Richard Glossip—you said he ordered Justin Sneed around. He was his boss, right?

A. Right.

Q. So he would have taken his orders from Richard Glossip, right?

A. Yes.

Q. Besides, you know, you need to clean these rooms or strip these rooms so they can be cleaned or you need to, you know, repair this room, did Richard Glossip, did he appear [23] to order or boss Justin Sneed around just on in other areas?

A. You had to almost tell Justin what to do in any circumstance, whether it was a working relationship or personal.

Q. Okay. And did you observe Richard Glossip doing that with Justin Sneed in working and in personal relationships?

A. Yes.

Q. Now, was Richard Glossip mean to Justin Sneed?

A. Not at all.

Q. Could you tell from the demeanor and behavior what Justin Sneed thought about Richard Glossip?

A. He looked up to him.

Q. Did you have much interaction with D-Anna Wood?

A. We all lived right there together, so, yes.

Q. What was your opinion of her relationship with Richard Glossip?

A. They were real close. I mean, you normally didn't see one without the other one.

Q. Did you ever see her boss or order Justin Sneed around?

A. Not that I recall.

Q. Okay. So it was all just Richard Glossip telling Justin Sneed what to do?

A. Right.

Q. Over the period that Justin Sneed lived there at the motel, do you know—well, first of all, do you know how [24] long that was that—

A. No, ma'am.

Q. Okay. Was it a whole year or part of a year or more than a year?

A. I don't recall.

Q. During the time that Justin Sneed lived there, was he—did he and Richard Glossip always have the same relationship or did it change over time?

A. They became closer the longer he had been there, because at first he was there with his brother.

Q. Who was there with his brother?

A. Justin was there with his brother.

Q. Okay. Do you know what happened to his brother?

A. His parents came from Texas and took him back but left Justin at the motel.

Q. Would you characterize Justin Sneed as dependent upon Richard Glossip?

A. Yes, he had no one else at all once his parents had left him there.

Q. Do you believe that Justin Sneed would have—is it your opinion, in your opinion, do you believe Justin Sneed would have done anything that would have hurt Richard Glossip, gotten him in trouble with the law, gotten him fired?

A. No.

[25] Q. When you heard that Justin Sneed had beaten Barry Van Treese in room 102, did—what's your opinion about whether or not Justin Sneed would have done that on his own?

A. I couldn't believe that he was capable of doing that.

Q. And you say he wasn't capable. You already told us that—I mean, you trusted him with your children?

A. Right.

Q. So when you say you didn't think he was capable, you just didn't think he was capable of that amount of violence?

A. Right.

Q. But you know that he is?

A. Right.

Q. Obviously. I want to also ask you about your opinion of—since we know he can be that violent, do you believe that he could have been that violent just of his own freewill without anybody else?

MR. LYMAN: Objection, Your Honor. That's speculation.

THE COURT: Sustained.

Q. (BY MS. SMOTHERMON) Ma'am, based on what you know about the personality of Justin Sneed, do you have an opinion on whether or not he would have done something like that on his own?

A. No, I don't believe so. I never had witnessed him ever getting really upset about anything.

[26] Q. Based on your opinion and your observations of the interaction between Justin Sneed and Richard Glossip, do you believe—do you have an opinion as to whether Justin Sneed would have done something like that at the direction of Richard Glossip?

MR. LYMAN: Objection.

THE COURT: Overruled.

Q. (BY MS. SMOTHERMON) That means you can answer

A. I wouldn't have thought any of them would have done that, but obviously, you know, he must have really looked up to Rich and he would have probably done anything for him. He was that dependant upon him.

Q. Ma'am, I want to talk about the days of January 6th and January 7th, 1997. January 6th being the day before Barry Van Treese' body was found. His body was found the evening of January 7th. Okay?

A. Okay.

Q. All right. So January 6th, did you work that day?

A. Yes, ma'am.

Q. And would it have been the same nighttime over the night shift?

A. Yes, ma'am.

Q. During your shift, did you have an occasion to see Justin Sneed?

A. Yes. He came in the store.

[27] Q. And what was the reason he came into the store?

A. He came in for snacks and cigarettes.

Q. Okay. Do you know about what time that was?

A. It was probably between 2 and 2:30.

Q. And we're talking a.m.?

A. Yes.

Q. Because you work overnight. So somewhere around 2 and 2:30 a.m., Justin Sneed came in?

A. Yes.

Q. When he came in to buy the snacks and cigarettes, did—I mean, did you wait on him; and you're the one that rang him up?

A. Right.

Q. Because you're the only one there, right?

A. Yes.

Q. When you interacted with him at 2 to 2:30 a.m., now, would this be the morning of the 7th?

A. Yes, it would be.

Q. Did you have an opportunity to observe his face?

A. Yes.

Q. Was there any injury to his face?

A. Not at that time.

Q. And how was he acting, his demeanor? The same or different?

A. It was the same as he always was.

* * *

[43] told you that a window had been broken out?

A. Right.

Q. And then you knew that it would have been Rich and Justin's job to stop whatever was happening?

A. Right. Because they were the only ones really there that—

Q. —that would have done that?

A. Right.

Q. And so you assumed that's how he got his injury?

A. Right. I assumed that he was, you know, somewhere in the vicinity and had gotten hit.

Q. Okay. So you were teasing him about it?

A. Yes.

Q. And how did he respond to that?

A. He really didn't respond. He told me he got—that, no, he wasn't fighting, he had hit his eye on the shower head.

Q. Okay. Did you believe that?

A. Not at all.

Q. Okay. Did it look like he'd been in a fight?

A. Right. And I thought he—a male, you know, he didn't want to admit to me he had been hit. That's how I took it.

Q. Okay. Had you ever seen him with injury from a fight before?

A. No. I'd never seen him fight before, so...

[44] Q. Okay. Now, how about the interaction that morning between Justin Sneed and Richard Glossip, how were they? Were they talking?

A. Yes.

Q. Okay. How were they talking?

A. They were talking quietly among themselves over-the-counter. But I was talking to Billye and not paying much attention to hear at the time.

Q. Okay. Did you hear anything that was said?

A. No.

Q. At any time did you hear—or did Justin Sneed or Richard Glossip leave?

A. Yes. Justin left because Billye had asked him to walk to the store for ice.

Q. And he was going to go do that?

A. Right.

Q. And that would have been part of his job?

A. Right. And the only thing—that was—I hadn't heard anything prior to him leaving. I think when he

came back, they were still talking and he had mentioned that he wasn't able to get the cleaners. He needed to get cleaners and stuff and he hadn't got the cleaners and that the soap was too high, and I took it the laundry soap.

Q. And who was he talking to when he said he couldn't get the cleaner and the soap was too high?

[45] A. To Rich.

Q. And did you hear Rich say anything back to him?

A. That they would have to go, I think, to the Dollar Store and get the soap.

Q. Okay.

A. Which was usual. We went to the Dollar Store to get...

Q. Now, you said Justin Sneed went to get ice at the Sinclair station. Did—when he left, did you say anything or talk to Richard Glossip about, you know, what you knew, the window had been broken and Justin's eye was injured?

A. Yes, I asked Rich what had happened with the window, you know, that we all seen the window come out, and he said that there had been a fight in the room and they had thrown the people out, which was common.

Q. Okay. When he said there was a fight, did he tell you any of the specifics about the fight?

A. That there was a fight and the footstool had got thrown through the window.

Q. Okay. And when you heard that there was a fight and it was two drunks, did you ask Richard Glossip anything? I mean, when he said that.

A. I asked him what—I had had a strange customer that night, very strange. He thought he was Santa Claus and his reindeers were outside, and he came over and he was there for quite a while. And, matter of fact, Big John stayed [46] with me while he was there until we put him—called for a cab.

Q. Okay. So when your—I mean—

A. I asked him, yes.

Q. He had—let me talk about this strange guy. He had some obvious mental problems?

A. Yes.

Q. Okay. And—but you put him in a cab and sent him someplace, I guess.

A. Right. He asked me to call a cab for him.

Q. All right. So you asked then Richard Glossip if it had been—

A. This gentleman, because he was staying at the motel.

Q. Okay. And what did Richard Glossip say?

A. He said, yes, it was him and one of his buddies.

Q. And then I think you said—earlier when you were talking about Richard Glossip said there were two drunks and then you said, they threw them out?

A. Right.

Q. Okay.

A. “They” being him and Justin.

Q. Okay. Had thrown?

A. The drunk gentlemen out.

Q. I'm going to write some of these things up here on this board. Ma'am, I know it's very difficult for you to see. [47] This is kind of the place we positioned it. I'll read it to you after I write it and make sure we have it right. Can you kind of see it a little bit?

A. Barely.

Q. Okay. I'll get it to you here in just a minute then. And what I'm writing, ma'am, are these statements that Richard Glossip made to you when you went into the motel office. And you told us that was on January 7th, about 8:30 a.m.?

A. Right.

Q. And that's an approximation?

A. Yes.

Q. You know it was before noon?

A. Right.

Q. Okay. He told you that there had been a fight between two drunks and that the drunks had thrown a footstool through the window?

A. Right.

Q. And he told you that one of the drunks was the strange guy you had seen earlier?

A. Yes.

Q. And he told you that he and Justin threw the drunks out?

A. Right.

Q. Okay. Ma'am, I've written that on January 7th before [48] noon, somewhere around 8:30 a.m., that Richard Glossip said to you, "There was a fight between two drunks and they had thrown a footstool through the

window, one of the drunks was the strange guy that you had seen earlier and that he, Richard Glossip, and Justin threw the drunks out.”

Is that correct?

A. Right. I assumed it was Justin because that was the person that he would have—went for somebody in the motel who worked there to help him.

Q. Okay. So the words he used was, They threw the drunks out?

A. Right.

Q. So I’m going to write, “they,” and then in parenthesis he and Justin—

A. Is what I assumed, yes.

Q. Okay. They threw the drunks out. So do I have that correct now?

A. Yes.

Q. Okay. Any other conversation that you can remember that you had with Richard Glossip during the time that Justin Sneed was over getting the ice?

A. No, because I—just that, you know, I was asking him about what had happened and the window getting broke out.

Q. All right. Now, when Justin Sneed came back in with the ice, then you said he and Richard Glossip started [49] talking again?

A. Right. They were talking about they needed to get that window fixed.

Q. Okay.

A. They needed to get it boarded up.

Q. Okay. And who was saying that they needed to get it boarded up?

A. Rich. He said we need to get the stuff and get the window boarded up. Because it was in January and it was—

Q. So they were talking about boarding the room up?

A. Right. And they also were talking about cleaning, you know, doing the cleaning. Because he—Rich said that they would clean the downstairs. There was only like five rooms. And Jackie could clean the rest of the rooms.

Q. Okay. And he said that they and again he—

A. It would be him and Justin, yes.

Q. Okay. Would clean downstairs because there was only about five of them, and Jackie, who you told us, Ms. Jackie was the housekeeper, would clean the upstairs?

A. Yes.

Q. Okay. What did you think of that when you heard him say that?

A. That was unusual. Rich didn't normally clean the rooms. He was the manager. He had people to do that for him.

[50] Q. And how about Ms. Jackie? Did she share her responsibilities with Justin Sneed?

A. Well, Justin stripped the beds and did the laundry normally.

Q. Okay.

A. And if he did, he would do one side of the motel and she would do the other. They normally didn't do upstairs, downstairs.

Q. Okay. Before this, had you ever known it to be divided, the labor to be divided like that?

A. No.

Q. Okay. He said, "We need to get the window boarded up"? Is that what he said? I'm sorry, I didn't—

A. Right, they needed to get the window—the stuff to fix the window.

Q. Okay. And this is Richard Glossip talking to Justin Sneed?

A. Right.

Q. Okay. And he said, "We'll clean the downstairs because there's only five"?

A. Right.

Q. And Jackie can clean the upstairs?

A. Right.

Q. So they were making plans for the day?

A. Yes.

* * *

[100] A. Yes.

Q. Okay. And that's in the police report?

A. Yes.

Q. And you told the police and it's in the police report that you said that Richard Glossip—you asked him who were the two drunks and one of them was that little

weird guy and that Richard Glossip said, yes, he was one of them. Do you remember that?

A. Yes.

Q. And, in fact, in the police report are some things that you don't remember now. Right?

A. Right.

Q. Okay. Some things of other statements that Richard Glossip made. Right?

A. Right.

Q. And when you told the police that on January 7th, you were telling them the truth?

A. Yes.

Q. It's just that it's not before this jury right now because you don't remember it today?

A. Right.

Q. So those additional statements that we might be able to write up here, we've just lost those because it took us seven years to get this to trial. Right?

A. Right.

[101] Q. But Defense Counsel, he didn't bother to read those to you, right?

MR. LYMAN: Objection, Your Honor.

Q. (BY MS. SMOTHERMON) Okay. You told police that Justin had said to Rich in low whispers, "I couldn't find the parts or the cleaner and the soap was too high." And that's what you testified to today, right?

A. Yes.

Q. And you told the police that Justin said, "What do I do?" And that Richard Glossip replied, "I guess you

will have to go to the Dollar Store.” Do you remember that?

A. Yes.

Q. Okay. And that’s what you testified to today, right?

A. Right.

Q. You told the police that Richard Glossip said that Justin and he will clean the rooms downstairs because there’s only five rooms to clean and Jackie will clean the rooms upstairs, correct?

A. Correct.

Q. And you told the police that you thought that was strange because of the way that things were normally cleaned; is that correct?

A. Yes.

Q. You have told us and we have told them that you said—you told—you remembered, and when you and I talked, even [102] though the police didn’t ask you—that Richard Glossip said that they had gotten cut when they were cleaning the glass from the outside and that that’s where the blood came from?

A. Right.

Q. You told us that the motel lights were out?

A. Right.

Q. And that was very unusual; is that right?

A. That’s correct.

Q. And you told us that Justin Sneed was mentally a little boy and that he would play with toys and your young children?

A. Right.

Q. So when we talk about what's inconsistent and what's consistent, do you believe that your testimony has been consistent today with what you've told the police and what you've told the only lawyer that's bothered to talk to you in this case?

A. Yes.

Q. All right. I'm almost done.

Let's talk a little bit about Justin Sneed, in your opinion. I think Defense Counsel asked you—you kind of know Justin Sneed now in two lights; one, what you thought he was capable of and, one, now that you know what he did. Right?

[103] A. Right.

Q. Okay. Ma'am, now that you've had the seven years to reflect and now that you know what you thought and what he did, has your opinion changed from what you told us earlier that Justin Sneed would not have done this alone?

A. No.

Q. You still believe that even though now you know he did it?

A. Right.

Q. Has your opinion changed, now that you know everything from what you told us earlier that Justin Sneed would not have done anything that would have hurt Richard Glossip?

A. No.

Q. And has your opinion changed, now that you know everything, from what you told us earlier that

Justin Sneed would have done this if Richard Glossip had asked him to or told him to?

A. No, my opinion hasn't changed.

Q. That's still what you believe?

A. Yes.

MS. SMOTHERMON: Thank you, ma'am.

Pass the witness.

THE COURT: Mr. Lyman.

RECROSS-EXAMINATION

BY MR. LYMAN:

[104] Q. Ma'am, do you recall when you talked to the State's attorney last year?

A. You mean exactly what date?

Q. Yes.

A. No, I don't.

Q. But it was in the year 2003?

A. Yes. And I have the paperwork, but not with me as to when, I just don't know what the date on it is.

Q. And that is, what, six years after this had happened when Mr. Van Treese died?

A. Yes.

Q. And I think you previously indicated your memory would be better back then than today?

A. On certain things. I mean like there's things that I remember that were fresh to mind right then, but yet there's things I recall in the six years. You know, you live with this and you keep looking over it through your life. It's traumatic. And there's things that you will

recall happening as time goes on, way later. It's like you remember things you didn't remember at that time.

Q. These additional facts that we've talked about, for example, the blood on the window or observing the glass broken or walking behind Mr. Glossip and Mr. Sneed and their statements, you're aware of those facts before you talked to the State's attorney?

* * *

[191] Q. How did you become acquainted with Mr. Glossip?

A. Just from calls there to the motel. And even on bad weather days and stuff, I'd go in there and sit and we'd talk and watch TV.

Q. Did you actually have occasion to socialize with Mr. Glossip and his girlfriend, D-Anna Wood, at times?

A. There was times that they'd have barbeque for the people around in the area and they'd invite me to eat with them.

Q. Did you accept their invitations?

A. Yes.

Q. About how many times would you say you shared their table with them?

A. I don't know. Maybe a handful.

Q. Was there a time when your acquaintance or your relationship with Mr. Glossip changed from a businessman in your parole district to something different?

A. Yeah, the night of the 7th.

Q. Of the 7th?

A. Yes.

Q. Of what month, please?

A. Of January.

Q. And what year?

A. 1997.

Q. And did the events that you were starting to describe a [192] few minutes ago, beginning around 4:30 or 5, lead up to that fundamental change in your relationship with Mr. Glossip?

A. Yes.

Q. Let's go back to that time then, sir. I believe you said that it was around 4:30 or 5 that you went to the Best Budget Inn. Is that right?

A. Yes, it was.

Q. Why did you go there that evening?

A. Just regular patrol. I always went through there and the other businesses about that time when I come on duty.

Q. And what did you find going on at the Best Budget Inn when you arrived there?

A. I seen Mr. Glossip and Mr. Cliff Everhart. They were all the way on the northeast portion—or northwest portion of the parking lot, by the dumpster, going through it.

Q. Now, why don't you help the jury to understand which part of the parking lot that was in relation to the front office and Council Road.

A. It would be completely west of Council Road on the north side of the business. Back in the corner there is a dumpster.

Q. And so if I understand correctly, west is that portion of the motel further from the front office and Council Road?

A. Yes, it is.

Q. And could you tell what they were doing when you first [193] noticed them?

A. They were looking in the dumpster.

Q. Was it still daylight?

A. Yes, it was.

Q. And what did you do when you saw this?

A. I drove up and that's when I was approached by them and advised that they were looking for Mr. Van Treese.

Q. Did Mr. Glossip tell you that they were looking for Mr. Van Treese?

A. Yes.

Q. Did he explain to you the circumstances why they were looking for him, what the surrounding facts were at that time?

A. They said that he was missing.

Q. Okay. I'm asking specifically about the statements of Mr. Glossip.

A. Uh-huh.

Q. Okay. Could you answer that yes or no possibly? My question was: Did Mr. Glossip at that time explain to you the circumstances surrounding why they were looking for Mr. Van Treese?

A. Yes.

Q. What did he tell you then?

A. He advised me that Mr. Van Treese was missing and that his car was found over at the Weokie Credit Union, that [194] being the 8100 block of West Reno. That it was in the parking lot there. That's where the vehicle was found.

Q. Did he tell you when he had last seen Mr. Van Treese?

A. At that point he told me the last time he seen Mr. Van Treese was at 7:00 in the morning.

Q. Did he tell you what Mr. Van Treese had been doing at that time?

A. Walking through the parking lot.

Q. And did he explain to you why or what Mr. Van Treese would be doing walking around in the parking lot at 7:00 in the morning?

A. He said it was normal for him to walk the properties when he stayed there.

Q. And at that time, in fact, did Mr. Glossip tell you whether or not Mr. Van Treese had spent the previous night at the motel?

A. Yes, he said that he did and that's why he was out there in the morning.

Q. So if I understand correctly, he told you that the previous night—

A. Oh, the previous night?

Q. I'm talking about the night that began on January the 6th and ended on the morning of the 7th, that's the night that Mr. Van Treese had been there; is that right?

A. Yes.

[195] Q. So, in other words, the last sighting of him, according to the statement of Mr. Glossip, was almost 12 hours before this statement was made to you?

A. Right.

Q. Okay. Now, at the time you heard this statement, had you already been informed about any of this information, Mr. Van Treese, his whereabouts, his car, any of these matters ?

A. No.

Q. This is the first you heard of it?

A. Yes.

Q. And was Mr. Everhart present when Mr. Glossip told you this information?

A. Yes, he was.

Q. What did you see and what did you do when you were given this information?

A. Well, when I found out that his car was last seen at the Weokie Credit Union. I went over there, where I found and off duty deputy, but the car had already been towed from there.

Q. Okay. Now, you were able to see with your own eyes, I take it, that Barry Van Treese's car was not at the credit union?

A. Right.

Q. And were you familiar with Mr. Van Treese's car?

[196] A. Yes, I was.

Q. Would you have recognized it had it been sitting there?

A. Yes.

Q. And did you talk to Deputy Matt Steadman of the Oklahoma County Sheriff's Department while you were over at the Weokie Credit Union?

A. Yes, I did.

Q. Okay. Did you learn where Mr. Van these's car was after it had been seen at the Weokie Credit Union?

A. Yes.

Q. And where did you think the car was at that time?

A. Pardon me?

Q. Where did you think Mr. Van Treese's car was when you went over to the credit union?

A. I found out it had been towed.

Q. And what was the destination?

A. It would have been down to our central station for processing.

Q. Is that where the City garage is located?

A. Yes, it is.

Q. Downtown here?

A. Yes.

Q. Okay. Did you receive information—without repeating what you were told—about what time Mr. Van Treese's car had first been spotted at the credit union?

[197] A. No.

Q. And was the time you were given consistent with the time that Mr. Glossip mentioned to you as far as the last time he had seen Mr. Van Treese?

A. I don't understand.

Q. Let me rephrase my question.

Was the time the information that you were furnished about the discovery of Mr. Van Treese's car at the credit union compatible with the information you were given by Mr. Glossip initially about when he had last seen Mr. Van Treese?

A. I guess. I don't know.

Q. Did you know at that time where—what Mr. Van Treese's habits were about where he usually parked his car when he was at the motel?

A. Yes. It's usually right there in the breezeway.

Q. And based on what you knew yourself about Mr. Van Treese's habits, would you have considered it noteworthy to be told or to observe that Mr. Van Treese's 1987 Buick was parked by the repoed area of the credit union parking lot at 6:30 that morning with one wheel up on the curb?

A. Okay. I didn't know about the wheel up on the curb.

Q. My question is: Had you observed that fact or had you been told that information, based on what you knew about the [198] habits of Mr. Van Treese, would you have considered those circumstances to be unusual or noteworthy?

A. Yes. Unusual.

Q. And what was it about those facts that you'd have considered unusual?

A. Well, he usually parks there at the breezeway. Why he would park over there at the credit union, I wouldn't have any idea.

Q. Okay. Were you also furnished information about some damage or a possible attempted crime that had occurred involving a credit union repo vehicle that was parked nearby?

A. Yes.

Q. What kind of car was that?

A. It was a van.

Q. And was the van still there when you went over to the credit union on the evening of January the 7th?

A. Yes, it was.

Q. Was that a matter that was also being investigated by officers of the Oklahoma City Police Department?

A. No. At least not to my knowledge.

Q. Okay. If it was assigned a crime incident number, would that mean that it was something of interest to the police department?

A. Right.

[199] Q. Had you been given information that Officer John McCornack, call sign 16, had been called out to process that van?

A. I'm the one that called him out.

Q. Okay. So you asked an Oklahoma City Police officer to do some investigation concerning the van—

A. Yes, sir.

Q. —is that right?

I'm sorry. I must have misunderstood one of your answers earlier.

A. Okay.

Q. So the van was the subject of an ongoing police investigation that you requested?

A. Yes.

Q. You mentioned a person that was with Defendant Glossip, Cliff Everhart?

A. Yes.

Q. Was he someone else that you were acquainted with?

A. Yes.

Q. If I recall your testimony, he was looking in a dumpster with Defendant Glossip at the motel when you spotted him?

A. Yes.

Q. By the way, did Defendant Glossip tell you what he was looking for in that dumpster?

[200] A. He said they were looking for Mr. Van Treese.

MR. WOODYARD: Your Honor, excuse me, I think I heard the word, "they."

THE COURT: I'm sorry?

MR. WOODYARD: I think I heard the word, "they," as opposed to what my client was supposed to have said. If you could limit the conversation to that.

THE COURT: If you'll clarify, please.

MR. ACKLEY: Yes, ma'am.

Q. (BY MR. ACKLEY) I'm asking specifically about statements specifically made by Mr. Glossip. Did Mr. Glossip tell you what he was looking for in the dumpster that evening?

A. Yes.

Q. What did he say, please?

A. Mr. Van Treese.

Q. Now, you knew these people. At the time Mr. Glossip told you he was looking in the dumpster for the motel owner, how did that statement affect you?

A. Kind of odd because, you know, when it's somebody you know, it's a little bit different.

Q. Now, specifically, was there any state of mind that that statement gave you in terms of the well-being or the safety of Barry Van Treese?

A. Pretty much that he was missing and they were worried [201] about, you know, where his whereabouts was.

Q. Did the possibility that he was in the dumpster because he wanted to be in there or was in there in perfectly good health occur to you in the context of the situation and the statement that Mr. Glossip made to you?

A. I don't understand.

Q. Let me rephrase my question.

A. Okay.

Q. In light of what Mr. Glossip and Mr. Everhart were doing—

A. Right.

Q. —and in light of the statement that Mr. Glossip made to you, did it occur to you at that time that they were looking for him in the dumpster, but he was perfectly happy and well?

A. Again, I don't understand what the question is.

Q. Okay. Let me try one more time.

In context of the circumstances that you observed with Mr. Glossip and Mr. Everhart on the evening of January 7th at the dumpster—

A. Uh-huh.

Q. —and in light of the statement that Mr. Glossip made to you at that time—

A. Right.

Q. —about what they were doing and when Mr. Van Treese [202] had last been seen, did you associate his statement with the possibility that something bad had happened to Barry Van Treese?

A. Yes.

Q. Did it ever occur to you at that time that he was in a dumpster, but there was no harm done to him?

A. No.

Q. That was something you immediately associated with foul play or with him being in danger or injured in some way?

A. Either that or just missing.

Q. And, in fact, while you were there with those men initially at the dumpster, did he remain missing?

A. Yes, he did.

Q. That is to say he wasn't in the dumpster?

A. No, he was not.

Q. Okay. We were starting to talk about Cliff Everhart.

A. Okay.

Q. How long have you known Mr. Everhart?

A. I met him in the eighties, I believe.

Q. Okay. And when you first became acquainted with him, was it in connection with the Best Budget Inn?

A. No, it was not.

Q. When did you first begin to associate Mr. Everhart with the Best Budget Inn?

A. Just probably within '95, somewhere around in there.

[203] Q. And that was during the time, I think, if I understand correctly, that Mr. Van Treese was the owner there?

A. Yes.

Q. Since that time, since around 1995, have you commonly dealt with Mr. Everhart in connection with business at the Best Budget Inn?

A. Every once in a while.

Q. You knew him to be there at times and to have some sort of relationship with the management or ownership of the business there?

A. Yes, I did.

Q. And so if I understand correctly, you weren't the least bit surprised to find Cliff Everhart there that evening with the manager?

A. No.

Q. How would you describe your acquaintance or relationship with Cliff Everhart?

A. Just a working relationship. I knew who he was. But at that point, you know, it wasn't that he came over to the house or I went over to his.

Q. Unlike what you had done on some occasions with Mr. Glossip?

A. Right.

Q. So you hadn't gone over to Mr. Everhart's house or let him serve you a meal or anything like that?

[204] A. No. We had coffee maybe every once in a while.

Q. Did you—after you were over at the Weokie Credit Union, did you look in other areas in the general vicinity of Reno and Council concerning Mr. Van Treese and the fact that he was missing?

A. Yes, I myself checked the whole business area around there, the fields and behind buildings.

Q. At some point did you have a further conversation with Defendant Glossip about other possible sources of information on Mr. Van Treese?

A. It was later on that evening or within a couple of hours of when I first met him, I got information that—about a broken window.

Q. Let me stop you for a second.

A. Okay.

Q. Again, perhaps I've phrased my question in a confusing way. Let me try again.

Were you aware of a Sinclair convenience store/gas station near the motel?

A. Yes, I was.

Q. And at some point did Mr. Glossip suggest to you that someone at that location might be able to help you find Barry Van Treese?

A. Yes, the clerk there.

Q. And what was the name of that clerk?

[205] A. Ms. Pursley.

Q. And was she likewise somebody you were acquainted with?

A. Yes.

Q. How long had you known her at that time?

A. I don't know for sure.

Q. And what work did she perform at the Sinclair?

A. She was a clerk there.

Q. What shift did she work?

A. It was the late shift.

Q. So if I understand correctly, the last half of your shift was the first half of her shift, something like that?

A. Right.

Q. In fact, did you go and speak to a woman at the Sinclair gas station there named Kayla Pursley about Mr. Van Treese and his whereabouts?

A. Yes, I did.

Q. When did you talk to her?

A. It was the early evening part of the night.

Q. Would that be before you had information about a broken window?

A. I believe so.

Q. In fact, did you learn about the broken window from Ms. Pursley?

A. Yes.

Q. And what did you do once she gave you some information?

[206] A. At that point she had told me that it happened about 4:30 in the morning. And I had also talked with Mr. Glossip about that and he had told me that he had seen Mr. Van Treese since then, since the broken window, walking through the parking lot.

Q. During that second conversation with Defendant Glossip, did he give you a detailed accounting of the facts surrounding the broken window?

A. He told me that he was told by Justin, the maintenance there, that a couple drunks had got in a fight and broke the window and that he had to take them off the property.

Q. At that time did you ask Mr. Glossip if he had seen Barry Van Treese after the broken window incident?

A. Yes, he told me he did.

Q. That he did see Barry Van Treese afterwards?

A. After the window, yes.

MR. ACKLEY: Ms. Smothermon, can you help me with statements of Defendant Glossip.

First of all, Officer, can you help me, I forgot to ask Ms. Smothermon's assistance regarding your first

contact with Mr. Glossip and the statement he made then.

A. Okay.

Q. Would you repeat that for Ms. Smothermon to write down?

A. When I first met him by the dumpster, the statement was that he had seen Mr. Van Treese at 7:00 that morning walking [207] through the parking lot.

Q. And I think you also said, did you not, sir, that they were looking for him when you came up there about 4:30 or 5?

A. Yes.

Q. And what time did the second conversation you've told us about take place with Defendant Glossip?

A. I would say somewhere between 7 and 9.

Q. I'm sorry, between 7 and 9?

A. I believe so.

Q. Okay.

MR. WOODYARD: Your Honor, may we have an a.m. or p.m. for that.

THE WITNESS: Oh, p.m.

THE COURT: That would help.

Thank you.

Q. (BY MR. ACKLEY) Regarding the first statement, the one that took place at the dumpster that Mr. Glossip made—

A. Uh-huh.

Q. —in that statement did he tell you that Mr. Van Treese's car had been found at the credit union parking lot?

A. Yes.

MR. ACKLEY: Can we add that in, Ms. Smothermon.

Q (BY MR. ACKLEY) I believe you said—regarding the first statement of Mr. Glossip on January 7th—that he [208] told you that it was normal for Mr. Van Treese to walk around when he was there?

A. Yes .

Q. Is that accurate?

A. Yes.

Q. And that Mr. Van Treese had spent that night, the previous night at the motel in Oklahoma City?

A. Yes .

Q. Now, the second statement that you were telling the jury Mr. Glossip made, you said that took place between 7 and 9:00 p.m. the same day?

A. I believe so. It's in my original report.

Q. And would reviewing your original report help you get that time?

A. Yes, it would.

Q. In just a moment, sir, with the Court's permission, I'll make that available for you and ask you further questions about that.

When Mr. Glossip in that second conversation told you about the broken window, did he tell you where the window was broken?

A. It was room 102. I knew that.

Q. Did you hear that from Mr. Glossip?

A. I would have to check my report on that just to state accurately.

[209] Q. And, again, I'll make that available to you in just a second.

Did Mr. Glossip tell you specifically who or how the window was broken, or by whom I should say?

A. He said that Justin told him it was two drunks broke it and that Justin had to escort them off the lot.

Q. Was it at that time that he told you that he had seen Barry after the time the window had been broken?

A. Yes.

Q. Did he make any—state any conclusion to you at that time about whether or not the missing status of Mr. Van Treese could be related to the broken window?

A. No. That's what took me off of the broken window at that point, that he advised me that it couldn't be related because he had seen him since then.

Q. At that time in the conversation, did you ask Mr. Glossip what time he had last seen Barry Van Treese at the motel?

A. At one point he had changed from 7 in the morning and then he had came back and said that—after I told him that I was looking for Justin that he says that everything started getting confused. And he says, "Really, the last time I remember seeing him is 8:00 the night before when he was picking up the payroll money." And that was right before he went to Tulsa.

[210] Q. Now, you asked a minute ago about your reports. Let me ask you this. Did you write a report about the events that you've discussed so far for the jury?

A. Yes.

Q. And did you write the report shortly after those events actually took place?

A. Yes, I did.

Q. Did you review it shortly after it happened for accuracy?

A. Yes.

Q. And do you believe today that your report accurately records the events of the evening of January 7th, 1997?

A. Yes.

Q. Do you remember those events as well?

A. Pretty much.

Q. And I think the specific thing I asked you that you wanted to review your report for was the time; is that right?

A. Yes.

Q. And did you record times of certain events in that report?

A. When I talked to the different people.

Q. Sir, I'm going to approach you and hand you two reports. One used to refresh your memory.

A. Yes.

[211] Q. One being a one-page report listing an involved person of Kayla Renee Pursley, the other being a

two-page report that's entitled Standard Supplement Report. Are those the reports you're referring to?

A. Yes, sir.

MR. ACKLEY: May I?

THE COURT: You may.

Q (BY MR. ACKLEY) Have you had enough time, sir, to review what you wanted to see?

A. Yes, sir.

Q. If I can have those back.

First of all, what time was it that you talked to Kayla Renee Pursley?

A. 1900 hours.

Q. That's 7:00 p.m. to us civilians?

A. Yes.

Q. And was it after that that you went and talked for the second time to Defendant Glossip?

A. Yes.

Q. What did Mr. Glossip tell you during that second conversation about what time he had last seen Barry Van Treese at the motel?

A. I believe he said he seen him after the window had been broken out. That's why I didn't pay any attention to the window.

[212] Q. I didn't ask you to refresh your memory about that sentence, did I?

A. 7:00.

Q. Okay. That's what he told you in the first statement, correct?

A. Right.

Q. Would reviewing your report concerning that specific conversation help you remember exactly what Mr. Gossip told you?

A. Okay. On my report it states I'm not sure about the exact time because I was tired. That's what he told me.

Q. That was Defendant's Gossip statement to you?

A. Yes.

Q. "I'm not sure when I last saw Barry at the motel because I was tired"?

A. Right.

Q. Okay. Thank you, sir.

MR. ACKLEY: Can we get that, Ms. Smothermon?

Q (BY MR. ACKLEY) And that was some time after you talked to Kayla Pursley?

A. Yes.

Q. Around 7 that night?

A. Yes.

Q. Can you give the jury any better estimate of what time your second conversation with Richard Gossip took place?

[213] A. I don't know the exact time.

Q. Where was—where did that conversation take place?

A. It was back over at the motel, because I remember him getting in the car, and when I told him that I wanted to talk to Justin, we went over to Justin's room.

Q. And who are you referring to when you say “Justin”?

A. The maintenance. Justin Sneed.

Q. I see. That’s his name, Justin Sneed?

A. As far as—yeah.

Q. And where did he do maintenance?

A. Yes. At the Best Budget Inn.

Q. Sir, to your right there’s an exhibit there that’s already been introduced into evidence. Would you take a look at that and identify it by exhibit number?

A. Exhibit No. 78.

Q. Okay. Do you recognize what’s shown in that exhibit?

A. Ground floor. It looks like a bunch of rooms at the motel.

Q. And is that an accurate depiction of the layout of the Best Budget Inn?

A. It looks pretty much like it.

Q. Okay. And on the other side?

A. It would be the second floor of the Best Budget Inn.

Q. Now, if you can go back to the side with the sticker on it that shows the ground floor, can you point with your [214] finger for the jury and let them see where the dumpster was that the men were looking in when you first got there?

A. It would be over, right up here in the corner.

Q. Near where the red exhibit sticker is on the piece of paper?

A. Yes.

Q. If I understand your testimony then, sir—let me back out here a little bit. As far as Council Road, Council Road would be out here past the registration office area on the east end of the property; is that accurate?

A. Yes, it is.

Q. Did you say just now that at some point Mr. Glossip got in the car?

A. Yes.

Q. Are you referring to your police car?

A. Yes, my police car.

Q. And did you invite him to come in and sit down with you?

A. Yes.

Q. How did that take place?

A. We were going to go over to Mr. Sneed's room because I wanted to talk with him in reference to the broken window.

Q. I see.

A. To see what kind of information I could find out there.

Q. So you just invited him along?

[215] A. Yes.

Q. He wasn't in custody during either of those conversations you've told the jury about so far, was he, sir?

A. No, he wasn't in custody. I didn't know where Mr. Sneed's room was and he went up. I drove him around to it.

Q. I see. And once you got to Justin Sneed's room, did you get out of the car and go talk to Justin Sneed?

A. I don't think I did. I think Richard went up and knocked on the door for me and there was no answer.

Q. So you didn't get to see Mr. Sneed?

A. No, I did not.

Q. At some point after this took place, did you go back and talk to Kayla Pursley some more?

A. Yes, I did.

Q. And after you finished talking to her, did you have a third contact with Richard Glossip?

A. Yes, I did.

Q. How did that contact take place?

A. It was in the parking lot again, because I was still confused about the times that Mr. Van Treese was last seen, and it was then when he told me, he says, "Well, I don't really know for sure if I even seen him until 8:00 the night before when he left for Tulsa."

[216] Q. Did he make another statement to you at that time about this incident where he thought Barry was walking in the parking lot?

A. Well, that was the first time he had seen him, in the morning.

Q. Uh-huh.

A. Oh, okay. He had mentioned something about the guy that was walking, I think it was him, but I don't know for sure.

Q. And did he tell you when that incident took place?

A. That was in the early morning hours.

Q. And did he tell you for sure whether or not he thought that was Barry that he had seen at that time?

A. At that point he told me he thought it was him but he didn't know for sure.

Q. So if I understand correctly then, for Ms. Smothermon's writing purposes—

A. Okay.

Q. —the third statement that Mr. Glossip made to you was right after—you had driven him down to try to find Mr. Sneed?

A. Right.

Q. Is that accurate?

A. Yes.

Q. And at that time, if I understood your testimony [217] correctly, he said that he wasn't sure if he had seen Barry Van Treese since 8:00 p.m. the night before when he was leaving for Tulsa?

A. Yes.

Q. And I believe that during that same statement he also told you that early in the morning, uncertain about the time, he had seen someone walking in the south parking lot of the motel?

A. Yes.

Q. And he wasn't sure if that was Barry; were those your words?

A. Yes.

Q. In the early morning hours, correct?

A. Yes.

Q. That would have been the morning of January 7th?

A. Yes.

Q. Now, at that time, if I understand what you've said today correctly, you knew that Mr. Glossip had worked for Mr. Van Treese for quite some period of time?

A. Yes.

Q. Would it be fair to say, if you know, that it was your impression that Mr. Glossip had a lot more direct dealings with Mr. Van Treese than you did?

A. Oh, yes.

Q. Would you have recognized Mr. Van Treese at that time [218] had you seen him walking around in the parking lot?

A. I believe so.

Q. And Mr. Glossip told you this after he had already told you that he had seen Mr. Van Treese at 7:00 a.m. that morning?

A. Yes.

Q. Did you inquire further in light of the discrepancies between those two statements?

A. Did I inquire further?

Q. Of Mr. Glossip.

A. Well, I know at one point he had made a statement saying everybody is getting these times all screwed up. And at that point, you know, I didn't know what to believe.

Q. Okay. And at some point during that conversation, did Mr. Glossip deny saying in your first conversation that it was 7:00 a.m. that he had seen Mr. Van Treese?

A. I'd have to review my report on that.

Q. Was that same report I just handed you?

A. I believe so.

Q. The two-page report?

A. I think so.

THE COURT: While he's reviewing that, would you like to stand up for a moment.

Q (BY MR. ACKLEY) Did you find what you were looking for?

A. Yes, I did.

[219] MR. ACKLEY: May I continue?

THE COURT: You may.

Q. (BY MR. ACKLEY) Sir, did your review of the report refresh your memory about the specifics of what Mr. Glossip said in that conversation?

A. Yes. When I had mentioned to him about 7:00 in that morning, he says that everything was getting turned around, that he never did tell me that.

Q. Was that your memory?

A. Yes.

Q. That he did not say that it was at 7:00 a.m. previously?

A. No, he did tell me it was 7:00 a.m.

Q. Are you sure about that?

A. Yes, I'm positive.

Q. So his last statement at that time, the last part, if I understand correctly then was, "Things keep getting turned around, I didn't say I saw Barry at 7:00 a.m."?

A. Yes.

MR. ACKLEY: Now, did we get that, Ms. Smothermon?

MS. SMOTHERMON: Yes, sir.

Q (BY MR. ACKLEY) Up to this point, had you yet visited room 102 to see what was going on over there, if anything?

A. No, I did not.

Q. And at some point after your second conversation with [220] Mr. Glossip ended, did you have occasion to go and look at room 102?

A. Yes, I did.

Q. Was that the next thing you did?

A. No.

Q. What was the next thing you did?

A. The next thing I did is went back over to the parking lot of the gas station, the Sinclair.

Q. Uh-huh.

A. And I was writing the reports that you do have now and Mr. Everhart came pulling up next to me in his truck.

Q. Okay. And did you and Mr. Everhart have a conversation at that time?

A. Yes, we did.

Q. After your conversation ended, did you go with him to look at something?

A. Yes.

Q. Where did you go?

A. We went to room 102.

Q. And what did you see when you arrived outside of that room?

A. I seen where the window had been broken but there was another piece put on top of it that turned out to be plexiglass.

Q. Okay. So the window was broken but covered with [221] something else?

A. Yeah, it had a piece of plexiglass over the front of it.

Q. And about what time was it that you got to look at room 102 and observe these things?

A. 10:30, 11:00 at night, somewhere right around there.

Q. And, sir, I would ask you to take a look at the photographs that are there beside you, face down. I believe the very first one is Exhibit 18; is that right?

A. Thirty-one.

Q. Okay. The very last one is 18?

A. Right.

Q. Do you recognize what's shown there?

A. On 31 or 18?

Q. Eighteen.

A. Eighteen is the south side in the parking lot and the building of the Best Budget Inn.

Q. And does it show the portion that contains room 102?

A. Yes, it does.

MR. ACKLEY: I believe State's Exhibit No. 18 has already been admitted.

THE COURT: It has.

Q. (BY MR. ACKLEY) Will you go now to 31, sir.

A. Okay.

Q. What is shown in that photograph?

* * *

[231] Q. Do I have it right?

A. Right. Once I put him in the backseat under investigative detention, I didn't ask him any questions then.

Q. Did you say anything in his presence that you hoped would get him to start talking to you?

A. No.

Q. What statement did he make to you, then, while he was in the backseat of your scout car?

A. When I got back in my car after he was in there, he had said, Well—to get it exactly I'd have to get my report back—

Q. Okay.

A. —and review it.

Q. Now, this is yet a third report; is that right?

A. Right.

Q. And this is concerning the events that took place beginning with when you entered room 102; is that right?

A. Yes, sir.

MR. ACKLEY: And for the record, I hand the witness a two-page report.

Q (BY MR. ACKLEY) Now, we haven't talked about this one yet, have we, sir?

A. Not to my knowledge.

Q. Before you review the contents of the report, let me [232] ask you, did you write this report?

A. Yes, I did.

Q. And does it relate to the events of the late evening or the night of January 7th, 1997?

A. Yes, it does.

Q. Did you write it that night or shortly after these events took place?

A. I wrote it that night.

Q. And did you intend it to be accurate at that time?

A. Yes, I did.

Q. Do you have an independent recollection of many of the events of that night without refreshing your memory from the report?

A. Yes.

Q. Do you believe the report accurately recorded the information you do not recall?

A. Yes, sir.

Q. Would refreshing it help you to remember the matters I've asked you about?

A. Yes, it would.

Q. Would you please review your report now.

(Brief pause in proceedings.)

Q. (BY MR. ACKLEY) Have you been able to review your report as much as you need to, sir?

A. Yes.

[233] Q. And did reviewing your report refresh your memory about what Mr. Glossip said to you?

A. Yes, it does.

Q. What did he say, please?

A. When I got back in the car he says, "Well, I guess I better tell you now," he had heard the glass breaking earlier that morning and he says that Justin came up and started banging on the glass door and then on the side wall of the motel in the breezeway. This would be on the west side over where his bedroom is.

Q. Whose bedroom?

A. It's kind of a one-room deal. Just to the north side of the office, it's a sleeping room for the manager.

Q. So that would be Mr. Glossip's bedroom?

A. Yes.

Q. He banged on the glass door and then the wall of Mr. Glossip's bedroom?

A. Right.

Q. What else did Mr. Glossip say, if anything?

A. He had said that he and D-Anna had thought the whole time that Justin had something to do with what happened to Mr. Van Treese but he didn't want to say anything until he knew for sure. The only other thing that he had said was that Justin had said something to him in the past about setting up a fake robbery.

[234] Q. Thank you.

MR. ACKLEY: Ms. Smothermon, can you get that? I think you've got about four lines there.

May I approach the witness, Your Honor?

THE COURT: You may.

Q. (BY MR. ACKLEY) Officer Brown, when Mr. Glossip was making that statement to you, did he tell you how he knew that—who it was that was banging on the door and the wall?

A. Huh-uh. No. I didn't ask him any questions on that.

Q. You just listened to what he told you?

A. I just listened to what he told me and wrote it down.

Q. Are you able to see what Ms. Smothermon is writing?

A. Yes, sir.

Q. Does she have it right regarding that statement that Mr. Glossip made to you without any questions after he was in the police car?

A. Yes.

Q. Now, I believe there was—you had previously testified about one other statement that Mr. Glossip had made to you just before that; is that right?

A. Right.

Q. And was that statement before or after Mr—you went into room 102?

A. The statement?

[235] Q. The statement that—the additional statement that Mr. Glossip had made to you about Mr. Van Treese's whereabouts?

A. The one about right after he gave him the money and he left about 8:00 at night, the night before?

Q. Yes, sir.

A. To go to Tulsa.

Q. Yes, sir. Did he tell you how much money Mr. Van Treese had with him when he left the Oklahoma City motel?

A. I know in my report from reviewing it he said \$3,000.

Q. Okay. Mr. Glossip told you that?

A. Yes.

Q. If I understand correctly, that conversation took place after the second conversation when Mr. Glossip told you this keeps getting turned around?

A. Yes.

Q. And I didn't say I saw him at 7 a.m. Is that right?

A. Right.

Q. And then it was then that he told you, before you went into room 102, "That the last time I saw Barry Van Treese was at 8:00 on the 6th when he was leaving for Tulsa and he had just picked up \$3,000"?

A. Right, the payroll.

Q. Is that right?

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 11 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 25, 2004**

* * *

[76]

* * *

Q. It's clear that all of them are .5 centimeters or greater; greater than .5 centimeters, right?

A. Correct.

Q. All have similar characteristics to them from your observations?

A. Yes.

Q. All could have been the result of a similar type instrument?

A. That's what I thought. Around the, you know, heart area.

Q. Let me direct your attention to the back side of the victim. You've noted here—

A. Yes, left buttock.

Q. —left buttock. What was your measurement on that one?

A. 2.6-by-2.3 centimeters.

Q. Was this a patterned injury?

A. That's included.

Q. So it is similar to the four you're seeing on the front of the chest?

[77] A. Yes. And the back.

Q. So the five of these are consistent with one another as far as appearance?

A. That's what I found at the time of the examination.

Q. And the five of them are not consistent with a baseball bat?

A. No.

MR. LYMAN: May I approach, Your Honor?

THE COURT: You may.

Q. (BY MR. LYMAN) Let me show you what's been marked as Defendant's Exhibit No. 17 and 18 and ask you if you recognize those?

A. Yes.

Q. Okay. Are those photographs of the areas we've just been describing for the jury that were taken on January 8th, 1997?

A. Yes.

Q. Do they fairly and accurately depict your observations of those regions of his body at that date and time?

A. Yes.

MR. LYMAN: Move for admission of Defendant's 17 and 18.

MR. ACKLEY: No objection, Your Honor.

THE COURT: Defendant's 17 and 18 are admitted without objection.

[78] Q. (BY MR. LYMAN) Let me show you what's been marked as Defendant's No. 17. I've got him turned where he's not running up and down for you.

A. Yeah.

Q. But this particular injury right here is the—the last one we just discussed on his left buttocks, correct?

A. Right, left buttock.

Q. And this is the somewhat triangular patterned red abraded contusion?

A. Yes.

Q. And that would be displayed right here—

A. Yes.

Q. —on State's 49?

A. Right.

Q. Let me show you what has been admitted as Defendant's Exhibit No. 18. This is the first one we talked about—

A. Correct?

Q. —right? Correct?

A. Yes.

Q. And then we went down. Would this be the second one?

A. Right.

Q. Third?

A. Yes.

Q. And then the fourth?

A. Right.

[79] Q. Let me show you the fourth one, in particular. You indicated this one was as far as lengthways this way—

A. Yes.

Q. —that was .9 centimeters?

A. No, that was—

Q. .7?

A. Yeah. .7.

Q. .7.

A. .7 or .9—.7.

Q. Okay. And then this way?

A. .2.

Q. .2.

A. Yes.

Q. Now, when we go over to this one, you see a similar pattern with it as well, don't you?

A. Yes.

Q. Now, these injuries that you've described, the patterned ones, the four on the chest and the one on the left buttock, those are approximately the same age and I think you indicated had occurred within the same event?

A. Yes.

Q. Resulting in Mr. Barry Van Treese's death?

A. Yes.

Q. Let me show you what's been marked as State's Exhibit No. 93. And have I given you an opportunity to inspect that **[80]** particular exhibit?

A. Yes, here while recess.

Q. And did we discuss or look at some of the measurements of that particular exhibit?

A. Yes.

Q. And we're talking about a knife, aren't we?

A. Yes.

Q. Does that exhibit have the tip of it broken off or appear to be missing?

A. Yes.

Q. And I asked you to measure the end of that knife, did I not?

A. Yes.

Q. Do you recall what your measurement was?

A. 2.5-centimeter in the length and about 2.1-centimeter in thick.

Q. Okay. As far as the length, the up and down—

A. Yes.

Q. —is it .5-centimeter?

A. Yes, about .5 to a little over, but about .5.

Q. So at far as its length—and we'll display this in a minute—it's .5 approximately, which is a little smaller than the length that you're seeing in these pattern injuries?

A. Same or—yeah, same or smaller.

[81] Q. Likewise, the thickness of that blade is consistent with the width of these pattern injuries?

A. Yes. And a little bit curved. You know, not straight, a little bit curved.

Q. When I think of a fingernail clipping; if we've clipped our fingernails, you know, they have kind of a bell or a crest to them?

A. Yeah, not straight, a little bit caved in.

Q. Okay. Caved inwards down toward the blade. Kind of crested?

A. Yes. Yes, pretty good, a little bit press down. Yes.

Q. Okay. You've just measured here in court that from this tip here—

A. Yes.

Q. —to this tip here, approximately, is .5 centimeters?

A. Yes.

Q. The thickness is approximately .2?

A. One.

Q. .1 or .2?

A. Yes.

Q. And—

A. About .1.

Q. .1. And it's smaller than your measurements on the body?

A. Yes.

[82] Q. There's been prior testimony that this had been recovered at the crime scene under the victim's head. Were you aware of that?

A. No, until you told me.

Q. And that it was located in its open condition as you see it today?

A. Right.

Q. Now, when you look at that exhibit and your photograph here and your diagram of measurements, is that knife a potential contributor to the injuries to this man's chest?

A. Yes.

Q. Is it a potential contributor to the injury to his left buttock?

A. Yes.

Q. As far as the cut by the sharp instrument on his right third finger, is that the type of sharp instrument that could have made that injury?

A. That I don't know. There's no way to—it could. It could. It is possible.

Q. When we say “pattern,” pattern is a way of becoming almost more certain about an instrument, isn't it?

A. Yeah, that's included.

Q. But when we—so when we talk about the finger being cut by an instrument similar to a knife or a sharp instrument, you can't say what knife, but a knife is a **[83]** potential—

A. Yes.

Q. —contributor?

A. Right.

Q. Same thing with the left elbow?

A. Yes.

Q. And the right hand, that's a defensive injury, potentially?

A. Likely. Likely.

Q. Likely on the left elbow?

A. Yes.

Q. And the chest area, I mean, you didn't see any of these kind of markings on his lower extremities other than his left buttocks, did you?

A. Yes. In addition to that there is a petechial contusion on the nipple line which I pointed, looked like it pressed down against some tear like this kind of instrument could have aimed it to the heart, because that's the left side of the heart area.

Q. Now, almost any knife injury can become a lethal knife injury if it's significant enough on a person's body, correct?

A. Yes.

Q. I mean, I could cut my wrist and it could be a real problem, right?

[84] A. Correct.

Q. But as far as the type of injuries on this man's chest, would you not agree that the chest area is a major area of a person's body? This is where his heart's at?

A. Yes.

Q. From your examination of the body of Mr. Van Treese, your external examination, it is clear that he received blunt traumas from some type of elongated instrument like a baseball bat?

A. Correct.

Q. He may have received some kind of injuries from another assailant's hands or fists?

A. Yes.

MR. ACKLEY: Objection to the form of the question, Your Honor. Approach the bench?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

MR. ACKLEY: The phrase to which I objected was the phrase, "another assailant." That assumes facts not in evidence.

MR. LYMAN: Okay. I'll rephrase it.

THE COURT: Thank you.

(Thereupon, the following was had in open court.)

Q. (BY MR. LYMAN) His body appeared to have received some kind of injury from a blunt instrument like a baseball bat?

[85] A. Yes.

Q. Potentially, injuries as a result of hands or fists or some personal contact by a person?

A. Yes.

Q. And an instrument like a knife, a sharp instrument on his body?

A. Yes, some of them.

Q. Now, when we talk about those injuries that are life-threatening, clearly from your observation, these injuries to his chest were not of significant penetration to be life-threatening?

A. Injury itself is a minor injury.

Q. In the overall view of the body, right?

A. But you pointed at that pattern of injuries. I'm saying.

Q. Those are not life-threatening injuries?

A. No.

Q. But they exist?

A. Yes.

Q. Same thing with the injury to his left buttocks?

A. Yes.

Q. And the injury to his hand, his right hand, the cut injury to his right hand?

A. Yes.

Q. Not life-threatening?

[86] A. No, minor injury.

Q. And same with the elbow, minor injury?

A. Right.

Q. The cut there?

A. Correct.

Q. But, yet, they still existed at the time of your autopsy?

A. Right.

Q. And with that, would your opinion be that at least two types of instruments were used on Mr. Van Treese, a blunt instrument like a baseball bat and a sharp instrument like a knife?

A. Yes.

* * *

[114] daily report. So if a room was cleaned—and we established a policy under which if a room got cleaned, somebody got paid for it and we tracked the money that the housekeeping department was paid against the actual rooms and by number and person that stayed in that room, the housekeeping department was paid by a guest's name.

Q. Okay. And I understand that's what you did. Tell me how it was done under Barry's regime?

A. Previously there was—the housekeeping assignments were made by the management and through either personal contact by the manager or through the day clerk with the housekeeping department. And the housekeepers were basically just given a list of rooms and told to go clean them. And there wasn't any paperwork that the housekeeping department created to

cross-check against rooms that were perhaps rented and the revenues not reported.

Q. Okay. So was there any way under the old system to cross-check any stealing or theft that might be done by the manager or other employees?

A. No, ma'am. There was absolutely no way to catch it.

Q. Okay.

A. Well, I say no way. Barry and I talked about this at various times and one of the things that he did at his various properties was he would audit things like towel acquisitions, soap acquisitions. When these rooms are [115] cleaned there's a bar of soap that's left in the room and if you buy 10,000 bars of soap, theoretically you would have rented 10,000 rooms. And he would look at it. And that's not a very scientific way of going about managing a lot of money, but it kind of would give him an opportunity to see if there was a great deal of money going away.

Q. Okay. All right. So other than that sort of, you know, finger on the pulse of what was going on?

A. Exactly.

Q. There wasn't a day-to-day cross-checking of what the manager or the other employees—

A. If the manager misrepresented the facts on the daily report, there wasn't any way to discover it unless somebody ratted on them.

Q. Okay. Let's talk a little bit about the property during the time that you were trying to set it up so that these other managers could take over. Did you have a desire or an opportunity to audit the property and the condition of the property?

A. Yes, ma'am. This is really the thing that really got my attention first. As I said yesterday, when I got to Oklahoma City, it was colder than—it was cold.

Q. Okay.

A. And the first—within the first few hours of having arrived on the property, I was in the office just observing [116] what was going on and we had several prospective residents stop wanting to rent a room. The paperwork would be done, they would go to the room that they were assigned. Five minutes later it was like a boomerang, they'd come back and say I'm not staying in that room, for a litany of reasons, the phone wouldn't work or, you know, there was no heat in the room or something of that nature.

And so the next day, on the 9th—well, on the 8th, I was only on the property for about four hours. I arrived back on the property on the 9th, early in the morning, and I spent all day visiting with the housekeeping folks and the people that were on the property. And the rental, the timing of rentals in motels really starts getting busy about 2 or 3:00 in the afternoon and it runs basically to 2 or 3:00 in the morning. So there is about a 12-hour period there in which all the revenue is brought in.

And as prospective residents would stop at the property and attempt to rent rooms, I just observed a half dozen of them that first night come back in and say, I'm—you know, there's something wrong with that room. And we'd have to find another room for them.

And after that happened for the first couple of days, I started seeing a pattern and I wanted to know what was going on with the physical asset, and so I had Bill Sunday and his wife actually go out and inventory the rooms as though they [117] were checking into the motel

to tell me if there was anything wrong with any of the rooms. When they got through with that—they spent all day doing it. When they got through doing that, they brought me a report that indicated that of the 54 rooms on the motel, I believe—now, I'll have to refer to my notes, but it seems to me like there were 23 or 24 rooms that were actually rentable.

Q. Okay.

A. Of the entire inventory.

Q. All right.

A. And—

Q. What was wrong—and just give us, you know, in general terms, but what were some things that were wrong with the other rooms that kept them from being rentable?

A. Well, as an example, that first night, I distinctly remember it was nine degrees outside. And when one of the guests came back in and said there's no heat in the room, the first thing I wanted to know is that the only room there's no heat in. And so we went around and just checked to make sure that there was heat in the rooms to keep the plumbing from bursting.

We discovered at that point that there were 12 rooms that didn't have any heat in them. There was no way to provide heat in the rooms.

The keys, the guests would be given keys to their [118] rooms. They'd come back to the office and say the key didn't fit the door.

There were plumbing fixtures in most of the rooms of the 28 or 29 rooms that were unrentable. There were plumbing fixtures that were either running constantly or leaking or commodes that had human feces in them

that had been standing there obviously for a period of time.

The telephone system had been allowed to just be torn up by guests, people taking a phone and moving it from a nightstand over to the bed, pull the junction out of the wall and break the little plastic thing that the plug goes into.

Just normal wear and tear of the rooms had caused an obvious deterioration of little things that made the room so that it wasn't 100 percent rentable. And a litany of things that, for whatever reason, made the motel so that it was—basically had a rent, a gross rent potential of less than half of what should have been in there.

Q. How did you respond to that? When you got that information, how did that make you feel about the asset, about the property?

A. Well, I was primarily concerned at that point with generating income. The thing that—as a business man, the thing that I focus on is if I can get close to the cash and stay there long enough, I'm going to win. And I know about [119] any business that if you have enough money, you can solve virtually any business problem. So what I did was immediately take corrective actions.

First, as I said yesterday, I terminated the house-keeping staff and I hired Bill Sunday's wife and two daughters to come in and give every room in that motel a deep cleaning. The main thing that was wrong with the motel was it was filthy. It was absolutely filthy.

Q. Did that contribute to the ability to rent rooms?

A. Oh, yes, ma'am. Within a week or 10 days, we were not getting any rejection, room rejections. When you have someone stop at a motel and attempt to rent a room, most of your hard costs have already been

absorbed by the time you get that person off of the highway and in front of a rental clerk.

So if you miss the opportunity to rent the room, it is very, very expensive to a business operation.

Q. So you told us that some of these people were coming back and you were finding other rooms for them. Were you also having to refund money?

A. A lot of the folks that came in, once—you know, you get one shot at being good and they said, you know, I'm not going to stay in this place, period. And they'd just want their money back and they'd leave and go down the road and find a clean motel.

[120] Q. Besides cleaning the—having the rooms cleaned, did you also spend the money to repair the problems that you had on your inventory?

A. Most of the money, most of the things that were wrong with the motel were cured with soap. Soap is very inexpensive, and elbow grease to go with it.

I spent some money. We discovered that there weren't sufficient linens to outfit all the beds in the motel. There wasn't sufficient towels and washcloths to outfit all the rooms with at least one. And in order to maintain a motel as an ongoing operation, you have to have at least one spare for everything that you've got. If you need 54 sets of sheets, that's 108 sheets, which means that you really need 216 sheets because one of them is be going to be being cleaned while the others are being used.

So we set basic limits for inventory of the items. We secured the laundry. The laundry facility in the motel had been allowed to deteriorate to a point where the equipment wasn't working properly and it—because of the venting system primarily, I considered it a fire

hazard so I caused it to be completely disassembled and cleaned to eliminate the fire hazard and then put back together so that we could actually maintain the sheer volume of laundry that a successful motel operation would generate.

Q. Okay. How with about the plumbing and the phone [121] system? Were those repaired?

A. Yes, ma'am. I hired contractors to repair the 12 broken window units. The heating and air conditioning in most motels, as most folks know, is a combined unit that heats and cools. And I hired a contractor to come in.

Most of the problem that we were having with the heaters were switches and small fans inside the unit. And with—as I recall, the total repair bill on 12 units was under \$300. So it was fairly insignificant, the amount of money. It was just work that had not been done. It's not the kind of thing that I had to spend a lot of money doing, but it's just something that somebody had to pick up the phone and call a contractor and say come out here and fix this thing.

Q. Okay. After things were fixed and the motel was cleaned, did you have any occasion to compare then the amount of rooms that were being rented and the money that was being made compared to what was being generated when you first took over?

A. Yes, ma'am. I ran the motel for two months and—I say "I." My people and I ran the motel for two months and when I got ready to turn back the power of attorney that I operated the property under back to Donna, I did a recapitulation of performance. Because by that time there were people in my family that were starting to second guess

* * *

[128]

* * *

Q. Okay. Do you know whether or not Richard Glossip was paid for the futon and these other items before he left?

A. I don't know about the futon. I know that he took—he sold a vending machine back to the company.

Q. Okay.

A. And at that time I thought it was somewhat curious that he would have a vending machine on the property. Because as I said, Barry was very aware of potential revenues as well as the general operating overhead expenses, and I thought it was somewhat strange that Barry would allow one of his employees to essentially be in business on his property.

Q. Okay. But when Richard Glossip told you it was his [129] vending machine, did you have anything to confront him at that time?

A. No, ma'am. He said that he was going to take the money out of the till to pay himself for that machine, which I didn't have an objection to at that juncture.

Q. Okay. Do you know how much he took?

A. I think it was \$150.

* * *

Q. Any other property or any other money that you know of that he got during that time period?

[130] A. I want to say that he took the—they did a cash count on the vending machines. There were several vending machines on the property and I don't recall, I'd

have to check the daily report to see, if that cash was actually reported as revenue for the motel or if something else happened to it.

* * *

[136]

* * *

Q. We understand, though, that the vending machines in this particular location were owned or controlled by Mr. Glossip; isn't that true?

A. I never really established that. At one point someone told me that D-Ann (sic) had actually signed a lease on a pop machine. I won several pop machines myself and they're [137] rather expensive devices, but they also create a lot of cash flow and they're pretty profitable to own. So I don't know—and, here again, once I took over control of the motel every nickel that went into the vending machines ultimately ended up in Donna's checking account.

Q. I understand. But you don't know, if that was true, if that was the arrangement prior to your brother's death?

A. Well, apparently, it was because when Richard left the property he divested what was my understanding his only vending machine, which was one that he was selling shaving supplies and toothbrushes and that kind of thing out of. It was a reconditioned cigarette machine. And he sold it to the motel for \$150.

Vending machines today cost between 2 and \$10,000 apiece. So it wasn't a particularly large part of the motel's asset base.

* * *

[167]

* * *

Q. And did you recommend someone to him for that position?

A. Yes, ma'am, I did.

Q. And who was that?

A. Richard Glossip.

Q. Did you know someone by the name of D-Anna Wood?

A. Yes, ma'am, I did.

Q. And how do you know her?

A. She lived with Mr. Glossip, a girlfriend/wife situation.

Q. Had they been together for a while?

A. As long as I'd known Richard.

Q. At the time that you recommended Mr. Glossip to Mr. Van Treese for employment, did you believe that Richard Glossip was capable of successfully managing the Best Budget Inn in Oklahoma City?

A. Very capable.

Q. And, in fact, he was hired; is that correct?

A. Yes, ma'am.

Q. All right. During the time that Richard Glossip was the manager at the Best Budget Inn in Oklahoma City, did you have occasion to spend time with him and D-Anna Wood?

A. Yes, ma'am.

Q. And did you have occasion to spend time with Barry Van Treese?

A. Yes, ma'am.

[168] Q. I want to talk about your observations of some of these individuals. Tell us about the personality in general of Barry Van Treese.

A. Barry was a kind, loving, generous person. He thought more of his family than anything in the world, but if somebody was homeless on the street, he'd pick them up and bring them to the motel and feed them, buy them clothes, give them a room, and even give them money to pick up trash occasionally. He was one of the nicest people I'd ever met.

Q. Okay. Did you ever see him when he became upset or angry?

A. Yes, ma'am, I did.

Q. And you kind of smiled. Did he ever get angry or upset with you?

A. Not with me, no.

Q. When you saw him become angry or upset, could you see that? Was that demonstrated by his behavior?

A. Yes, ma'am.

Q. Tell us what you saw.

A. He would fly off, he would lose control and just blowup. He was explosive. He wasn't violent but he would yell and scream and he would threaten.

Q. If he wanted to show his generosity, could he?

A. Yes, ma'am.

Q. Okay. And did he?

[169] A. Yes, ma'am.

Q. And if he was angry, would he show that?

A. Most definitely.

Q. And did he?

A. Yes, ma'am.

Q. I want to talk a little bit about 1996. Was there a time during 1996 that some things were happening in the Van Treese family that sort of pulled Barry away from coming to the motel quite as often as he had?

A. He was spending a lot of time with his family.

Q. And you don't know why?

A. No, I don't.

Q. Was there an occasion where you had some interest in looking over sort of the operations, not the operations, you were looking to see what was going on at the motel?

A. Yes, ma'am. That was normal.

Q. And I don't want to put words in your mouth so why don't you tell me what it was, your involvement was with the motel?

A. At a point in time and I can't tell you the date or the year even, Barry and I struck a deal where I had one percent of the motel so that I could help him out. I would go to the different motels and do audits or check and see if the rooms were rented and they weren't written on the sheet and that type of thing. At one point I went to Weatherford, we [170] did an audit there and we wound up filing criminal charges on the managers of that motel for embezzling.

Q. For embezzling?

A. Yes, ma'am.

Q. And was that before you hired—or before Richard Glossip was hired at the Best Budget Inn that—

A. Yes.

Q. —the Weatherford manager was fired?

A. Yes, ma'am.

Q. Okay. Had you ever discussed with Richard Glossip the fact that the manager at Weatherford had been fired at one time for embezzlement?

A. I believe so but I can't swear to that.

Q. How did it come about that you got this one percent in the motel?

A. It was—I don't know how to phrase it. Barry wanted to cover himself in case I filed charges on somebody, to give me the legal right to file charges on people. It was an agreement we reached at the Waffle House, of all places, and he wrote it out on the back of a business card and he said, That way if you file charges or if you go pay another water bill, you're legal.

Q. Okay. After Barry Van Treese's murder was this one percent something that you, you know, took to the family and demanded payment for or interest in?

[171] A. No, ma'am.

Q. Okay. It was a gentleman's agreement so that you could help your friend out?

A. Yes, ma'am.

Q. There were never any formal papers or anything like that drawn up?

A. Business card.

Q. On the back of a business card?

A. Yes, ma'am.

Q. Tell us what it was that you did, your involvement with the motel. I mean, did you go by and check on things or did you just—did you never go by? I mean, tell us your involvement.

A. I went by, if I was in Oklahoma City, I went by the motel usually daily. Sometimes just drive through the parking lot, sometimes going late at night, especially, if Barry had called and asked me to check on something, go check and see what rooms were rented, if the sheet said 14 rooms were rented, check the rooms. If somewhere rented that weren't written down, then there was a problem.

Q. Okay. You told us that when Richard Glossip was hired in late 1995, fall of 1995, that you felt like he would do a good job?

A. Yes, ma'am, I did.

Q. Was there a time when that opinion changed?

[172] A. Yes, ma'am.

Q. And about when was that that your opinion started changing?

A. Late '96.

Q. Did that opinion change based on things that you observed, based on something that Barry Van Treese had said, or a combination of the two?

A. A combination of that and things that Billye—I can't think of her last name.

Q. Hooper?

A. Billye Hooper had brought to our attention also.

Q. So you had some conversations with Billye Hooper, conversations with Barry Van Treese, and things you observed, your opinion started changing?

A. Yes, ma'am.

Q. What concerns did you have based on the information that you were given?

A. I felt that Mr. Glossip was probably pocketing a couple hundred a week extra.

Q. And did you do anything, any type of investigation or any way to check to see if you could document that in any way?

A. A few times late at night I did go to the motel and would pull the registration sheet and go check rooms to see if they were rented. I would sometimes go by in the morning [173] and check and see if rooms were dirty, talk to the maids and see if rooms were dirty and soiled that didn't show to be rented.

Q. Okay. Were there discrepancies?

A. Yes, ma'am, there were.

Q. Do you know about when those discrepancies occurred?

A. I couldn't tell you now.

Q. Were they at the first part of Mr. Glossip's employment? In the middle? Later?

A. No, it was within the last two or three months.

Q. Of his employment?

A. Yes, ma'am.

Q. Which would coincide with Barry's death?

A. Yes, ma'am.

Q. Okay. Did you report those discrepancies to Barry Van Treese?

A. Yes, ma'am.

Q. Okay. Without telling us what he said, did his demeanor and his response indicate to you that he was concerned by what you were reporting?

A. Yes, ma'am.

Q. At some point, did you know that Barry Van Treese was taking his family on a Christmas vacation, Christmas of 1996?

A. I knew he'd be gone. I didn't know where he was going [174] or what he was doing.

Q. Did you know what date he was going to be at the Oklahoma City motel after his vacation?

A. After, No, ma'am.

Q. Did you know that he would be coming to the Oklahoma City motel at some point after his vacation?

A. Yes, ma'am.

Q. Without telling us what was said, did you have a conversation with Barry Van Treese appearance at the Oklahoma City motel after his Christmas vacation?

A. Well—

Q. I'm probably wording that incorrectly and I apologize.

Around Christmastime or after Christmas of 1996, okay?—I'm trying to orient you to a date—was there ever a time that you were going to see Barry Van Treese?

A. Yes, ma'am.

Q. Let's attack it from that side and I apologize.

When was it that you were going to see him?

A. I believe we had agreed to meet on the 6th of January.

Q. Okay. And where were you going to meet?

A. At the Best Budget Inn.

Q. And how did you know that that's where you were going to meet? Had you spoken with him?

A. Yes, ma'am.

Q. Okay. When you spoke with him, was it over the phone?

[175] A. Yes, ma'am.

Q. And had you called him or did he call you?

A. Barry called me, I believe. I'm certain he did.

Q. Okay. How long was it, how many days prior to when you were going to meet, did the phone call occur that you made arrangements?

A. I really can't remember, three or four.

Q. Okay. So within a week?

A. Yes, ma'am.

Q. And you made arrangements to meet him on January 6th?

A. Yes, ma'am.

Q. Did you know when you made those arrangements about what time you thought you would meet him?

A. It was going to be after I got off work, which would be in the early evening.

Q. You didn't have a set time?

A. No, ma'am.

Q. On January 6th—and we're talking about now January 6th of 1997; is that correct?

A. Yes, ma'am.

Q. —did you go by the Best Budget Inn to meet Barry Van Treese?

A. Yes, ma'am, I did.

Q. And do you know about what time you went by?

A. Early evening is the best I can tell you right now.

[176] Q. Before dark?

A. I would say so, yes, ma'am.

Q. When you went by there, is there anything in particular that you looked for to tell whether or not Barry Van Treese was there?

A. Barry's car.

Q. You knew what kind of car he drove?

A. Yes, ma'am.

Q. And would you have expected it to be in a certain location at the motel?

A. Yes, ma'am, it would be in one or two spots.

Q. What are those two spots?

A. He would have either parked directly in front of the office window under the awning on the front driveway or in front of room 102.

Q. So off kind of at the south side, up toward the office area, or in front of the office?

A. Actually on the east side right in front of the office or on the south side west of the office.

Q. Okay. When you drove through the parking lot, did you see his car?

A. No, ma'am.

Q. Did you stop to see if he'd been there?

A. No, ma'am.

Q. Did you make any other attempts then on the evening of [177] January 6th to come in contact with Barry Van Treese?

A. No, ma'am.

Q. On that night did he make any contact with you?

A. No, ma'am, he did not.

Q. Okay. What was the purpose—what reason were you going to the Best Budget Inn on January 6th?

A. Barry and I had agreed to confront Rich and discuss the problems with him.

Q. Okay. And are you talking about these problems that—the discrepancies that you had seen at the hotel motel?

A. Yes ma'am.

Q. And your understanding was you were going to do that with Barry Van Treese?

A. Yes, ma'am.

Q. Did you ever have an opportunity to confront Richard Glossip on the 6th?

A. No, ma'am.

Q. All right. I want to take you then to January 7th. On January 7th, do you remember if you worked on that day?

A. Yes, ma'am, I did.

Q. And at some point did you have information from the Best Budget Inn?

A. Yes, ma'am.

Q. How did you get that information?

A. Somewhere around 4:00 or just shortly thereafter my [178] pager started going off just repeatedly with 911 behind the motel phone number.

Q. So did you call the motel?

A. Yes, ma'am.

Q. Who did you talk to?

A. Billye Hooper.

Q. What did she tell you was the 911 call?

A. She said that Barry's car had been found in the credit union parking lot adjacent to the motel unlocked and Barry was nowhere to be found.

Q. Now, you knew, because you had been in that area, you knew what she was talking about when she said credit union, right?

A. Yes, ma'am.

Q. Had you ever known Barry Van Treese to park his car at that credit union?

A. No, ma'am.

Q. Had you ever known Barry Van Treese to leave his car unlocked?

A. Never.

Q. And did it concern you that his car was at the credit union unlocked and they didn't know where he was?

A. It concerned me more that his car was unlocked than it was at the credit union.

Q. Okay. Did you know whether Barry Van Treese ever kept [179] large amounts of cash in his car?

A. I knew that he did keep cash in the car, he would make a round at the motels, collect the receipts sometimes for a day, sometimes for a month, depending on when he was at the motel last, and he would keep them in a money bag in his car until he got back to Lawton to make his deposits.

Q. So you got this call from Billye Hooper who told you the car had been found and unlocked and she didn't know where Barry was.

A. Correct.

Q. What did you do when you got that phone call?

A. I left Mr. Tedder's office across the street from the courthouse here and went straight to the motel.

Q. Okay. Do you know about what time it was that you got to the motel?

A. 4:20, 4:30, that neighborhood.

Q. When you got to the motel, who did you make contact with?

A. Billye Hooper.

Q. And did she, I guess, tell you sort of the same information that she had told you on the phone?

A. Yes, ma'am.

Q. Based on that, did you got look at the car at the credit union?

A. Yes, ma'am, I did.

[180] Q. Okay. Was it, in fact, Barry Van Treese's car?

A. Yes, ma'am, it was.

Q. Did you have any involvement in the search, inventory of securing of Barry Van Treese's vehicle?

A. No, ma'am, the only thing I did was call the City.

Q. Call?

A. Oklahoma City.

Q. Police Department?

A. Yes, ma'am.

Q. And did they come out?

A. Yes, ma'am, they did.

Q. Okay. Who did you make contact with when you went over to the credit union, do you remember?

A. I really can't remember which officer was over there at that time.

Q. But there was a law enforcement officer of some sort?

A. Yes, ma'am.

Q. Did you see any other vehicles over there that had had any problems or that raised your suspicion in any way?

A. No, ma'am.

Q. What did you do after you saw that that was indeed Barry Van Treese's car?

A. I talked to the Oklahoma City officer that was there. I explained to him that based on Barry's habits that the car would never be unlocked, it would never be sitting open. I [181] asked that they go ahead and impound it and see if there was any fingerprint evidence, forensic evidence in the car, and then I returned to the motel.

Q. So you didn't stay there while they did that?

A. No, ma'am.

Q. When you went back to the motel—let me ask you this. About how long do you think you stayed at the credit union?

A. Ten minutes.

Q. Okay. When you went back to the motel, who did you make contact with?

A. Billye Hooper. I asked if Richard was there and at that time he wasn't and, I believe, then I talked to either Donna or Ken on the phone.

Q. And so you were talking to the Van Treese family trying to tell them what you knew?

A. Yes, ma'am.

Q. At some point did Richard Glossip show up?

A. Yes, ma'am.

Q. And do you know where D-Anna Wood was? Was she with him or had she been at the motel?

A. I believe she was with him but I...

Q. You don't remember that part?

A. No, ma'am.

Q. All right. When he showed back up, do you know where he'd been?

[182] A. He said he'd been shopping.

Q. Did you see any evidence of that?

A. I really can't recall.

Q. Okay. Did it raise any suspicions that he had been shopping during the time that Barry Van Treese was supposed to be on the property?

A. Yes, ma'am.

Q. And why is that?

A. If Barry was on the property, Rich would be right there finding out what Barry wanted him to do. It was just kind of the way it was.

Q. That was the routine?

A. Yes, ma'am.

Q. So if it was a Barry Van Treese visit day, Richard Glossip wouldn't have gone shopping?

A. No, ma'am.

Q. When Richard Glossip got there, did you talk to him about what he knew about Barry Van Treese and his disappearance?

A. Yes, ma'am.

Q. And what did he tell you at that time?

A. He told me first that Barry had been to the motel earlier in the evening of the 6th, and I don't remember if he said he picked up the money or not and had gone on to Tulsa, and then he told me that Barry had come to the motel [183] at 2:30, 3:00, early morning hours and had gone to bed. And then he told me that he had seen

Barry but he left at 7:00 in the morning. I mean, there were two or three different stories.

Q. Okay. Now, these two or three different stories, were they told all in that same time period or were they told throughout the day?

A. Well, close proximity, he told me that Barry had been there and gone to Tulsa and then Barry had come back at 2:30 in the morning. And I assumed that he meant Barry had come in and gone to Tulsa and come back and gone to bed.

Q. Okay. And then in that same time period did he tell you the bit about the last time he he'd seen Barry Van Treese?

A. No, that was later in the evening.

Q. That was later. Okay. Well, let's put these up then on this board.

Sir, I've kind of got it over here because I've got it out of the way of the deputy and the other parties. But I'll let you know—and if you need to kind of move around so you can see. I'm just going to write this up here then we'll go back over here to talk some more.

Okay, sir, what I've written is that Richard Glossip told you he'd seen Barry on the 6th and then he, Barry, went to Tulsa and then Barry returned about 2:30 or 3:00 a.m. and [184] went to bed?

A. Yes, ma'am.

Q. Okay. When he told you this statement, did you take it that that was the last time he had seen Barry Van Treese at 2:30 or 3?

A. At that time, yes, ma'am.

Q. Did he tell you that that was the last time or did you just assume that?

A. I just assumed it.

Q. Okay. How much later did he tell you that it was about 7:00 a.m. that he had seen him?

A. I really couldn't tell you. Sometime during the evening because we were together for a couple hours.

Q. Okay. And he told you the last time he had seen Barry Van Treese was at 7:00 a.m. that morning?

A. Yes, ma'am.

Q. Did he tell you under what circumstances he'd seen him?

A. He said Barry got up and was leaving.

Q. Sir, based on what—and I'm sorry. I wrote the last time he, Richard Glossip, had seen Barry was 7:00 a.m. that morning, Barry had gotten up and was leaving. Is that correct?

A. Yes, ma'am.

Q. Sir, based on what you knew about the habits of your friend, Barry Van Treese, did it surprise you to hear that [185] he had gotten up at 7:00 a.m. and was leaving?

A. If he'd gotten into bed at 2:30 in the morning, yes, that would be a shock.

Q. Okay. You've gotten back from seeing the car at the credit union, Richard Glossip is there, he tells you these things, then do the two of you do anything to try to find Barry Van Treese?

A. I asked Richard Glossip to get Justin Sneed to come up to the office, and Justin got there, I asked the

two of them to check every room in the motel to make sure Barry hadn't gone in and laid down in some other room and passed out, check the laundry room, check the storage room, check it all to make sure that Barry was nowhere in the motel.

Q. Did you know Justin Sneed before this particular day?

A. Yes, ma'am.

Q. And tell us your impression of the relationship between Justin Sneed and Richard Glossip.

A. Without sounding tacky, Justin was Richard's puppet.

Q. Okay. And tell us what you mean by that.

A. Justin was not self-motivated. Richard told him everything to do. Richard would tell him do this, he'd do it. Do that, do it. If he needed something, he'd come to Richard.

Q. So you instructed the two of them to check everywhere?

A. Yes, ma'am.

[186] Q. Now, you say "passed out." Did you think that Barry Van Treese had gotten intoxicated and that kind of passed out?

A. No, ma'am.

Q. What type of passed out do you mean?

A. Sometimes when Barry would go to sleep, it was like being passed out. You couldn't wake him up.

Q. He was a deep sleeper?

A. Very deep sleeper.

Q. Okay.

A. And he'd also been having some health problems. And I had some concerns. It just wasn't like Barry not to be there.

Q. Okay. When you asked the two of them to go check all the rooms, the laundry room, everything, did they leave to go do that?

A. Yes, ma'am, they did.

Q. And what did you do while they checked all the rooms?

A. I know I called Sergeant Brown.

Q. Tim Brown?

A. Sergeant Tim Brown, yes.

Q. Okay.

A. And Lieutenant John Cave. I talked to either Kenneth or Donna Van Treese initially and then I talked to the other. And Kenneth Van Treese was adamant about calling. I [187] talked to him several times during that evening.

Q. He wanted some answers?

A. Yes, ma'am.

Q. At some point did you meet back up with Richard Glossip?

A. Yes, ma'am.

Q. And did you do anything else to try to locate Barry Van Treese?

A. Yes, ma'am. I told him we were going to go check around the motel. There are some open field areas, there's a lot of dumpsters, there's an industrial

complex, that type of thing to see if Barry had wandered out and passed out in the cold or what had—I didn't know what had happened.

Q. Okay.

A. So D-Anna, Rich, and myself got in my truck and we drove around and checked dumpsters and drove through the fields and, generally, just looked to see if we could find Barry.

Q. Did you find any sign of him?

A. No, ma'am.

Q. During the time that you were checking the dumpsters, did you have occasion to come in contact with Sergeant Brown?

A. Yes, ma'am.

Q. And can you tell us if at that time did Richard Glossip [188] make any statements that you remember to Sergeant Brown about Barry Van Treese the last time he had seen him?

A. That may have been when he said he saw him at 7:00 in the morning.

Q. Now, sir, you know now that the window to room 102 was broken out?

A. Yes, ma'am.

Q. When did you first learn that that window was broken?

A. When I first got to the motel.

Q. How did you learn that?

A. I observed it. I saw it broke.

Q. Did you ask anyone about it?

A. I asked Mr. Glossip.

Q. When in your contact here did you ask Mr. Glossip about the window?

A. Before I asked him to search the motel, as I recall.

Q. Before you searched the dumpsters and met up with Sergeant Brown?

A. Yes, ma'am.

Q. So—I mean, what did you ask him, do you remember?

A. Well, I saw the window was broken in the room and asked him what had happened and he said, I rented it to a couple drunk cowboys last night, they had gotten into a fight and busted the window.

Q. Okay. So he told you, he said, I rented it?

[189] A. Yes, ma'am.

Q. They got into a fight and what else did you say?

A. That they had broken the window.

Q. Broken the window. This says, "I rented it to a couple of drunk cowboys, they got into a fight and had broken the window." Is that correct?

A. Yes, ma'am.

Q. When you heard that, did that concern you knowing that, you know, Barry Van Treese's car was over at the credit union?

A. At that point, No, ma'am, it did not.

Q. Why not?

A. I thought I could trust Rich.

Q. You heard at some point him say that the last time he had seen Barry Van Treese was at 7:00 a.m. that morning—

A. Yes, ma'am.

Q. —is that correct?

Was it your understanding that the drunk cowboys broke the window before 7:00 a.m.?

A. He said in the middle of the night. I didn't even go into the exact times of it. Windows got broken at that motel before when people get in a drunk fight.

Q. Okay. I guess what my question is, as far as in your mind what the sequence was, did you believe that Richard Glossip had seen Barry Van Treese alive and okay [190] after the time the window had gotten broken?

A. At that point I really—I couldn't tell you if I did or not. I just—it was not a great concern to me when he had an explanation.

Q. Okay. So you didn't put those two things together?

A. Not at that point. No, ma'am.

Q. You met up with Sergeant Brown. Did you continue at some point to look through the dumpsters, the fields with Richard Glossip, D-Anna Wood?

A. Yes, ma'am. We looked, you know, checked all the dumpsters in the general area and drove around the fields.

Q. Okay.

A. Richard needed to return to the motel so I took him back to the motel.

Q. Okay. What did you do then after that?

A. I asked him to make sure and either get somebody out with the glass company or cover the window in that room so the pipes didn't freeze that night and cause damages to the room. He said he'd take care of it.

Q. Was it cold out?

A. Yes, it was January. It was cold.

Q. And what did you do after you dropped him off and told him that?

A. I went and checked some more places, drove around, talked to some people at the motel and met with [191] Sergeant Brown a couple more times, Lieutenant Cave. And then I think Sergeant Brown and I met at the Sinclair gas station about 9:30 and had another talk.

Q. And at the time that you and Sergeant Brown are talking then, about 9:30, are some new suspicions starting to develop in your mind?

A. We were comparing the stories that had been told. Richard had told me earlier in the evening about another room that he thought may have been involved in Barry's homicide because the people had just left and left their stuff in there. I had secured that room. Sergeant Brown had checked the—to locate the occupants of that room and see what they knew.

Richard had told me first that he'd seen Barry at 9:00 then at 2:30, then he left at 7:00 in the morning, everything was fine. He told Sergeant Brown some other stories. The stories just didn't mesh.

Q. Okay.

A. And we started getting a little suspicious.

Q. Let me—I don't think we've got this on here about this other room. Do you know about when it was that he told you about this other room that might be involved in the homicide?

A. I really couldn't tell you now.

Q. Sometime between this few-hour period?

[192] A. Yes.

Q. Tell us what it is that he said. That there was another room that might have been involved?

A. He said the people in one of the upstairs room, maybe they were involved in it because they just left without checking out and they left their stuff in the room and they just disappeared.

Q. Okay. Maybe some people in an upstairs room were involved because they had left without checking out and had left their stuff?

A. Yes, ma'am.

Q. And so based on what Richard Glossip was telling you about potential reasons for Barry Van Treese's disappearance, you actually looked in that room or you—I guess you said you secured it and Sergeant Brown looked in it?

A. Well, we both looked in the room. I looked in the room initially and secured it. Sergeant Brown came up. Him and I both went into the room and looked. He found some type of identification and made some efforts to locate the people.

Q. After you and Sergeant Brown then are at the Sinclair station—and I think you told us about 9:30 at night?

A. Somewhere in that neighborhood, yes, ma'am.

Q. —you're talking about the stories, and there's a bunch of them?

[193] A. Yes, ma'am.

Q. And they don't mesh?

A. No, ma'am.

Q. Based on that, did you and Sergeant Brown make a decision?

A. Yes, ma'am.

Q. What did you decide to do?

A. We decided to go look in room 102.

Q. And tell us why you hadn't looked in room 102 earlier?

A. I relied upon Mr. Glossip, to be just perfectly honest.

He said that the cowboys had broken the window, he'd checked every room in the motel. And I relied on his honesty and integrity as an employee of the motel and what I thought was my friend to tell me the truth.

Q. And as you sat and started putting things together with Sergeant Brown, did that opinion change?

A. Yes, ma'am.

Q. And you decided you needed to check, he needed to check?

A. Yes, ma'am.

Q. Did you go with Sergeant Brown to room 102?

A. Yes, ma'am.

Q. And were you able to make entry?

A. Initially we couldn't. When I first gotten there the doors were fine. When we went to go into the room, the [194] tumbler assembly, locking assembly had been pulled out of the door to where a key wouldn't even go into the door so I couldn't put my master key into the door to open it.

Q. But you had a key. You could go in if it was in working order?

A. Yes, ma'am.

Q. So did you have to somehow figure out how to get in the room without a key?

A. Yes, ma'am. Either myself or Sergeant Brown got a pair of forceps and we unlocked the dead bolt and then were able to turn the bottom latch and go into the room.

Q. Okay. When you went in the room—first of all, tell me the weather outside.

A. It was cold.

Q. What was the temperature like inside the room?

A. It was cold.

Q. Could you tell whether an air conditioner had been turned on or not?

A. It was probably equally cold in and out, so...

Q. Was a heater going?

A. No, ma'am, the heater was not going.

Q. When you went inside the room, what did you see?

A. A body rolled up on the floor.

Q. Did you have any item with you when you went in?

A. Yes, ma'am.

[195] Q. What was it?

A. I had a—I believe it was a Sinclair cup of Coca-Cola and ice.

Q. Okay. And did you do anything with that cup?

A. Yes, ma'am, I did.

Q. What did you do?

A. I sat it on top of the television set, drew my weapon and went through the room to make sure there was nobody in the bathroom.

Q. So you sat it down so you could draw your weapon?

A. Yes, ma'am.

Q. But as a potential crime scene, what do you think of that decision?

A. I contaminated the crime scene and I shouldn't have.

Q. All right. So we've got something added into a crime scene that you put there, right?

A. Yes, ma'am.

Q. You drew your weapon and you went where?

A. I went to the restroom, bathroom area.

Q. For what reason?

A. To see if there were any other victims or perpetrator of the crime might be still in the room.

Q. At that point, you said that there was—could you tell it was a body on the floor?

A. Yes, ma'am.

[196] Q. Okay. But it was covered?

A. Yes, ma'am.

Q. So at that point were you for certain—you might have had suspicions, but were you for certain who it was?

A. The wristwatch that I saw was—certain in my mind that it was Barry.

Q. So you knew from the wristwatch that it was Barry Van Treese?

A. Yes, ma'am.

Q. How did you react to that?

A. It was shocking.

Q. Would you say that you started barking orders or screaming at people to do things?

A. Probably did. I was rather upset.

Q. Do you know a woman by the name of Kayla Pursley that lived there at the motel?

A. Yes, ma'am, I do.

Q. If she said that when you saw Barry's wristwatch that you started screaming at people, would that be a fairly accurate statement?

A. Most likely.

Q. Sir, I want to show you what has already been introduced as State's Exhibit 92. Tell me if you recognize this item.

A. Yes, ma'am.

[197] Q. And what is that?

A. That's Barry's wristwatch.

Q. And it appears to be broken. When you saw it, was it broken?

A. Yes, ma'am.

Q. So it wasn't on him?

A. No, it was right next to him.

Q. It was next to him?

A. Yes.

Q. Okay. Did you uncover the body?

A. No, ma'am.

Q. Did Sergeant Brown uncover the body in your presence?

A. No, ma'am.

Q. What else did you see besides the body underneath this covers? What else did you notice, anything?

A. I didn't really look at anything else. I stepped out and we secured the room.

Q. Okay. After you secured the room, what happened?

A. I asked Sergeant Brown to go get Rich, and he called for other officers to get there.

Q. You told officers to go get Rich?

A. No, I—somebody had to go get Rich. And I told Tim Brown it would be better if he went and got him than me.

Q. Why is that?

A. Because at that point in time I felt like if [198] Richard Glossip had not done the crime, he had knowledge and was involved, and my temper was rather hot.

Q. Let's talk a little bit about Richard Glossip's lifestyle. Had you been inside their apartment?

A. Yes, ma'am.

Q. And tell me about their set up.

A. Richard liked the nicer things, big screen television, up-to-the-date Play Stations or Sega or whatever it was that you could sit for hours and box with each other on and—nice things.

Q. All right. Did you ever wonder how he could afford those things on the salary that he made?

A. Initially, no, because he got a salary and the apartment was furnished to him for free as part of his compensation. You know, if he managed his money right, he could buy nice things.

Q. Okay. Now, you said "initially." Was there a point when you believed?

A. When he started getting things that were way much that I couldn't even afford and I was making a really good living at the time.

Q. When you had these concerns on that night, you sent—or Tim Brown, I would guess, went to get Richard Glossip, did you stay around there until the police arrived?

A. Yeah, I stayed right in front of the door.

[199] Q. Okay. And I suppose talked to the police when they got there?

A. Yes, ma'am.

Q. Did you help with sort of the management or operations of the motel until the Van Treese family could get there and take over?

A. Yes, ma'am.

Q. And I want to talk to you a little bit about what occurred, sort of the day of January 8th. Were you around that day?

A. Yes, ma'am.

Q. On that day, did you have an occasion to notice whether or not Richard Glossip was selling anything?

A. Richard Glossip was having a liquidation sale.

Q. And who was he selling things to?

A. Anybody that would purchase.

Q. What was he selling?

A. Everything he owned basically.

Q. Okay.

A. Except his car.

Q. Did you know why he was doing that?

A. He said he was going to be moving on.

Q. Do you know if—did you ever see money actually change hands?

A. I gave Richard a hundred dollars.

[200] Q. For what?

A. A fish aquarium.

Q. Okay. And where was that aquarium located?

A. In his apartment, I believe, or in the—I can't—no, it was in the office area. I'm sorry. It was right at the apartment door in the office area. He had moved back into there.

Q. So you gave him \$100 for it?

A. Yes, ma'am.

Q. Did you ever get the aquarium?

A. No, ma'am.

Q. Never to this day?

A. No, ma'am.

Q. But you gave him the cash?

A. Yes, ma'am.

Q. And did you do that on the 8th or some other time?

A. I can't recall. It was probably on the 8th.

Q. Well, was it after Barry's body was found?

A. Yes, ma'am.

Q. And was it before Richard Glossip was arrested?

A. Yes, ma'am.

Q. Okay. You said that he was selling other things. Do you have any personal knowledge as to what else he might have sold or what money he might have gotten for it?

A. He sold, I believe, a couch, big screen TV, couple [201] vending machines.

Q. Do you know how much money he might have gotten for any of those items?

A. The vending machines, I don't recall if it was 150 or \$200.

Q. And how about the big screen TV and the couch?

A. I really don't know.

Q. Okay. Did you ever talk to Richard Glossip on the 8th as to whether or not he and Barry Van Treese had had any type of argument or whether or not Barry Van Treese had confronted him about what it is that you all were going to confront him about?

A. No, ma'am.

Q. So you don't have any knowledge as to whether or not that took place?

A. No, ma'am.

Q. Is there anything about what you knew of Barry Van Treese's intentions that would lead you to believe that he had changed his mind about confronting Richard Glossip?

A. No, ma'am.

Q. So you believed that that was still the plan on January 6th, even though you didn't participate in it?

A. Yes, ma'am.

MS. SMOTHERMON: If I could have just a moment?

THE COURT: You may.

[202] MS. SMOTHERMON: I apologize. Your Honor.

Q (BY MS. SMOTHERMON) I don't believe that I've asked you this question. Do you see Richard Glossip in the courtroom today?

A. Yes, ma'am.

Q. And can you tell me where he's located and what he's wearing?

A. Counsel table between the two gentlemen in the suits wearing tan-colored pants and a green plaid shirt, I think. I'm color blind so I can't swear to what color the shirt is.

Q. Okay. And is that how he's always appeared?

A. No, ma'am.

Q. What other appearances has he had?

A. When I initially knew Rich up until the time he was arrested he had a yellow-skunk streak down his hair and generally wore tank tops.

Q. But even though he looks different today, you're still able to recognize him?

A. Yes, ma'am.

MS. SMOTHERMON: Let the record reflect the identification of the Defendant Richard Glossip.

THE COURT: The record will so reflect.

Is there a problem of some sort? Do you have a question?

JUROR PISCITELLO: I should have raised my hand. **[203]** I didn't understand what he—I didn't hear what he said about his appearance of the hair.

THE COURT: All right. Well, Counsel, with your permission—

Are you talking about as he described it in the courtroom or?

JUROR PISCITELLO: Beforehand, how he was—I heard about the tank top.

THE COURT: He said something about there being a yellow and I think he described it as a skunk stripe in his hair and that he used to wear tank tops. Is that the part of the sentence that you missed?

JUROR PISCITELLO: Yeah. I thought I heard skunk. I didn't know what.

THE COURT: Well, it's one way of describing his appearance at that time.

Is there further, Counsel?

MS. SMOTHERMON: If I could, Your Honor?

THE COURT: You may.

Q. (BY MS. SMOTHERMON) Sir, I do have a couple of follow-up questions and I just want to make sure that I get this right. I want to talk to you about the statements where Richard Glossip said maybe the people in the upstairs room were involved—

A. Yes, ma'am.

* * *

[214]

* * *

Q. Okay. And he had a couple vending machines?

A. Yes, sir.

Q. Did he have those before he brought those over from the other hotel?

A. No, sir. He got those after he came over.

Q. And those things may make him money, right?

A. They'd make a little money, yes, sir.

Q. And so the costs of those could be paid by the selling of the items out of the vending machines?

A. Depending on how much you sold, yes, could.

Q. Now, we've heard the testimony that he made about \$1,500 a month gross. Would he be able to buy that nice tv with one-month's worth of pay?

A. I suppose he could, yes, sir.

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 12 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 26, 2004**

* * *

[12] Q. But it was late the same day that you approached Mr. Glossip and asked him to come downtown—

A. Correct.

Q. Sir, I would ask you to look at that exhibit that's right there at your elbow. First, look at the front of the brown envelope and verify that it's marked State's Exhibit No. 6?

A. Yes, it is.

Q. Will you please open the clear plastic bag, reach inside the large manila envelope and retrieve, I believe it's a white legal size envelope.

Would you please look inside the white envelope privately and examine the contents of the white envelope.

(Brief pause in proceedings.)

Q. (BY MR. ACKLEY) Have you had an opportunity to look through the contents of the white envelope?

A. Yes, I have.

Q. As a broad generality, what's in there?

A. U.S. currency.

Q. And have you had an opportunity to count it?

A. Yes, I have.

Q. How much currency is in that envelope?

A. \$1,757.

Q. Is that consistent with the money that you saw taken from the person of Mr. Glossip on January the 9th or the [13] early morning hours of January the 10th—

A. Yes, sir, it is.

Q. —1997?

A. Yes, sir.

Q. Will you please re-place the white envelope in the brown one and re-place the brown one inside the clear plastic bag?

MR. ACKLEY: Your Honor, if it please the Court, we would tender State's Exhibit No. 6 to the custody of the Court and offer it later.

THE COURT: All right.

MR. ACKLEY: Pass the witness, Your Honor.

THE COURT: Thank you.

For cross.

CROSS-EXAMINATION

BY MR. LYMAN:

Q. Good morning, Sergeant.

A. Good morning.

Q. What time did you get contact from the detectives in homicide on January 9th to locate Mr. Glossip?

A. Actually, I think we were requested. The request came that night—the night before, late on the 8th or early morning of the 9th, that we could contact him.

Q. When you say early morning of the 9th, approximately what time are we talking about?

* * *

[16] Q. So he was cooperative with you?

A. Yes, he was.

Q. And from the time that you picked him up and delivered him to the detectives, he made no statements?

A. Well, we didn't pick him up and deliver him. He went in his own car with his friend. We followed him.

Q. Okay. So he was able to get there on his own?

A. Correct.

Q. Because he said he would go there?

A. Correct.

Q. And he did so?

A. Yes, sir.

Q. And then you make arrangements to get him to the detectives?

A. Yes, we did.

Q. And he was cooperative about that?

A. Yes.

Q. Now, you weren't part of the—his contact with those detectives, you don't know what occurred?

A. No, sir.

Q. The next time you had contact with him, you're advised he's been placed under arrest?

A. Yes.

Q. And that he's to go through the booking process?

A. Correct.

[17] Q. He was cooperative with you during that process?

A. Yes, sir.

Q. He didn't have any weapons on him because you had him empty his pockets?

A. Yes, sir.

Q. And he lays out this exhibit, State's Exhibit No. 6, he lays out this money?

A. Correct.

Q. During the booking process, you didn't question him?

A. No, sir.

Q. Now, this amount of money of \$1,757, you know he had it on him because he produced it during the booking process?

A. Yes.

Q. But you don't know the source of that money?

A. No, sir, I don't.

MR. LYMAN: Nothing further, Your Honor.

THE COURT: Thank you.

Is there further?

MR. ACKLEY: No, Your Honor.

THE COURT: Sir, before you leave the witness stand, would you please spell your last name for me.

THE WITNESS: It's M-A-U-C-K.

THE COURT: Thank you so much. You may be excused.

The State's next witness, please.

* * *

[45] there, we lived in a room together. But at one point there was a time when we rented the room that had three beds in it and I think like four of us stayed up in there.

Q. So you stayed in different rooms at the Best Budget?

A. Yeah.

Q. And I think that we've talked about this before, but I just want to say it again. You're saying, Yeah, which is how we talk, but the lady next to you has to write down every word so I need for you to either say yes or that's right or no or that's not right rather than yeah or—because those aren't as easy to write down. Is that a deal?

A. Yeah. Yes, ma'am.

Q. All right. I really—that wasn't a trick.

So you were there, the rooms were being paid for and you were working for a couple of months; is that correct?

A. Yes, ma'am.

Q. During the time that you lived at the Best Budget and you were working for the roofing company, did you know someone by the name of Rich Glossip?

A. Yes, ma'am.

Q. Now, you know his last name now. Did you know his last name at the time you were living there?

A. Yes, ma'am.

Q. And was he living with anyone?

A. D-Anna Wood.

[46] Q. During the time that you were working on the roofing crew and your brother was there, were you friends with Rich Glossip? Was your brother friends with Rich Glossip? How did you all know him?

A. Well, my brother kind of introduced me to him, because my brother had stopped going and roofing with us kind of two or three weeks before I actually stopped doing it and he started becoming more friends with Rich, and then I slowly, you know, started becoming friends with him and stuff like that. But my brother actually is the one that kind of introduced me to him.

Q. Now, you said that your brother stopped roofing. What did your brother do then for money after he stopped roofing?

A. For a while I was just helping him out and, you know, then he was trying to hustle here a little bit and hustle there a little bit.

Q. How long after he stopped working did his father come and get him and take him down because of the warrant?

A. Probably less than a month.

Q. Had you stopped working before Wes Taylor left?

A. Yes, ma'am.

Q. Why was it that you stopped working for the roofing company?

A. My brother told me that he had a deal with Richard Glossip that we could work at the motel and still [47] stay at the motel and, you know, it sounded like a good idea when he was first talking about it so we jumped on it, and I just kind of went along with the ride.

Q. How much money, if you remember, were you making as a roofer?

A. Probably about \$500 a week.

Q. Were you making any money when you were working at the motel for Richard Glossip?

A. No.

Q. So you were making pretty good money as a roofer?

A. Yes.

Q. You weren't making any money for Richard Glossip, but you told us your goal was to make some money so that you could support your daughters, right?

A. Yes, ma'am.

Q. So why would you quit work?

A. I don't know. I kind of—guess I lost sight of that. Because, you know, I was—I got entangled with a little bit of drugs and stuff like that when I come up here, so I just kind of lost sight of what my goal and my purpose was.

Q. Okay. What type of drugs did you get involved with?

A. Just marijuana and a little bit of crank.

Q. How old were you when you came up to Oklahoma City?

A. Eighteen.

Q. When is your birthday?

[48] A. September 22nd, 1977.

Q. So how old are you now?

A. Twenty-six.

Q. And you spent from the time—from the time you were 19 years and three months you've spent incarcerated?

A. Yes, ma'am.

Q. Sir, I want to talk to you a little bit about your life now compared to your life when you were 18 and 19. When you lived at the Best Budget Inn, did you have a high school diploma?

A. No, ma'am.

Q. How far did you get in school?

A. I dropped out in the eighth grade.

Q. Did your mother not make you go?

A. No, she signed me up at first in like a home school because I didn't want to—you know, I just had a phobia. I didn't want to go to high school. Actually, I really just didn't want to go to school anymore and that really didn't work out. And my brother and my sister had already been through school and I was the last one and she didn't really pressure me. And that's when I got my wife pregnant too and I was more worried about getting a job trying to live and all that.

Q. Since you have been in prison, have you gotten a high school diploma or a GED?

[49] A. I've gotten a GED.

Q. And when was that?

A. December or January '99, 2000.

Q. When you were living at the Best Budget Inn, did you have any skills or profession that you had gone to school for in trades?

A. No, ma'am.

Q. Since you have been incarcerated, have you gone through any schools?

A. I've went through a computer Vo-tech course which teaches you basic Windows from '97 to XP and Office XP and teaches you basic programming skills.

Q. So do you know quite a bit about computers now?

A. I know—I wouldn't say I was a qualified genius, but I know quite a bit about computers and computer software.

Q. Is that something that you knew anything about?

A. No, I hadn't the slightest clue when I was out there.

Q. Would you say that you're different in the way you act now than when you acted when you were 18 and 19?

A. Yes, ma'am.

Q. How are you different?

A. I don't know. I've just got more self-esteem, more self-confidence in myself. When I was that age I really didn't have a lot of self-esteem and a lot of self-confidence.

[50] Q. Your physical appearance, do you look about the same as you did back then?

A. No. When I first came to Oklahoma City I had long hair and it was kind of shaved around the inside, but it was in a long ponytail, and then I shaved that off and kept it shaved down. And then I probably weighed about 30 more pounds than what I weighed when I was 18, 19.

Q. Sir, I want to talk a little bit about after you were arrested and then we're going to get back to why

you were arrested. Do you remember what day it was that you were arrested?

A. It was on the 14th of January.

Q. Of 1997?

A. Yes, of '97.

Q. Where had you been when they arrested you?

A. I was staying with the Brassfield roofing crew that I was working with.

Q. Was that in Oklahoma City?

A. Yes.

Q. And the police found you with the Brassfields and arrested you?

A. Yes, ma'am.

Q. Did you know they were coming?

A. Well, I was staying in an apartment with the main boss' son-in-law and I can't remember, it was somewhere up on [51] 23rd, and he lived in a mobile home place down by Rockwell and I-40, I believe it is. And he actually come and got me and took me back to his trailer and told me that the police were going to be there to pick me up, that they had already been there asking about me. He told them that he knew where I was and he would go get me.

Q. Did he threaten you to make you stay?

A. No.

Q. Did you know why the police were coming?

A. Yeah.

Q. Do you remember the officer's name who got you and took you to the police station?

A. No. I don't know that.

Q. When he got you, did he take you in his patrol car?

A. No, he had like his own car. I think it was actually like a bounty hunter or something. I don't know if he was a legitimate officer or not.

Q. So he didn't have a uniform on?

A. No, he didn't.

Q. I'm sorry, I didn't understand your answer.

A. Yes, ma'am.

Q. Yes, he did not have a uniform on?

A. Yes, he did not have a uniform on.

Q. And I apologize. That was probably a poorly worded question.

[52] As he was taking you to the police station, did he ask you any questions?

A. No, he told me he wasn't going to ask me anything and didn't want me to tell him anything, that all he was was just taking me up there and that was it.

Q. But even though he told you he didn't want you to tell him anything, did you make a statement to him?

A. No, ma'am.

Q. Did you ever tell the person on the ride that it was your job to take him out?

MR. LYMAN: Objection, Your Honor, leading. May we approach?

MS. SMOTHERMON: It's impeachment.

THE COURT: You may approach.

(Thereupon, the following was had at the bench.)

MR. LYMAN: Objection. It's leading.

THE COURT: Overruled.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Mr. Sneed, when they first came and took you from the Brassfield's trailer, did—on the ride to the Oklahoma City Police Department, did you say it was my job to take him out and his to clean up the evidence, he didn't do a very good job?

A. No, because I didn't make any statement to that officer and I think that is talking about when they had already [53] interrogated me and they took me back to the motel to get some stuff that they were asking about.

Q. Okay. And I may have the wrong time. There was more than one time that you rode with someone transporting you—

A. Yes.

Q. —around?

A. Yeah.

Q. Okay. On one of those times when they were—and you're saying you think it was when they took you back to the motel. Because you showed them some things, right?

A. Yes, ma'am.

Q. Okay. And then they're taking you back to the Oklahoma City jail, you believe you made a statement?

A. Yeah. I could have made something similar to that.

Q. Okay. That it was your job to take him out, his to clean up the evidence and he didn't do a very good job?

A. Yes, ma'am.

Q. Who—it was your job to take who out?

A. Barry Van Treese.

Q. And it was whose job to clean up the evidence?

A. Richard Glossip.

Q. And who didn't do a very good job?

A. Richard Glossip.

Q. When you made that statement to officers, had you ever been charged with a crime?

[54] A. Prior to all that?

Q. Yes, prior to making that statement.

A. Are you talking about did they charge me or did I ever been charged for a crime before?

Q. Okay. Well, and, I mean, when you made this statement, had they charged you with the murder of Barry Van Treese?

A. I don't know if they fully charged me or not. I know they read me my rights and all that stuff.

Q. And you knew what you had done?

A. Yes, ma'am.

Q. And so did you fully expect to be charged if you hadn't been?

A. Yes, ma'am.

Q. Okay. When you made this statement that we've just talked about, had you ever seen or talked to a representative of the District Attorney's Office?

A. No. Just two homicide detectives and that was it.

Q. And had the homicide detectives promised you any type of agreement or deal if you were to tell them certain things?

A. No, they did not.

Q. Okay. When you made this statement, had you talked to an attorney, your attorney about what might be in your best interest?

A. No, I had not.

[55] Q. Now, you said that in addition to this statement that we've talked about, that you also had talked to a couple of homicide detectives?

A. Yes, ma'am.

Q. Do you remember their names?

A. Detective Cook and Bemo, I think.

Q. Okay. And when they talked to you, where were you?

A. In the city jail, I guess, or where they hold you in headquarters. Interrogation room is all I remember.

Q. All right. You were at some type of police facility?

A. Yes.

Q. And when they talked to you, you said that they read you your rights? You know—

A. Yes, ma'am.

Q. —you have the right to remain silent, you can have an attorney, all those rights?

A. Yes, ma'am.

Q. And they told you you had a right to an attorney but wanted to know if you wanted to talk to them. And did you tell them that you wanted to talk to them?

A. Yes, I did.

Q. And did you talk to them?

A. Yes, I did.

Q. Now, at the time that you talked to them, did you tell them—and we're going to go into the statements in a [56] minute, but did you tell them what had happened and what you did?

A. Not at first I didn't and then when I did start opening up a little bit I probably withheld a lot of information from them because, you know, I was kind of young still and just nervous and not really wanting to open all the way up at that point.

Q. So at first you didn't open up?

A. Yes, ma'am.

Q. And then you did?

A. Yes.

Q. And you told them. What you did tell them, was that the truth?

A. Yes, what I did tell them.

Q. But you didn't tell them everything?

A. No.

Q. What you did tell them, was it about your involvement in the death of Barry Van Treese?

A. About mine and Mr. Glossip's involvement.

Q. And so you talked about Richard Glossip's involvement at the time you talked to the Oklahoma City detectives?

A. Yes, ma'am.

Q. At that time when the detectives talked to you, did they promise you anything if you just said somebody else did it or if you said certain things happened?

[57] A. No, they did not.

Q. At that time had an attorney for you told you, "Gosh, if you say certain things, it will be better for you"?

A. No.

Q. At that time had you talked to a representative or seen a representative from the District Attorney's office?

A. No, ma'am.

Q. You were then eventually charged with murder, the murder of Barry Van Treese?

A. Yes, ma'am.

Q. And you had an attorney, Ms. Walker?

A. Yes, ma'am.

Q. And you discussed what would be in your best interest?

A. Yes, ma'am.

Q. Okay. You entered into some type of agreement with the District Attorney's Office?

A. Yes, ma'am.

Q. What were you getting out of that agreement?

A. The rest of my life in the penitentiary.

Q. Okay. Was there anything—any benefit to you?

A. Other than going up against a jury trial myself and thinking that I could, you know, outwit a death sentence then, no, I really see no benefit in it.

Q. So you knew that you weren't going to get the death penalty if you entered into this agreement; is that correct?

[58] A. Yes, ma'am.

Q. What did you—what was your part then? What did you have to do?

A. I had to come up here and testify.

Q. Did anyone tell you what it was you had to say when you came and testified?

A. No, ma'am.

Q. Did Ms. Walker ever tell you what it was you had to say?

A. No. All she said was be myself and be honest, and that was it.

Q. Now, prior to today there's been one other time that you were put under oath so that the parties could hear what it was you had to say.

A. Yes, ma'am.

Q. That other time when you were put under oath there was an attorney from the District Attorney's Office that asked you questions. Her name was Ms. Smith. Do you remember her?

A. Yes.

Q. And that was—let me give you the date, I don't know if you remember, but it was June 8th of 1998?

A. Yes, ma'am.

Q. Okay. All right. Prior to what you said being under oath and a court reporter taking it down, and Ms. Smith was [59] asking you questions, prior to that, did Ms. Smith talk to you about your testimony?

A. No, she—the only time I seen her was she come to the county along with Gina like one time and spent like five minutes there just, you know, go over the paperwork and make sure the agreement was straight and that was it.

Q. So you spent a few minutes with Ms. Smith about the agreement. You didn't talk about what your testimony would be?

A. No, ma'am.

Q. So then on June 8th of 1998, you give statements under oath; is that correct?

A. Yes, ma'am.

Q. And Ms. Smith asked you questions and Defense Counsel asked you questions?

A. Yes, ma'am.

Q. Then I think you said that—you and I have met two times; is that correct?

A. Yes, ma'am.

Q. Other than meeting with me—and one time Mr. Ackley was with me?

A. Oh, yes, ma'am.

Q. Okay. Other than that, have you talked to anyone else from the District Attorney's Office?

A. No, ma'am.

[60] Q. Okay. The first time you and I met was last year some time; is that correct?

A. Yes, ma'am.

Q. And I believe you've already said that Ms. Walker was there?

A. Yes, ma'am.

Q. And I came to where you live, right, to prison?

A. Yes, ma'am.

Q. And Ms. Walker was there before I got there?

A. Yes, ma'am.

Q. And she was there the entire time?

A. Yes, ma'am.

Q. And you and I talked about your testimony. We talked about the facts that you know, did we not?

A. Yes, ma'am.

Q. Okay. Did I spend a few minutes or did I ask you a bunch of things or kind of somewhere in between?

A. From what I recall, you just jumbled a few questions that you had and, you know, thought of them off of the top of your head after a little while, but it wasn't—I mean, I guess you could say it was kind of in between a little bit.

Q. Well, I thought—did—I had a list, didn't I? You don't remember my list?

A. Yeah.

[61] Q. Okay. That's fine.

All right. So Mr. Ackley and I came and we asked you some questions, right?

A. Yes, ma'am.

Q. All right. When Mr. Ackley and I were there last year, did either one of us tell you what we wanted the answers to those questions to be?

A. No, ma'am.

Q. And did Ms. Walker either before we got there, while we were there, or after we left, did she tell you what your answers should be?

A. No, ma'am.

Q. When you talked to us, did you tell us from the best of your memory at that time what you believed the truth was?

A. Yes, ma'am.

Q. Okay. Then about five weeks ago—does that sound about right—I came to see you again?

A. Yeah, about five weeks ago.

Q. And Mr. Ackley wasn't with me, I was by myself?

A. Yes, ma'am.

Q. Ms. Walker was there before I got there, right?

A. Yes, ma'am.

Q. Again, I came to where you live in prison?

A. Yes, ma'am.

Q. And did we talk about some of the things that you would [62] be talking about?

A. A couple of things.

Q. Not near as involved; is that correct?

A. No.

Q. But the things that we did talk about, did I at any time suggest to you what your answers should be?

A. No, ma'am.

Q. And either before I got there, while I was there, or after I left, did Ms. Walker suggest to you what your answers should be?

A. No, ma'am.

Q. Mr. Sneed, do you believe that in order to escape the death penalty, there are certain things you have to say today or to escape the death penalty, you have to testify today?

A. To escape the death penalty, I have to testify today.

Q. Okay. But part of the agreement—was part of the agreement that you had to say certain things?

A. Other than the truth, no.

Q. All right.

THE COURT: Ms. Smothermon, when you're at a convenient place to stop, I'd like to take the morning break.

MS. SMOTHERMON: Your Honor, this is probably as good as any.

[63] THE COURT: All right. Ladies and gentlemen of the jury, let me go ahead and excuse the Defendant (sic) at this time.

Ms. Thornton, I have a note for you to call home. They say that you left your wallet on the kitchen cabinet. Okay?

I'm going to excuse the jury. You are admonished. Court's in recess until 11:00.

(Thereupon, the jury was excused for a recess and the following was had.)

THE COURT: I'm sorry, I said that I was excusing the Defendant and I was talking about the witness on the witness stand and I apologize, for the record.

(Thereupon, a recess was had, after which, with all parties present, the following was had in open court.)

THE COURT: Thank you. Please be seated.

Mr. Sneed, you continue to testify under oath. Mr. Smothermon.

MS. SMOTHERMON: Thank you.

Q. (BY MS. SMOTHERMON) Sir, did you and I speak during the break?

A. No, ma'am.

Q. Did you see me at all?

A. No, ma'am.

Q. As you sit here this morning and testify, are you on [64] any type of prescription medication?

A. No, ma'am.

Q. After you were arrested, were you placed on any type of prescription medication?

A. When I was arrested I asked for some Sudafed because I had a cold, but then shortly after that somehow they ended up giving me Lithium for some reason,

I don't know why. I never seen no psychiatrist or anything.

Q. So you don't know why they gave you that?

A. No.

Q. Did it make you feel better?

A. It made me drowsy, you know. I really didn't try to take it a whole lot because I never did—you know, most of the time when they gave it to me I'd just flush it or something like that.

Q. So you voluntarily stopped taking the medication they prescribed for you?

A. Yes.

Q. All right. Prior to your arrest on January 14th of 1997, you told us that you, once you came to Oklahoma City that you had began using some drugs. I believe you said marijuana and crank; is that correct?

A. Yes, ma'am.

Q. All right. Marijuana you smoke; is that right?

A. Yes, ma'am.

[65] Q. How do you use crank?

A. I snorted it.

Q. Okay. You told us that you were making around \$500 a month working for roofing?

A. Yes, ma'am.

Q. When you worked at the motel for Mr. Glossip that you didn't get any cash money; is that correct?

A. No, ma'am.

Q. All right. How were you buying the drugs that you were using?

A. Most of the money I was making from the roofing before I quit doing that was I was buying it with that. And then most of the time I would just run into people that was up there hanging out and stuff like that and I'd start getting to know them and start, you know, mingling with them and everything. The next thing I know, you know, they was breaking me off a little bit here and there. I mean, it wasn't really purchasing no big amounts or nothing.

Q. All right. Would you say that you were using every day?

A. No.

Q. How often were you using drugs?

A. Maybe twice a week. It depends on if I ran into somebody that, you know, had some and was, you know, willing to share.

[66] Q. Okay. Toward the end of 1996 and January of 1997, were you using marijuana or crank or both?

A. Marijuana I was, but crank I don't think I touched since before Christmas of '96.

Q. When you were arrested—actually at some point after you were arrested, you directed officers to a place where some money in a Crown Royal bag was. Do you remember that?

A. Yes, ma'am.

Q. Also inside that Crown Royal bag was some marijuana paraphernalia?

A. Yes, ma'am.

Q. Was that yours?

A. Yes, ma'am.

Q. And was that for your personal use whenever you were given marijuana to use?

A. Yes, ma'am.

Q. Sir, on the days of January 6th and January 7th of 1997, were you on marijuana or crank or any other type of substance on those days?

A. No, ma'am.

Q. Okay. Was there ever a time when you were asked by Richard Glossip to purchase marijuana?

A. Yes, ma'am.

Q. And how often did that occur?

A. Every once in a while. It wasn't like a weekly thing [67] or nothing like that. Once I got some then I guess maybe when he ran out, you know, which he probably stretched it a little bit, he'd come back and ask me if I could find some more.

Q. Did you ever see him personally buying marijuana?

A. No.

Q. Okay. Do you know if he had anyone other than you buying marijuana?

A. No, I do not know that.

Q. How many times total would you say that Richard Glossip had you buy marijuana for him?

A. Probably out of the whole few months I knew him maybe three or four.

Q. Sir, how long did you—you said you came to Oklahoma City July 3rd.

A. Yes, ma'am.

Q. And you stayed at another motel on Rockwell, I guess, and then you came to the Best Budget?

A. Yes, ma'am.

Q. Once you came to the Best Budget, did you stay there until your arrest—or I'm sorry, until January 7th of 1997?

A. Yes, ma'am.

Q. And then after that you went to where the Brassfields were?

[68] A. Yes, ma'am.

Q. You told us that you made money for the Brassfields. When you worked at the motel what did you get for your compensation? Anything?

A. Just room and board and, you know, a meal every now and then.

Q. All right. So you got your room for free, you didn't have to pay?

A. Yeah.

Q. Now, did you—did—like when you worked for roofing, did you have to give them money back, they gave you money, or Richard Glossip gave you money and you paid him for the room or did you just get your room free?

A. No, I just got my room free. I didn't have to worry about my board.

Q. Okay. And when you got your room free, did you ever fill out any type of paperwork?

A. No, I did not.

Q. You don't know whether you were on any type of reports or anything?

A. No, I do not.

Q. Now, the people at the motel knew your brother Wes Taylor better than they knew you; is that what you're saying?

A. Yes.

[69] Q. Okay. Did anyone know your name was different, your last name was different than Wes'?

A. I told Richard and D-Anna both one time, I think we was in the back of the laundry, and this was after my brother left and it was either him or D-Anna said something and called me by that last name and I told them that wasn't my last name, and then that's when I told them my original last name.

Q. Okay. So you knew that at some point some people were referring to you as Justin Taylor, but you, at some point, had told them that your last name was Sneed?

A. Yes, ma'am.

Q. Okay. You got your room for free and you had some money from roofing. How long did the roofing money last after you quit working there?

A. Not very long.

Q. A day? A week? A month?

A. Probably a couple of weeks and then I had it all spent.

Q. Okay. What did you do for money after you spent the roofing money?

A. I really didn't do anything for money. I just kind of hustled what I could here and there and that was it.

Q. All right. Did you go out with friends and do things? To the movies? Out to eat?

A. No, I did not.

* * *

[101] probably wrong?

A. Yeah. I probably thought that. I also know—

Q. I'm sorry, go ahead.

A. I also know that I recall thinking that that's not what I really wanted to do.

Q. But not enough so much that it stopped you from doing it?

A. Yes.

Q. Had you ever done anything like this before?

A. No, ma'am, I had not.

Q. Have you ever done anything like this since?

A. No, I have not.

Q. Okay. You went to Sinclair, you went back to your room, you're breathing, you're pacing. You got a Coke. What did you do then?

A. I grabbed the baseball bat and my keys and walked over to room 102 and entered the room. And then when I opened the door, Mr. Van Treese got up out of the bed he was sleeping in and came around towards me. At that point I took one swing with the baseball bat. He pushed me back into a chair and when I tripped and fell in the chair the end of the baseball bat hit the window shattering the outside window, and he tried to make it

to the door and I got up out of the chair and grabbed him by the back of his shirt, because I think he was sleeping in a nightshirt and [102] pulled him sideways so he tripped over my feet and his own feet and put him on the ground.

And then at one point—at that point I tried to—I took my knife out of my pocket and tried to force it through his chest but it didn't go, and then that caused him to roll over onto his stomach to where his back was facing the ceiling and then I hit him quite a few more times with the baseball bat.

Q. When you entered the room was it dark?

A. Yes, it was.

Q. You said he was in bed. Do you know whether he was asleep?

A. The only—I don't know if he was actually physically asleep. You know, I don't know how long he had been in bed, because Mr. Glossip told me he had just got back and all that, and actually that's what helped me prolong a little bit of time before I did actually go over there. Because I wanted—you know, if I was going to do it, I wanted to make sure he was asleep and all that.

Q. You wanted to kill him while he was asleep?

A. Yes.

Q. But he woke up?

A. Yes, ma'am.

Q. Mr. Van Treese wore glasses. Do you know if he had time to put –

[103] A. No, he didn't—

Q. —his glasses on?

A. No, he did not.

Q. Did he have a weapon to defend himself?

A. No, he did not.

Q. When you swung the bat the first time, did you make contact with him?

A. Yes, I did.

Q. Where did you hit him?

A. I think I hit him on his forearms because when I swung it he threw his hand up.

Q. And he pushed you back?

A. Yeah.

Q. Was he fighting? Was he defending himself?

A. Well, when he pushed me back—well, he threw his arms up when I swung the bat and then he lunged into me and pushed me and I tripped over and fell into the chair, like this, and the baseball bat hit the window and then he was just trying to get out the door.

Q. So he was trying to avoid being attacked?

A. Yes, ma'am.

Q. Did he actually make it to the door?

A. He made it to the door, but before he could get it open is when I grabbed the back of his shirt and pulled him to where he tripped over my feet.

[104] Q. This knife that you took out, was it your knife?

A. Yes, ma'am.

Q. And where did you get the knife?

A. I think I found it in a room where somebody had, you know, already left and left it behind. I just come across it somewhere at the motel. I can't remember exactly how.

THE COURT: It's noon. You tell me where you want to stop.

MS. SMOTHERMON: This is as good as any.

We're going to continue after lunch, Mr. Sneed.

THE WITNESS: Okay.

THE COURT: Ladies and gentlemen, we're going to recess.

Would you take the witness out, please.

(Witness exits the courtroom.)

THE COURT: Ladies and gentlemen, we're going to recess until after lunch. So I'm going to admonish you and ask you to be back in the courtroom by 1:30.

Ms. Thornton, would you step to the bench, please. (Thereupon, a recess was had, after which, with all parties present, the following was had in open court.) out of the hearing of the jury.

THE COURT: We're back on the record. The jury has been excused. The Defendant and witness have also been excused. Counsel is at the bench.

[105] MR. LYMAN: Your Honor, at this time we're going to move for a mistrial on the notice problem. We have never received information concerning Mr. Sneed testifying that he either forced or tried to force the knife into Mr. Van Treese's chest, ever, at any point.

In fact, the only information about this issue was in his very first interview where when he was asked the

question did you end up stabbing him once with a knife he says, “No.” He has always denied using the knife and this is the very first time—

THE COURT: Well, now, wait a minute. We’ve ever heard that.

MR. LYMAN: We’ve ever heard—

THE COURT: If that’s the only statement he’s made, he said that he didn’t try to stab him. That doesn’t mean that he’s always denied using a knife. So those don’t necessarily—those are not necessarily consistent statements. So that’s the only statement or notice that you have?

MR. LYMAN: That’s right.

THE COURT: Okay.

MR. LYMAN: And anything in addition to that which we’ve heard today was the first time we’ve ever heard that. Coupled with the fact that we’ve also had Mrs. Van Treese come into court and testify that that was what she believed [106] was her husband’s knife.

THE COURT: And we’ve had other testimony that both of the victim’s knives were found in his pockets. So there’s been, as it happens in every trial, a variety of testimony. You know, we had Charlene Cable testify that the motel was actually on Meridian and—well, I didn’t and the fact is that those things happen in trial and people misstate.

We’ve just had this witness refer to the mechanical room not as the boiler room but the broiler room. So we have a little bit of everything.

MR. LYMAN: Well—

THE COURT: Okay. The point is: You're saying you were not noticed.

Do you want to respond, Ms. Smothermon?

MS. SMOTHERMON: Mainly just for the record, Your Honor. I just wanted to point out that prior to these gentleman ever becoming counsel for the Defendant, that he had other counsel, Mr. Fournerat, who spent time with Mr. Sneed prior to his prior testimony in 1998 without Ms. Walker being present. I don't know what the content of that conversation was, but Mr. Sneed, as an Offer of Proof, would testify that he answered every question asked of him at that time truthfully.

Prior to my going and seeing Mr. Sneed last year, [107] Mr. Burch and I think an OIDS investigator went to see Mr. Sneed without Ms. Walker.

Again, I am not privy to that con—I do know parts of it, obviously, because we've had some pretrial discussions, but I don't know everything that was said in that conversation. As an Offer of Proof, though, Mr. Sneed would tell me that everything he did say—he answered every question asked and that he answered truthfully.

I talked to Ms. Walker about five weeks ago when I went to see Mr. Sneed and asked her if these attorneys had been to see Mr. Sneed. She told me that they had not. That, I guess, Mr. Lyman had actually talked to her, I think it was Mr. Lyman, one of them had talked to her, not about the facts but about the posture and the procedure but that she was not asked if they could talk to Mr. Sneed.

I asked her if they made that request, would she allow it, would Mr. Sneed talk to them and she said, yes, as long as she was present. To my knowledge, that request has not been made.

I asked Mr. Sneed about this knife one time and that was last year. He told me that he had the knife open during the attack, that he did not stab Mr. Van Treese with it. I knew all the wounds to be blunt force trauma and so I didn't pursue it any further.

Yesterday after I heard the ME's questions. I [108] called Ms. Walker. She had a conversation with Mr. Sneed and conveyed to me that—the same thing that I knew, that he had the knife open during the attack but that he did not stab him with it. The chest thing we're all hearing at the same time.

THE COURT: Okay.

MR. LYMAN: So as I understand it, you didn't know that he was going to say that he tried to force the knife into Mr. Van Treese's chest until just now?

MS. SMOTHERMON: No. In fact, I had given these pictures to Gina. She, I think showed the pictures to me—

THE COURT: Gina is also known as Ms. Walker.

MS. SMOTHERMON: Ms. Walker.

THE COURT: And that's fine here. I just want the record—because we've referred to her in both ways.

MS. SMOTHERMON: Because the pictures seemed to indicate that it happened more than once and I thought that he had told me last year that he has just, you know, tried once to attack him with it. That's what he told Ms. Walker. I think that's what he's testified to, that he lunged once at him. So I think that's probably fertile ground for cross-examination because there's, obviously, more than one wound. But he, as far as I know, is only going to recall once.

So I don't believe there's a discovery violation. [109] We've been bent over backwards to try to say everything we could possibly think any witness would possibly know. I know that things come out at trial that, you know, no one is privy to or that, you know, we don't think is important until it's going through the trial. But I don't believe that there's been a discovery violation.

MR. LYMAN: So I understand, you provided Gina Walker the photographs?

MS. SMOTHERMON: Yes.

MR. LYMAN: And did she have them when she went and talked to Mr. Sneed?

MS. SMOTHERMON: I don't know that. I don't know that.

MR. LYMAN: Was she made aware—

THE COURT: Well, now, wait a minute. You want to talk to her, you don't need to be on the record to do that. The point is, is that you're asking for a mistrial, there's not a discovery violation. Your request is denied.

Now you guys talk among yourselves. Thank you. (Thereupon, a recess was had, after which, with all parties present, the following was had in open court.)

THE COURT: Thank you. Please be seated.

All right. Ms. Smothermon, you may continue.

MS. SMOTHERMON: Thank you, Your Honor.

Q. (BY MS. SMOTHERMON) Mr. Sneed, did you and I talk over [110] the lunch hour?

A. No, ma'am.

Q. Did you see me at all?

A. No, ma'am.

Q. Before when you testified you were handcuffed as well as your feet were shackled. I notice now that your feet are still shackled but that your handcuffs are off. Is that a request that I made?

A. No, ma'am.

Q. Is it a request that your attorney made?

A. No, ma'am.

Q. It's a function of whichever deputy is accompanying you—

A. Yes, ma'am.

Q. —is that correct?

And this deputy decided he would allow your handcuffs to be off?

A. Yes, ma'am.

Q. Okay. Sir, I believe we were looking at what has already been introduced as State's Exhibit 93. Do you recognize this?

A. Yes, ma'am.

Q. What is it?

A. It's my pocketknife.

Q. Okay. And is it the knife that you used when you

* * *

[122] you act, right?

A. Yes, ma'am.

Q. So you told him that you had killed Barry Van Treese?

A. Yes, ma'am.

Q. Did you tell him about the window being broken?

A. Yes, ma'am.

Q. How did he react to what you were telling him?

A. He told me—I told him that the window had got broken and he told me that I needed to get all the glass up off the sidewalk, because it was sitting on the sidewalk, and then to get the bat out of there and to go back to my house and he would meet me down there.

Q. Okay.

A. So I went and swept as much of the glass up as I could and cracked the door up just enough to drop it inside the chair that was sitting right by the door and then I grabbed the baseball bat and took it around and put it inside the dumpster.

Q. Okay.

A. And then walked back into my room and waited on him.

Q. All right. At that time did you know what the next plan was?

A. No, I did not.

Q. And you were just going to trust Richard Glos-sip to tell you?

[123] A. Yes, ma'am.

Q. Okay. Did he come to your room?

A. Yes, ma'am.

Q. And what happened after he came to your room?

A. He was nervous and then that's when—you know, you could just tell that he was nervous. And he asked me if I knew for sure that he was dead and I said, yeah, because I knew he wasn't breathing when I left. And then he wanted to walk over to the room and make sure, so we went into the room, back into 102.

Q. All right. And when you say "we," you mean you and Mr. Glossip?

A. Yes, ma'am.

Q. Who went in first, do you remember?

A. I don't remember which one of us entered first?

Q. Okay. Did you use your key to get in or did he use his key?

A. No, we were using the set that I had.

Q. All right. At any time do you know whether he touched the doorknob, the door?

A. No, I do not. I didn't pay attention to that.

Q. So you go in, and what happened once you got inside the room?

A. He looked around and then he was like, okay, we need to find his car keys to be able to move his car, then I found [124] his car keys in his pocket and also his wallet, and he opened Mr. Van Treese's wallet and seen that a hundred dollar bill was in there and he took that out, and then he told me to move the car around to the bank parking lot and the money I was looking for would be under the front seat of Mr. Van Treese's car.

And then once I got it moved and got back to my room, for me to call him up front, at the front desk, and he would come and get with me again.

Q. So Mr. Van Treese's pocket where the keys and the wallet were, was that on his person or was that?

A. That was in his pants pockets which were laid kind of—I think they were thrown over the little love seat that was there right beside the bed.

Q. Okay. So you got the keys out and Mr. Glossip got the wallet?

A. Yes. Well, I pulled both of them out and he took the wallet and opened it up and seen the hundred dollar bill and took it out.

Q. Okay. Did he give the hundred dollar bill to you?

A. No, I think he put that in his pocket.

Q. You told us that you had picked up the glass that was on the sidewalk and put it in the chair.

A. Yes, ma'am.

Q. Did you do anything else to try to cover the area where [125] the window was broken, either from the inside or the outside at that time or during that time?

A. Not at that time, not until after I moved the car and came back and called him.

Q. So you got the keys, he's got the hundred dollars and so he tells you to go move the car?

A. Yes, ma'am.

Q. Did he tell you where to move it to?

A. To park—there was a bank right behind the motel and he told me just park it over there in that parking lot.

Q. And at that time did he tell you what was going to happen to the car later or did you know?

A. No. I didn't—I really—I thought that—the only thing I was thinking that we'd pick it up later back on and probably try to use it to transport the body somewhere else.

Q. And is that something you just thought was going to happen?

A. Yeah, it—I mean, that just kind of made sense to me.

Q. And he told you that there was money in the car. Your money what was in the car?

A. Yeah, he told me the money that I would be looking for would be under the front seat of the car.

Q. Okay. And did you think this was the money that he had promised you to pay you if you killed Barry Van Treese?

A. Yes, ma'am.

[126] Q. And he was going to come to your room or give you further instructions after you got back to your room from moving the car and getting the money, you were supposed to call him?

A. Yes, ma'am.

Q. So did you move the car?

A. Yes, ma'am, I did.

Q. And did you move it over to the bank?

A. Yes, ma'am.

Q. Do you know where in the bank—do you remember where in the bank area you parked it?

A. There was a whole line of cars there. Now that I think of it, it was probably like repossessions from the

bank or something like that and I just parked it right in line with the rest of them.

Q. Okay. Was the car locked, do you remember, when you got in it?

A. I don't remember if I unlocked it or not.

Q. Was it locked when you got out of it? Did you lock it back?

A. Yeah, I think I locked it before I left.

Q. Did you take the keys with you?

A. Yes, ma'am.

Q. Okay. Were you able to find the money underneath the seat?

[127] A. Yes, ma'am, it was underneath the seat.

Q. And how was it? Was it just laying out or was it packaged?

A. It was pretty much like the only thing underneath the seat and it was in like a manila envelope.

Q. When you say "manila," you mean like this color here?

A. Yes, ma'am.

Q. As opposed to a white envelope?

A. Yes, ma'am.

Q. Did you count it there at the bank?

A. No, ma'am.

Q. So did you go back to your room like you were supposed to go to?

A. Yes, ma'am.

Q. When you got back to your room, did you call Richard Glossip like you were supposed to?

A. Yes, ma'am.

Q. Sir, would you have gone into room 102 with your bat and attacked Barry Van Treese if Richard Glossip had not told you to?

A. No, I would not have.

Q. Would you have moved Barry Van Treese's car unless Richard Glossip told you to?

A. No, I would not have.

Q. Would you have known where to find the money unless [128] Richard Glossip told you where it was?

A. No, I would not have.

Q. Before all this happened, I mean, you're working for your room, you're not getting any money, you're not getting fed every day, I mean, did you like your life?

A. At that time I did.

Q. Was it as hard as roofing had been?

A. No, it wasn't.

Q. Was it as hard as dropping out of school in eighth grade and taking care of two little girls when your wife had run off?

A. No, it wasn't.

Q. At that time did you think Richard Glossip was being pretty good to you?

A. Yes, ma'am.

Q. When you got back to your room, did you call Richard Glossip?

A. Yes, ma'am.

Q. And did he come over or did he give you further instructions over the phone?

A. No, he came back to my room.

Q. What happened after he got back there?

A. I showed him that I had the money and we counted it and he decided that he wanted to take half of it.

Q. Well, prior to that did you know he was going to take [129] some of it?

A. No, I did not.

Q. You thought you were going to get all of it?

A. Yes, ma'am.

Q. Do you remember how much was there?

A. It seems like right around 4,000.

Q. Okay. Did you split it evenly?

A. Yes, ma'am.

Q. Well, sir, it sounds like to me you'd done pretty much the dirty work?

A. Yes, ma'am.

Q. Why were you willing to split the money with him?

A. I don't really know. I just didn't have no argument against anything at that point.

Q. Any argument against anything he was telling you to do?

A. Yes, ma'am.

Q. And he told you you were going to split the money?

A. Yes, ma'am.

Q. And you split it. And if I'm understanding, you got somewhere close to \$2,000; is that right?

A. Yes, ma'am.

Q. At the time did that seem like a lot of money to you?

A. No, not really.

Q. Did it seem like it was worth killing a person over?

A. No, it didn't.

[130] Q. What happened after you all divided the money?

A. We went back to the room and then that is where we did a little bit of minor clean up. And we went over to 101, which is right next to it, and right there decided to take a shower curtain that was in that room, because it was nothing but storage stuff in that room really, and took that back over there and I taped, duct taped the shower curtain up around the window to where nobody could reach their hand in through the broken part of the glass and look in.

Q. Okay.

A. I threw a sheet over Barry's body.

Q. Okay.

Q. Turned the air conditioner up full blast and then we left. And when we walked out of the room he asked me to go ahead and break the key off in the lock and

when I attempted to do that the whole tumbler of the lock came out.

Q. All right. Now, Mr. Sneed, you're saying things like, He asked me to break the key off. Were these—I mean, you were walking along with him as he's asking you to do something and you could say, Yeah, Okay, or, No, Okay? Was he asking you? Was he ordering you? Did you have a choice?

A. He was pretty much just telling me. And that's what I was doing was following his orders.

Q. You knew you had committed a pretty serious crime, right?

[131] A. Yes, ma'am.

Q. And you told us prior to this that this isn't something you went around doing, right?

A. Yes, ma'am.

Q. Did you think that there was a chance you might get caught?

A. At that point I wasn't really thinking about nothing except for not trying to get caught.

Q. Did you think Richard Glossip was going to keep you from getting caught?

A. At that time, yes.

Q. Did you think he had a plan?

A. Yes.

Q. Did you trust him to have a plan?

A. Yes.

Q. Okay. You said that you did a little clean up. You put the sheet over Barry's body. Was that your idea?

A. Yeah. I just—I grabbed a sheet off the bed and draped it over his body.

Q. Okay. Was his body exposed prior to that?

A. Yes, ma'am.

Q. Why did you put the sheet over his body?

A. Just out of respect. That's the way I really looked at it, because I really didn't want to see him laying there like that.

[132] Q. How about the shower curtain, getting it and putting it up over the window, whose idea was it that you needed to do something to cover the window?

A. Richard. He decided that we needed to do something to try to fix the window, which, you know, was really no argument there because that was kind of, you know, the window needed to be fixed and all of that. And so we went over to 101 and we was looking for something to be able to cover the window up and that's when I walked back into the bathroom part of that room and told him, I said, "Well, how about we just take this shower curtain?"

Q. Okay. So you all got the shower curtain, went back into room 102, and who taped it up?

A. I did.

Q. And then you said you turned the air conditioner up. You mean you turned it to where it would blow cold?

A. Yes, ma'am.

Q. Whose idea was that?

A. Richard's.

Q. And did he tell you why you were doing that?

A. Because he thought it would keep the body from building up any stench before—because it was going to be in there all day long.

Q. Okay. Now, he told you to turn the air conditioner up?

A. Yes, ma'am.

* * *

[161] A. Yes, ma'am.

Q. And his body is still in room 102, right?

A. Yes, ma'am.

Q. Did you have any place to go?

A. No, I did not.

Q. Did you have any plan as to where you were going?

A. No, I did not.

Q. Would you have left but for Richard Glossip telling you to leave?

A. No, I would not.

Q. You hide under a bridge?

A. Yes, ma'am.

Q. And how long did you stay there?

A. Until night fell.

Q. And then where did you go?

A. I was going over to—I was going to go to the Rockwell motel and use their phone. And I don't really

have no plan on where I was going to go, but I was going to call a cab and try to get as far away from that neighborhood as I could.

Q. Okay.

A. And then his phone was busy so I crossed over a bridge that went over I-40 and—

Q. I'm sorry. "His phone," you mean somebody using the phone—

[162] A. The phone at the Rockwell motel.

Q. Okay.

A. And then I crossed over a bridge that went over I-40 to a little convenience store and when I was crossing over that bridge I noticed a vehicle of one of the guys that I used to roof with coming over the top of that bridge. But he was headed back up to 23rd street and— but the mobile home place where the boss rented a space for their mobile homes was right there on Rockwell, and I think it was called the Rockwell RV Park or something like that. So I figured if they was crossing over the bridge going back that they had probably just got off work and they were probably still in town.

So I just walked over to one of their trailers and knocked on the door and when he answered it I asked him if he still needed a hand.

Q. And so did you start working for the roofing?

A. Yes, ma'am, the next morning.

Q. And is that where you were when the police—

A. Yes, ma'am.

Q. —came and got you?

A. Yes, ma'am.

Q. Mr. Sneed, what did you have with you when you went to the mobile home and lived there?

A. I just had my coat, Mr. Van Treese's money, and a [163] Crown Royal bag with a marijuana pipe in it and some other marijuana paraphernalia, and just my jacket and the clothes I had on.

Q. And your skateboard?

A. Yes, ma'am.

Q. So midday of January 7th, 1997 on, your property was: Your coat, your skateboard, marijuana paraphernalia, a Crown Royal bag, and Barry Van Treese's money?

A. Yes, ma'am.

Q. Did you ever think about whether or not that's really what you meant to do when you came to Oklahoma City?

A. Once all that started happening and I left I really had a lot more time to reflect on what really had happened.

Q. I mean, you told us you came to Oklahoma City to get money to take care of your daughters, right?

A. Yes, ma'am.

Q. And they'd already lost their mother, she'd already abandoned them. You're never going to be able to take care of them; is that right?

A. That's correct.

Q. But at the time you did it, it's what you meant to do?

A. Yes, ma'am.

Q. Okay. We've got to be careful with this because it hasn't been introduced yet. Okay? It has been marked as State's Exhibit No. 7. Do you know what that is?

[164] A. Yes, that's a Crown Royal bag.

Q. Okay. And they all kind of look alike. You don't know for a fact that's yours?

A. Yes, ma'am.

Q. But the one that you had, did it look like this?

A. Yes, ma'am.

Q. There's some stuff inside. Do you recognize this stuff?

A. Yes, ma'am.

Q. What is this?

A. That's all my paraphernalia.

Q. Okay. This is some type of little something with the Yellow Page's ads in it. Do you recognize that?

A. Yes, ma'am.

Q. Is that yours?

A. Yes, ma'am.

Q. And this is an envelope with some numbers written on it.

A. Yes, ma'am.

Q. And what is that?

A. That was the one check I got for working with Brassfield Roofing again for that one week.

Q. Okay. And so you were back, got back some time on the 7th and then you were arrested on the 14th. So that's a week?

[165] A. Yes.

Q. And during that time you'd been paid this amount?

A. Yes, ma'am.

Q. 112.50?

A. Yes, ma'am.

Q. But this envelope purports to have only contained 97.50. There's \$15 that was kept for what reason?

A. I probably spent it on eating something or some cigarettes.

Q. So you got a cash advance from them?

A. Yes, ma'am.

Q. And, sir, this is some money and I know—I mean, money kind of all looks alike. Okay. Do you get cash in prison?

A. No.

Q. Okay. You have an account, right, that you do some work and?

A. Right.

Q. Okay. But it's just all book money, right?

A. Yes.

Q. Okay. So you haven't really seen well money in a long time and certainly not this money—

A. No, I haven't.

Q. —right?

Okay. Best you can tell, is this kind of the [166] denominations of the money that you had?

A. Yes, ma'am.

Q. Okay. Could this be the money that was in the Crown Royal bag?

A. Yes, ma'am.

Q. Mr. Sneed, you told us that—earlier, I think it was before lunch, you told us that you had been promised originally—I think you said \$10,000 and then you got to run part of the—or you got to run one of the motels—

A. Yes, ma'am.

Q. —do you remember that?

Okay. Have you ever said that it was another amount that Richard Glossip had promised you on that day?

A. On that day?

Q. Uh-huh.

A. No, there was no other amount on that day.

Q. Okay. And we talked about how before you have been here today that there was one other time that you were under oath, right?

A. Yes, ma'am.

Q. And that you also talked to the police?

A. Yes, ma'am.

Q. When you were under oath on June 8th, 1998, volume 6 page 93, did you tell the detectives that Mr. Glossip promised to give you \$7,000?

[167] A. Yes. At one point, like I said, when it all started it started out like 3,500 and then it jumped to like 5,000 and then it jumped to 6,000 then it jumped to 7,500.

I mean, it just kept climbing every time we started talking about it.

Q. But on that particular day when you actually followed through on Mr. Glossip's plan, was it 7,000 or was it 10,000 or do you remember?

A. That morning when he come to my room he said he'd pay me 10,000 to do it.

Q. Okay. When he sent you to Mr. Van Treese's car, did he tell you how much was going to be in there?

A. No, he just said the money I was looking for would be under there.

Q. Okay. So as you sit here today, you remember it being 10,000?

A. Yes, ma'am.

Q. Sir, can you see that monitor?

A. Yes, ma'am.

Q. I'm going to show you some photographs. You tell me if you can identify what's in these photographs. Okay?

This is—and if I need to bring these to you, I can. Don't guess. This is State's Exhibit 30?

A. That's the broken window of room 102.

Q. Okay. Can we see the plexiglass in this?

A. Yes, ma'am.

[168] Q. Is that what this is here?

A. Yes, ma'am.

Q. So this is the sheet of plexiglass that you put up?

A. Yes, ma'am.

Q. This broken part almost looks like a double pane. Is it a double-paned glass?

A. Yeah, I think all the windows were double-paned at the motel.

Q. Okay. This is State's Exhibit 70. This is the inside of the motel room; is that correct?

A. Yes.

Q. And there isn't any bedcovers on the bed?

A. That's because I pulled them off and draped them over his body.

Q. And we see the bedcovers here. Is Mr. Van Treese underneath there?

A. Yes, ma'am.

Q. This is State's Exhibit 15. What is this?

A. That is the chair that I fell back in and hit the window, the ball bat with it, and then that's where I put the broken glass.

Q. Now, there's substance that looks like blood. I mean, is that probably what that is?

A. Yes, ma'am.

Q. And we've got substance that looks like blood here. **[169]** Can you see that?

A. Yes, ma'am.

Q. Is that probably what that is?

A. Yes, ma'am.

Q. Is Mr. Van Treese bleeding while you're hitting and while you're struggling with him?

A. Yes, ma'am.

Q. Did he start bleeding on the first hit, or probably?

A. Probably.

Q. Was that Coke cup there when you were in there?

A. No, ma'am, it was not.

Q. Okay. What's this?

A. That's the shower curtain we taped up over the window.

Q. And, I mean, I know you say "we," did—

A. I mean as in I taped it up and he was, you know, there, Mr. Glossip, you know, we was communicating on what we were going to do and how we were going to do it.

Q. Okay. And we don't see any blood on that, but this was, as I understand what your testimony is, this is afterwards, right?

A. Yes, ma'am.

Q. Okay. But Mr. Van Treese is still, his body is still here when you're doing this, right?

A. Yes, ma'am.

Q. Okay. Do you see this love seat over here?

[170] A. Yes, ma'am.

Q. Are those the jeans where you got the keys and the wallet from?

A. Yes, ma'am.

Q. Did you ever see that hundred dollars again that Mr. Glossip took from the wallet?

A. No, I did not.

Q. Looks like there's some blood here. Do you see that?

A. Yes, ma'am.

Q. I'm sorry. About right here?

A. Yes, ma'am.

Q. Okay. And were you ever over in that part for that blood to get there?

A. Not to my knowledge unless it came off of my clothes and I, you know, leaned up against it or sat down in it.

Q. Okay.

A. That's the only way I would see that a spot of blood like that would get on that couch.

Q. Okay. Now, you told us you sat down after you finished hitting Barry Van Treese—

A. Yes, ma'am.

Q. —you were going to watch him to make sure he wasn't breathing?

A. Yes, ma'am.

Q. Is that where you sat?

[171] A. Yes, I sat on the love seat.

Q. And were your clothes bloody?

A. Yes, ma'am.

Q. So you think that's not from Mr. Van Treese—

A. No, ma'am.

Q. —being up there? You think that's from your clothes?

A. Yes, ma'am.

Q. I mean or the bat. Did you have the bat in your hands?

A. Yes, it could have come off the bat, you know, rubbed it up against it or whatever.

Q. That's Mr. Van Treese's blood, it's just—it's probably off of you?

A. Yes, ma'am.

Q. Okay. Then we've got the door. Do you see that?

A. Yes, ma'am.

Q. And, again, is this Mr. Van Treese's—

A. Yes, ma'am.

Q. —blood?

And did this get on the door when he was trying to get out?

A. Yes, ma'am.

Q. So when he's trying to get out and away from being killed, he's bleeding?

A. Yes, ma'am.

Q. But you pulled him back?

[172] A. Yes, ma'am.

Q. Is this what his head looked like after you hit him?

A. Probably.

Q. Well, did you see?

A. I didn't really see. I kept it kind of dark in there.

Q. How about the front of his face, I'm going to show you this pretty fast, but did you hit the front of his face?

A. Probably did on the first intake, the first hit.

Q. This is the first hit. Then this is after he gets down on the floor and turns over?

A. Yes, ma'am.

Q. There's a bunch of hits. Do you see that?

A. Yes, ma'am.

Q. Is that from hitting him a bunch of times?

A. Yes, ma'am.

Q. Is that the area where you hit him?

A. Yes, ma'am.

Q. Now, that's a white shirt that's got red substance on it. What's that?

A. I'm not for sure. Is that beside him?

Q. No, it's on him. It's his white shirt?

A. Oh, it's probably—it's his shirt then.

Q. Okay.

A. Yes, ma'am.

Q. Is that red stuff blood?

[173] A. Yes, ma'am.

Q. Is it his blood?

A. Yes, ma'am.

Q. Did you hit him in this area?

A. I don't know if I hit him in that area or not. Most of the time I tried to hit him in the head, but I might have missed and hit him there.

Q. Was he bleeding a lot?

A. Yes, ma'am.

Q. How fast was he bleeding?

A. I don't know. I'd say pretty extensively for—because when I stopped hitting him it didn't really take that long for him to quit breathing.

Q. At any time did you ever think about getting medical attention for him?

A. No, ma'am, not at that time.

Q. At any time after you told Richard Glossip that you had done what he'd asked you to do, did he ever suggest getting medical attention for him?

A. No, he did not.

Q. You told us earlier that he said he wanted to go back to room 102 to see if he was dead.

A. Yes, ma'am.

Q. Was that to see if he's dead and if not, maybe I can help him, or to see if he—make sure you were doing your [174] job?

A. Made sure I was doing my job.

Q. You are serving life without parole; is that correct?

A. Yes, ma'am.

Q. Now, you know because, I mean, you've been in prison with guys that are serving either life sentences or

less than life sentences that they have fairly scheduled parole hearings, right?

A. Yes, ma'am.

Q. Where if they've done some good things, they might get out?

A. Yes, ma'am.

MR. WOODYARD: May we approach, Your Honor?

THE COURT: You may.

(Thereupon, the following was had at the bench.)

THE COURT: She isn't finished asking the question so I'm not sure what the—

MR. LYMAN: Well, and that's why I objected so early. If we find ourselves in a second stage, the difference between life and life without parole and whether or not a person has parole hearings or clemency or things of that nature are not allowed in second stage, they're not allowed in first stage, and I'm worried that this line of questioning is improper and should not be brought up.

THE COURT: Well, let me hear the rest of your [175] question.

MS. SMOTHERMON: The final question would be, he knows he's not ever going to get a parole hearing. That doesn't matter what good thing—he's in prison and he's never getting out. I would disagree that in second stage should they be given the option.

Although, we don't go into detail, they are told the options are life, life without parole, and death. So they know that by inference that life means that there is a parole option. So, I mean, I'm not going to go into any further than that other than I want to make it clear that

there isn't anything he can do or not do that's going to make his situation better.

MR. LYMAN: The reason why I bring this up is because I represented a man named Mark Johnson down in Love County where his trial was reversed for a new sentencing hearing because the discussion of life and life without parole, and death, the differences did come up improperly. He was since convicted, received the death penalty again.

It came up again and I know that there's been some discussion and argument about the definition of life without parole in that case and clemency, and that's on appeal now and the Court's still are frowning on—I don't know the disposition of it, but they frown on that definition or being defined by the Court or brought up. It's just very, [176] very dangerous area to get into.

Now, we would hope that the jurors would just know life, life without parole, and death, know it's basic common meaning, but to go out beyond that any further it's improper. But for him to say life without parole means to me I'm never getting out, I think is improper.

THE COURT: But that's not the deal. And what she is doing is asking him, essentially, if there's anything that he can do that's going to change his ability to receive a parole hearing.

MR. WOODYARD: There's another reason. This is first stage, sentencing is not in first stage, but what she's trying to do is to—I think the correct term is to vouch save the credibility of this witness. And she's trying to bolster his credibility by saying you're here testifying and you're not going to get any benefit from it. And to me that's a back doorway of trying to bolster

the credibility of this witness. That would be another reason why we object.

MR. LYMAN: Yes. I'll add that I think the biggest concern that I have is going down this path of definition of life, life without parole, what it means to this witness. I think that's improper.

MS. SMOTHERMON: And just for the record, I know this is Mr. Lyman's case so I would never presume. But my [177] understanding of that case and of others like it is that what the Court of Crims frowned on was the Court answering a jury question and defining those for the jury. That's not what this is. This is not this Defendant. I'm not going to talk about this Defendant or his options. I'm talking about what this person has as far as motivations. And his motivations and his lot in life are absolutely relevant for this jury to see.

MR. LYMAN: She's correct about that.

THE COURT: The potential bias of a witness is always relevant and I'm going to allow it. Be very careful.

MS. SMOTHERMON: Okay.

MR. LYMAN: So I note for the record, so it's clear, I'm aware of the Mark Johnson case, the first time it came back was because of the Court instructing the jury, I think, on a note that came out during the deliberations. To me the damage is the same because the jury is being informed one way or another, be it by a Court or through a witness. So I want that to be clear. And I haven't read the case in a long time. That's just a concern of mine.

THE COURT: The dilemma is, is that the jury is entitled to know any potential bias of a witness. This

certainly could be interpreted as a potential bias. And at the same time, I understand that I'm not supposed to, none of us are supposed to instruct the jury on those [178] definitions, but I think the jury is entitled to know whether he thinks that his performance here one way or another, if there's a potential benefit, so I'm going to allow it.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Mr. Sneed, let's get us back on track. You understand that what your sentence is, what you have been ordered by a court is to be sentenced for the murder of Barry Van Treese life without the possibility of parole?

A. Yes, ma'am.

Q. Did you murder Barry Van Treese?

A. Yes, ma'am.

Q. Why did you murder Barry Van Treese?

A. Because Mr. Glossip said that he would pay me to do it.

Q. Okay. You have told us some about your history. And it's not the greatest life, would you agree? I mean, you're growing up.

A. No, it's not the greatest life.

Q. And you told us some about your situation in January of 1997 and your options, admittedly, were limited. Would you agree?

A. Yes, ma'am.

Q. Okay. But you made the decision to go along with Mr. Glossip's plan, correct?

[179] A. Yes, ma'am.

Q. And for that you're being held accountable?

A. Yes, ma'am.

Q. Do you think that anything that you have said today or could say today would get your sentence anything less than spend the rest of your life in prison?

A. No, I do not.

Q. You're not going to go and be able to use this in any way to get out of what you have been sentenced to, correct?

A. No.

Q. You told us that that agreement was reduced to a document that Ms. Smith came over and talked to you and Ms. Walker about?

A. Yes, ma'am.

MR. LYMAN: May we approach?

THE COURT: Sure.

(Thereupon, the following was had at the bench.)

MR. LYMAN: The snake has two heads that they're taking at two different times. Mr. Woodyard has some concerns about that. He wants to take just a few moments at the break before we allow the admission of that to review a particular case. What's that?

MR. WOODYARD: Mr. Ackley and I discussed the case of *Cargle versus Mullins*, 10th Circuit decision, that does talk about certain prohibited language in a plea agreement. **[180]** So before it's actually presented to the jury as evidence in this case and presented in detail, I'd like the opportunity to look at that.

THE COURT: Well, you know, you've only had a year to prepare for trial and we've been in trial for

three weeks and now you're telling me that you haven't reviewed this in that light? I mean, come on. What language in particular concerns you?

MR. WOODYARD: We talked about testifying truthfully also goes to the point of bolstering the credibility of the witness. The language that's in that agreement. So we'll just make our objection on that basis, cite *Cargle versus Mullins*, 10th Circuit decision.

MR. ACKLEY: May I respond?

THE COURT: Yes.

MR. ACKLEY: Your Honor, I tipped counsel to that case assuming that he already knew about it, but in case he didn't. Because I had heard about *Cargle*. It's a recent decision. And I've reviewed it carefully to make sure that this Exhibit No. 43 doesn't improperly vouch for the credibility of this witness. We contend that it does not and that *Cargle* and prior Oklahoma decisions make it clear that State's Exhibit No. 43 is not improper.

In *Cargle* the complaint of plea agreement talked about scientific verification of the witness' truthfulness [181] and was couched in terms of if it didn't pan out so-to-speak scientifically, it would be a breach of his plea agreement.

To make matters worse, the Prosecutor in closing argument implied to the jury that they had some secret way to confirm truthfulness and improperly, clearly improperly, vouched for the credibility of the witness.

State's Exhibit 43 does no such thing. It just straight up makes a condition that the witness testify truthfully. I was surprised to find when I read *Cargle* that there was already Oklahoma cases that were dead

on point about that very subject. The leading one being Nickel.

THE COURT: N-I-C-K-E-L?

MR. ACKLEY: Yeah. Let me step away for on second.

THE COURT: This is the Cargle decision from the 10th Circuit that caused Cargle to come back to be retried and it mistrys

MS. SMOTHERMON: That's the decision, it's not the—

MR. ACKLEY: The reason for mistrial.

MS. SMOTHERMON: Right. it's not—

THE COURT: Okay.

MR. LYMAN: That's *Nickell versus State*, 1994 Okla Crim 73. Specifically addressed a plea agreement that's very similar to the one before the Court in State's Exhibit **[182]** No. 43 and found that there was no improper vouching if the testimony does no more than reveal that the witness had an obligation to testify truthfully and explained the consequences of a breach of that obligation. This is a partial quote of the case.

THE COURT: It's N-I-C-K-E-L-L.

(Brief pause in proceedings.)

THE COURT: Well, in paragraph eight of the Nickell decision it says very clearly there is no improper vouching if the testimony does no more than reveal the witness had an obligation to testify truthfully and explain the consequences of a breach of that obligation.

I have read this while—this is very short agreement and I don't see that there's anything about this

that conflicts with that case. So I've noted your objection.

And you may proceed.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Mr. Sneed, I'm going to show you what has been marked as State's Exhibit No. 43. It's a two-page document. Do you recognize this document?

A. Yes, ma'am.

Q. What is it?

A. It's a copy of the agreement I made.

Q. You've made with the State?

[183] A. Yes.

Q. In order to avoid the death penalty?

A. Yes, ma'am.

Q. And it has your signature; is that correct?

A. Yes, ma'am.

Q. Okay. And it has—it says attorney for you is someone by the name of Tim Wilson. That's obviously not Ms. Walker. Is it one of Ms. Walker's associates?

A. Yes, ma'am.

Q. Okay. And then it has for the State, Fern Smith. And we talked about Ms. Smith being the person that asked you questions earlier?

A. Yes, ma'am.

Q. And she's the one that brought this document to you?

A. Yes, ma'am.

Q. All of these signatures, there's a date beside them and it says 5-26 of '98. Do you see that?

A. Yes, ma'am.

Q. Is that the date this document was signed?

A. Yes, ma'am.

Q. And other than the State's exhibit sticker on it, does this appear to be in the order—this document appear to be an accurate copy of the document that you signed on February (sic) 26th of 1998?

A. Yes, ma'am.

[184] MS. SMOTHERMON: Move for the admission of State's Exhibit 43.

MR. LYMAN: —previous, Your Honor.

THE COURT: Based on the previous record, State's 43 is admitted.

Q. (BY MS. SMOTHERMON) It's entitled Agreement To Cooperate And Testify Truthfully. Is that correct?

A. Yes, ma'am.

Q. And you understand that any time you're under oath you, as well as any witness, raises their hand to tell the truth. You did that today, correct?

A. Yes, ma'am.

Q. It's the same thing that you're promising to do here?

A. Yes, ma'am.

Q. And you understand it's this jury that will decide whether or not you've done that?

A. Yes, ma'am.

Q. And that's your signature?

A. Yes, ma'am.

Q. Along with your attorney, Ms. Walker's associate Mr. Wilson?

A. Yes, ma'am.

Q. And Ms. Smith from the District Attorney's Office?

A. Yes, ma'am.

Q. And all of these are dated 5-26 of '98; is that [185] correct?

A. Yes, ma'am.

Q. And what you got from the cooperation—this tells what you're going to testify to. What you got out of it is that we would allow you to enter a plea of guilty to life without the possibility of parole?

A. Yes, ma'am.

Q. Mr. Sneed, do you think that there might be—we've talked about no matter what you said today, I mean, whether you said boo or I don't remember or something worse to me or whether you talked like you did that there's nothing in this agreement that says what you have to say, right?

A. No, ma'am.

Q. And you're not going to get any benefit from the choice of words that you use today?

A. No, ma'am.

Q. Do you think there's going to be any negative consequences from you testifying?

A. Not really.

Q. Okay. Do you believe that there will be any potential ramifications in prison?

A. There could be, but I don't really look forward to them.

Q. Have you shared with the people that you live with what you're here doing today?

[186] A. Yes, I have.

Q. Have you received word from Mr. Glossip since you made this agreement?

A. Yes.

Q. Based on the word that you received from him, do you think—

MR. LYMAN: Objection, Your Honor. May we approach?

THE COURT: Yes.

(Thereupon, the following was had at the bench.)

MR. LYMAN: The form of the question being the word received from Mr. Glossip, first of all, I don't know that they've ever had personal contact, had a phone call or what. That word, "received," is pretty broad and we want to make sure it's not a hearsay passed around to Mr. Sneed from something else or some other source.

THE COURT: I'll allow you to rephrase. We've had some discussions up here at the bench and I thought you were on your last question. Do you want me to go ahead and take a break?

MS. SMOTHERMON: I'm this close to my last question.

THE COURT: I was trying to get to there and take the break. So If you'll rephrase, please.

MR. LYMAN: Also, discovery, we have not heard [187] anything about this issue.

MS. SMOTHERMON: I don't anticipate asking him what Mr. Glossip said or who told him Mr. Glossip said it. I believe because there is a hearsay problem. What I want to ask him is if he believes there might be some negative ramifications from Mr. Glossip. I mean, that's my question not what those words were.

MR. LYMAN: Well, first of all, I would object because that's speculation, it assumes facts not into evidence that there's no personal contact with these individuals, and I think he's already answered that negative consequences because he's in the pen? I just don't see.

THE COURT: Ms. Pope, can you give me a very brief—

MS. SMOTHERMON: This is concerning when Mr. Burch went to the prison and talked to Justin. He said Mr. Glossip sends his regards and he really doesn't wish you any harm and he just would soon you not testify. But I wasn't going to ask him about those statements because they came through the filter of Mr. Burch.

MR. LYMAN: Hearsay.

MS. SMOTHERMON: Well, it is hearsay.

MR. LYMAN: Well, that is not admissible.

THE COURT: Okay. I'm going to sustain the objection. While you're here at the bench—off the [188] record.

(Thereupon, the following was had in open court.)

Q. (BY MS. SMOTHERMON) Okay. Mr. Sneed, we'll go on to a different question.

Now that you've had seven years to think about it and you know what it's cost you, what do you think about your decision now?

A. I think I would change every bit of it.

Q. But you can't?

A. Yeah. That's obvious.

Q. Do you think you should be held accountable?

A. Yes.

Q. Would you have killed Barry Van Treese but for the orders of Richard Glossip?

A. No, I wouldn't.

MR. LYMAN: Objection. That's been asked and answered many times.

THE COURT: Well, I believe it has asked and answered one time, but he's already answered the question.

Q. (BY MS. SMOTHERMON) And you're telling this jury that you are the type of person with the type of personality that would allow, would have allowed somebody in January 1997 to manipulate you to the point that you were able to take the life of another person?

MR. LYMAN: Objection, Your Honor. Leading.

[189] THE COURT: Overruled.

THE WITNESS: Yes.

Q (BY MS. SMOTHERMON) Did you tell that officer who was taking you to the police station on January 14th, 1997, about what you'd done and about what

Richard Glossip had done? Do you remember that? I read that to you earlier. It was my job to take him out and his job to clean it up—

A. I told that to an officer when—

MR. LYMAN: Objection, Your Honor. It's been asked and answered.

THE COURT: Excuse me. You may proceed.

Q. (BY MS. SMOTHERMON) Okay.

A. I told that to the officer when he was taking me back to the motel to collect some items.

Q. Okay.

A. But I actually think the person that took me to headquarters or to the police station was like a bounty hunter because he was in undercover street clothes.

Q. And I apologize. You told me that earlier and I'm just having a hard time reading it here. When the officer was taking you back to 301 South Council to the motel—

A. Yes, ma'am.

Q. —you told him—and this is on January 14th still, 1997?

A. Yes, ma'am.

[190] Q. You told him it was your job to take out Barry Van Treese and Richard Glossip's job to clean up the mess?

A. Yes, ma'am.

Q. And he didn't do a very good job?

A. Yes, ma'am.

Q. And that was on January 14th, 1997?

A. Yes, ma'am.

Q. Long before you made the cooperation agreement?

A. Yes, ma'am.

Q. Did you tell this officer that because you were hoping at some point the State might make a deal with you?

A. No.

Q. Why did you say that to the officer?

A. Because that's when I pretty much started coming clean with everything.

Q. Okay. Then you go talk to the detectives, right?

A. Yes.

Q. And we're still, that same day, January 14th, 1997, right?

A. Yes.

Q. And you told us at first you didn't say much and then you told them and you didn't tell them everything but you told them enough?

A. Yes, ma'am.

Q. And you told them that you had killed Barry Van Treese?

[191] A. Yes, ma'am.

Q. And how you did it?

A. Yes, ma'am.

Q. And that it was Richard Glossip's idea?

A. Yes, ma'am.

Q. And what you were going to get out of it?

A. Yes, ma'am.

Q. And what he was going to get out of it?

A. Yes, ma'am.

Q. And that was before you made this?

A. Yes, ma'am.

Q. Did you tell the detectives that because you were hoping it would help you?

A. No.

Q. In fact, at the end when you're talking to the detectives, do you ask them what the punishment is for Murder in the First Degree?

A. Yes, I do.

Q. And they told you all three of the options, right?

A. Yes, ma'am.

Q. And they didn't tell you which one you were going to get?

A. No, they did not.

Q. Do you blame Richard Glossip for getting you into this or do you blame yourself or both?

[192] A. Kind of both.

Q. Do you see Richard Glossip in the courtroom today?

A. Yes, ma'am.

Q. Where is he and what is he wearing?

A. He's sitting right there with the white shirt on at the Defendant's table.

Q. Civilian clothes?

A. Yes, ma'am.

Q. You're in jail clothes?

A. Yes, ma'am.

MS. SMOTHERMON: Let the record reflect the identification of the Defendant, Richard Glossip.

THE COURT: It will so reflect.

MS. SMOTHERMON: Pass the witness, Your Honor.

THE COURT: Would you escort the witness out, please.

Ladies and gentlemen of the jury, we're going to go on a break. I'll ask you to be back in the courtroom at 3:55. Court is in recess.

Excuse me. I need to go back on the record.

Everybody come right back in. I'm sorry. For the record, you are admonished. We're off the record.

(Thereupon, a recess was had, after which, with all parties present, the following was had in open court.)

THE COURT: Thank you. Please be seated.

[193] Mr. Lyman, on cross.

CROSS-EXAMINATION

BY MR. LYMAN:

Q. Good afternoon, sir.

A. Good afternoon.

Q. I'm going to obviously be asking you some questions over the next period of time and if at any time you

do not understand my question, which has happened frequently, stop me and we'll reask the question. All right?

A. Okay.

Q. If for whatever reason you need to stop, let us know. Okay?

A. Okay.

Q. Now, I want to start out covering a few things that was started with you earlier today on your examination by the State. First of all, you had a brother named Wes Taylor, a stepbrother?

A. Yes, sir.

Q. And it's my understanding he came from Texas with you.

A. Yes, sir.

Q. And as part of the roofing crew?

A. Yes, sir.

Q. The Brassfields?

A. Yes, sir.

Q. Now, do I understand it that you met the Brassfields [194] down in Texas?

A. Yes, sir.

Q. When you and him came up, did you come up with a car or did you rely on the Brassfields?

A. No, we rode with them for transportation.

Q. And as I understand it, you came up and you worked with them for a period of time. Was it about two months? Did I remember that right?

A. Close to that.

Q. And your stepbrother, Wes, actually worked a little less time than you did?

A. Yes.

Q. And that you were being paid approximately 500 a week?

A. Yes, sir.

Q. So during this two-month period of time, you made several thousand dollars?

A. Yes, sir.

Q. Minus if there had been any kind of cash advances or something for your room?

A. Yes, sir.

Q. Did they always handle your room and then you paid them back?

A. Pretty much.

Q. And then so this—about the time you stopped working for the Brassfields, we're now into the month of September?

[195] A. Yes.

Q. And approximately how much longer after that did your brother go back to Texas, or did he go back to Texas before you stopped working?

A. No, it was after. He probably went back probably the last of October, first of November.

Q. Now, your brother, Wes—I'm going to call him your brother. Is that okay?

A. Yes, I do.

Q. Your brother, he knew Mr. Glossip, as you did?

A. Yes.

Q. In fact, he got to know him, if I understand it correctly, before you did?

A. Yes.

Q. And you remained there at the Best Budget Inn?

A. Yes.

Q. And you started doing work for Mr. Glossip at the Best Budget Inn?

A. Yes.

Q. In the area of maintenance, laundry, just about everything that might come up?

A. Yes.

Q. And as a result of doing that, you received a comped room or a free room?

A. Yes.

[196] Q. And meals occasionally?

A. Yes.

Q. Now, you're not—am I to understand that every need that you needed, needed to be met by Mr. Glossip?

A. No.

Q. And as far as your use of drugs, and you have been very candid about that, you used marijuana and crank?

A. Yes.

Q. Some of that use came as a result of you using the money you'd made roofing?

A. Yes.

Q. And some of it just hustling up the money to get it?

A. Yes, sir.

Q. Or, if you will, kind of joining a group of people that were using and being able to obtain some in that circumstance?

A. Yes, sir.

Q. Now, what is crank?

A. It's methamphetamine.

Q. And when you used crank, what did it do to you? What was the effect on you?

A. It just made me stay up late, you know, for like days at a time.

Q. Kind of speed you going?

A. Yes, sir.

[197] Q. Did it affect your appetite?

A. Not really, but I don't have a real high appetite anyway.

Q. And did affect your weight?

A. Yes. I probably lost about 10 pounds.

Q. And did you feel that was kind of normal for the use of methamphetamine or crank?

A. Yes, that's pretty normal.

Q. So—and I think you indicated that you have gained some weight over the last few years?

A. Yes.

Q. And some of that might just be by getting older, right?

A. Yes, sir.

Q. But also would you agree that it may very well be because you're not using crank any longer?

A. Yes, sir.

Q. Counsel also discussed with you a little bit about your education level prior to even coming to Oklahoma, I think, did I hear right that you had gotten as far as maybe eighth grade?

A. Yes, sir.

Q. And as a result of having two young daughters?

A. Yes, sir.

Q. Getting married at a young age?

A. Yes, sir.

[198] Q. You didn't really pursue education?

A. No, I did not.

Q. So there were, if you will, life factors kind of getting in the way of you being able to get your education?

A. Yes, sir.

Q. It didn't really have anything to do with you not having the ability to read and write?

A. No, it was just that I didn't want to.

Q. And you made that choice?

A. Yes, sir.

Q. I mean, no one told you not to pursue your education, you chose not to?

A. Yes, sir.

Q. As I understand also, you have over the course of the last seven years obtained your GED, which is your high school equivalent of a diploma.

A. Yes, sir.

Q. You took tests, I imagine, and studied for that?

A. Yes, sir.

Q. And you also worked on and do work with computers?

A. Yes, sir.

Q. Software?

A. Yes, sir.

Q. And I think you said you're not a genius, but you can kind of work your way around with that stuff, can't you?

[199] A. Yes, sir.

Q. And that requires you to read?

A. Yes, sir.

Q. Does it require you to kind of think through processes and see how you get to certain results?

A. Yes, sir, it does.

Q. And you chose to do that for yourself?

A. Yes, sir.

Q. And it's something, had you had the desire when you were younger, 16, 17, or 18 even, that you would have been able to do?

A. Yes, sir.

Q. You just chose not to?

A. Yes.

Q. Now, since your arrest back in January 1997, I believe the 14th, some time thereafter you had the services of a lawyer?

A. Yes.

Q. I think it was Tim Wilson initially and then a hand off to Gina Walker?

A. Yes.

Q. And she's present today, isn't she?

A. Yes, sir.

Q. And your information that you share with them is certainly your business. But you do—let me ask you this. **[200]** You do talk to your attorneys and they talk back to you, right?

MS. SMOTHERMON: Object. Well, Your Honor, that's privileged information whether he even talks to them or not.

THE COURT: I agree. If you'll rephrase.

Q. (BY MR. LYMAN) You've used their services for consultation?

A. Yes, sir.

THE COURT: Well, I think that's pretty much the same thing.

Q. (BY MR. LYMAN) When you have talked to the police when you were arrested, you understood you were under arrest for murder?

A. Yes, sir.

Q. And you knew that before your interview?

A. Yes, sir.

Q. And you knew then it was a serious offense?

A. Yes, sir.

Q. And I think you've testified today about how you knew it was wrong to kill Mr. Van Treese?

A. Yes, sir.

Q. And at the time that you spoke to the police on your initial interview, you weren't under the influence of methamphetamine?

A. During my interview with the police?

[201] Q. Yes.

A. No, I was not.

Q. Or any other kind of drug?

A. No, I was not.

Q. You understood what was going on?

A. Yes, sir.

Q. You understood your rights and chose to speak to them?

A. Yes, sir.

Q. And that was your choice?

A. Yes, sir.

Q. Now, Mr. Van Treese was killed by you on January 7th, wasn't he?

A. Yes, sir.

Q. And I understand your arrest and subsequent initial interview with the police was on the 14th of January, about a week later?

A. Yes, sir.

Q. And from State's Exhibit 43, you entered into a plea agreement?

A. Yes, sir.

Q. And do you recall that being May the 26th of 1998?

A. Yes, sir.

Q. Not quite a year from your arrest, but approaching a year?

A. Yes, sir.

[202] Q. And I think you've given previous sworn testimony in this case, correct?

A. Yes, sir.

Q. And you did that in approximately June of 1998?

A. Yes, sir.

Q. Now, when you entered into this agreement, State's 43—we see that on the back the Assistant District Attorney, Fern L. Smith, your attorney, Tim Wilson—

A. Yes, sir.

Q. —correct? I can't read the witness name, but there was some witness that assigned?

A. Yeah. There was somebody else there, but I don't recall who it was.

Q. And, of course, your signature?

A. Yes.

Q. Now, when you signed this agreement, no one forced you to do it, did they?

A. No, they did not.

Q. You understood what it meant?

A. Yes, I did.

Q. And it was your choice?

A. Yes, it was.

Q. And you made that decision?

A. Yes.

Q. And the decision you made, one of the benefits would be [203] that you were to receive a life without parole sentence?

A. Yes, sir.

Q. And you've received that, haven't you?

A. Yes, I have.

Q. Now, this is entitled Agreement to Cooperate and Testify Truthfully. Is that correct?

A. Yes.

Q. So one of the things—or several of the things that you would have to do is to cooperate with law enforcement?

A. Yes.

Q. The District Attorney's Office?

A. Yes.

Q. And to testify truthfully?

A. Yes.

Q. And if you didn't, what was your understanding of the consequences?

A. The plea agreement would be void.

Q. And when you use the word, “void,” what do you mean by that?

A. As in I wouldn’t have my guarantee of life without the possibility of parole.

Q. And would it also mean that you would be facing the death penalty potentially again?

A. Yes, it would.

Q. And the prospect of facing the death penalty again is [204] something that you’ve lived with since you entered into this agreement?

A. What do you mean by “the prospect.”

Q. Well, certainly, if you did not testify truthfully or you violated this agreement in some way, you could face the death penalty?

A. Oh, that’s correct.

Q. And that has been ongoing since you’ve signed and since you did sign this agreement?

A. Yes, to my knowledge.

Q. When you were arrested and you were brought to the station to talk to Detective Bemo and Detective Cook—do you recall those two names?

A. Yes.

Q. —you knew you were under arrest?

A. Yes.

Q. And you knew the circumstances of why you were there?

A. Yes.

Q. And it was the death of Barry Van Treese?

A. Yes, it was.

Q. And, of course, we've heard today that you admit to killing Barry Van Treese?

A. Yes.

Q. And not just today, but when you entered into your sentence?

[205] A. Yes, that's true.

Q. But when you first spoke to the detectives you denied killing Barry Van Treese, didn't you?

A. At the very beginning I did.

Q. I've used the initials BVT for Barry Van Treese. Is that all right?

A. Yes, sir.

Q. And can you see this board?

A. Barely.

Q. And I've written on there denied killing BVT or Barry Van Treese. Is that correct?

A. At the very beginning of our interview, that's correct.

Q. But when asked, that's what you said?

A. Yes.

Q. Now, at the time of your arrest did you have any injuries?

A. I had an injury to my eye and I believe a little nick on my ear.

Q. Excuse me?

A. I believe I had a little nick in my ear and I had an injury to my eye.

Q. And do you recall at some point in time of your interview—or thereafter someone took photographs of you?

A. Yes.

Q. Have you seen those photographs?

[206] A. No, I have not.

MR. LYMAN: May I approach?

THE COURT: You may.

Q. (BY MR. LYMAN) Let me show you what's been marked as Defendant's Exhibit No. 1, and ask you if you can recognize that photograph?

A. Yeah, that's me when they took a picture of it.

Q. Does that fairly and accurately depict your appearance and the clothing you are wearing on the date of your arrest?

A. Yes.

Q. And I think you indicated that you had some injuries, one to your eye?

A. Yes.

Q. Was it your right eye?

A. I believe so.

Q. And some kind of nick to your ear?

A. Yes.

Q. Which ear?

A. I believe it was this ear.

THE COURT: The record should reflect that he indicated his right ear.

MR. LYMAN: Thank you, Your Honor.

Q. (BY MR. LYMAN) Let me show you what's been marked as State's Exhibit No. 59. Do you recognize that photograph?

A. Yes, I do.

[207] Q. And what does that photograph depict?

A. It's a picture of my face. It depicts my eye being cut and bruised.

Q. And there's a picture frame behind your head, isn't there?

A. Yes.

Q. It's the same one that's in Defendant's Exhibit No. 1?

A. Yes, it is.

Q. You received this injury to your eye when you killed Barry Van Treese?

A. Yes, I did.

Q. I'm going to show you what is State's Exhibit No. 91, and ask you if you recognize that?

A. That was a small scrape on my knee, I believe.

Q. And that's your left knee?

A. Yes.

Q. And State's Exhibit No. 90, do you recognize that?

A. Yeah, that's a small nick on my right knee.

Q. So displayed here is State's Exhibit No. 91. Can you see that, sir?

A. Yes.

Q. And the nick you're referring to is this one?

A. And there's one right there where your finger is at.

Q. Right above it?

A. Yes, right above it, on the fold of my knee.

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 13 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 27, 2004**

* * *

[13] Q. And that wasn't correct, was it?

A. No, it wasn't.

Q. Now, you had been questioned yesterday and I think you indicated that during the course of your initial

interview you feel like you didn't receive any promises or deals at that time for your testimony?

A. No, I did not.

Q. At some point in time during the interview, were you made aware that Mr. Glossip had been arrested?

A. I think it was my understanding that he had been questioned, but I don't think it was any understanding that he had been arrested.

Q. Was it your understanding that the direction of the investigation was pointing toward you?

A. Yes.

Q. Did you understand that the information that you were providing to the detectives was going to be given to the District Attorney?

A. At that time I really didn't think about it, but it made sense.

Q. In the course of your interrogation, it took a little while before you opened up and gave your statement, didn't it?

A. Yes, sir.

Q. And during the course of that time there was [14] discussions with you concerning working at the Best Budget Inn?

A. Yes, sir.

Q. Getting a room?

A. Yes, sir.

Q. Getting it comped?

A. Yes, sir.

Q. That Richard Glossip was your manager?

A. Yes, sir.

Q. And that you had information or were becoming aware that people were pointing the finger toward you?

A. Yes, sir.

Q. And at some point in time you indicate that Richard Glossip was involved?

A. Yes, I did.

Q. And that was after you had described your up-bringing and your working—

A. Yes, sir.

Q. Excuse me?

A. Yes, sir.

Q. Working with Mr. Glossip?

A. Yes, sir.

Q. And that people were pointing the finger at you?

A. Yes, sir.

Q. Do you recall being asked about the knife in your [15] initial interview?

A. Yes, I do.

Q. Do you recall that you denied stabbing Mr. Barry Van Treese?

A. Yes, I do.

Q. I think you indicated yesterday that at some point in time after your arrest you had received Lithium as a prescription?

A. Yes, I did.

Q. And am I to understand that you really didn't know why you were getting that?

A. No, I did not.

Q. When you met with the detectives for your interview, I think you said yesterday you understood what was going on?

A. During the interview?

Q. Yes.

A. Yes.

Q. I think you testified yesterday that you had used crank. The last time you had used crank or methamphetamine was before Christmas of 1996?

A. Yes.

Q. How many—you said before Christmas. And you know that Mr. Van Treese was killed on January 7th?

A. Yes.

Q. And before Christmas and January 7th, that's actually a [16] couple or two or three weeks?

A. Yes.

Q. And when you say "before Christmas," how much time before Christmas?

A. Probably not that long, maybe a day before.

Q. Now, you weren't using drugs during the time that you killed Mr. Van Treese?

A. No, I was not.

Q. So at that point in time—and you weren't using marijuana?

A. No, I wasn't.

Q. Or any other substance?

A. No.

Q. So as far as drugs and alcohol or whatever you might be taking, none of that was influencing the way you were thinking?

A. No, it was not.

Q. I think you indicated yesterday that there was times that you had made some purchases of marijuana for Mr. Glossip?

A. Yes.

Q. When was the last time you had done that before? Before Christmas?

A. Probably right around Christmas, yes.

Q. And does that purchase of marijuana have anything to do [17] with—in your opinion, with the death of Mr. Van Treese?

A. No.

MS. SMOTHERMON: Well, Your Honor, that's going to be for this jury to decide. Obviously, it's relevant or you wouldn't have let it in.

THE COURT: Sustained.

Q. (BY MR. LYMAN) Now, as I understand it, you had gone to the Sinclair station that morning?

A. Yes.

Q. And approximately what time did you go?

A. 3:30, 4:00.

Q. Did you see the attendant there, the clerk?

A. Yes.

Q. Who was that?

A. Ms. Pursley.

Q. Did she live at the Best Budget Inn with her husband?

A. Yes, she did.

Q. And are they the same Pursleys that your brother Wes would do things with?

A. Yes.

Q. Did you really do anything with them?

A. I hung out at their house a couple of times, but I didn't really associate with them that much.

Q. Now, you say that you believe you went over about 3:30 or 4?

[18] A. Yes, sir.

Q. Is that the best of your memory today?

A. Yes, sir.

Q. Could it have been as early at 2 or 3:00 in the morning?

A. No.

Q. When you went over there, did you see anybody else besides Ms. Pursley?

A. I don't remember paying any attention to anybody else that was in the store at that time.

Q. Now, your room was room 117?

A. Yes, sir.

Q. And it was on the north side, if I remember right, on the north side of the hotel?

A. Yes, sir.

Q. On the opposite side of room 102?

A. Yes, sir.

Q. When you went from your room over to the Sinclair station, did you see anybody?

A. No, I did not.

Q. When you returned, did you go back to your room after the Sinclair station?

A. Yes, I did.

Q. Did you see anybody when you returned?

A. Not to my knowledge. I don't remember.

[19] Q. I think you testified yesterday about the initial stages, if you will, of this robbery plan, that it was your understanding that your brother Wes had spoken to Mr. Glossip about that?

A. That is the way Mr. Glossip approached me with it.

Q. Okay. You weren't part of that conversation?

A. No, I was not.

Q. So you wouldn't know really what was said?

A. No, I would not.

Q. Then Mr. Glossip discusses it with you?

A. Yes, sir.

Q. You had an interview with the police?

A. Yes, sir.

Q. And I know some things you're remembering today that you didn't then, correct?

A. Correct.

Q. Do you recall telling them, It didn't really go any further than that, when you spoke to them?

A. You're talking about that first conversation?

Q. Yes.

MS. SMOTHERMON: And, Your Honor, I would just ask that we read his answer in its entirety. That's part of a sentence.

THE COURT: You may do so.

MS. SMOTHERMON: Page 19, starts on line 22.

* * *

[33] A. Yes, sir.

Q. Now, when Mr. Glossip is talking to you concerning the killing of Mr. Van Treese, did I understand yesterday that some of those discussions may have happened as early as the last part of 1996?

A. The last part being October, November?

Q. Yes.

A. Yes.

Q. And you took them initially not very seriously, did you?

A. No, not the first few conversations, no.

Q. And the more the conversations, the more serious you took them?

A. Yes.

Q. Did you ever tell anybody?

A. No, I did not.

Q. Did you at any time think about leaving?

A. No, I did not.

Q. You had discussed yesterday that there was information to you from Mr. Glossip that Mr. Van Treese was going to be making an unannounced or surprise visit to the hotel. Do you recall that?

A. About me and Mr. Glossip having a conversation about him, Mr. Van Treese, showing up on a surprise visit?

Q. Right.

[34] A. I know at one time he woke me up at 2 or 3:00 in the morning saying that he was on his way and that he was going to do a surprise inspection.

Q. When did that happen?

A. I'm not real for sure. I'd have to say October, November.

Q. And, again, this conversation is only between you and him?

A. No, when he woke me up, D-Anna was with him.

Q. Prior to you leaving on the 7th and getting back with the Brassfields, had Mr. Glossip ever been fired or threatened to be fired in your presence?

A. No, not in my presence.

Q. I think you said yesterday that you got to where you couldn't see a way out?

A. Yes.

Q. And you're talking about the way out of the situation of killing Mr. Van Treese. I take it that that became your only option?

A. At that time in life I thought so.

Q. And that option you chose to do?

A. Yes.

Q. You didn't call your mom?

A. No, I did not.

Q. Your dad?

[35] A. No.

Q. Didn't tell the police?

A. I didn't call the police; is that what you said?

Q. Yeah.

A. Oh, no, I'm sorry, I did not.

Q. You didn't warn Mr. Van Treese?

A. I did not.

Q. But the morning after you killed Mr. Van Treese you were back working with the Brassfields?

A. Yes.

Q. Now, when you were talking to Detectives Bemo and Cook about your actions with Mr. Van Treese, do you recall initially telling them that you only intended to knock him out and then later told them, "I intended to kill him"?

A. Yes.

Q. So there was that kind of progression through your interview with them?

A. Yes.

Q. And same with the number of times you hit him. Initially you indicated you only tapped him a couple of times, but it progressed to being more to where you actually killed him?

A. Yes.

Q. And the only weapon you described to them using was a baseball bat?

[36] A. Yes.

Q. Now, this baseball bat was yours?

A. Yes, sir.

Q. You kept it in your room?

A. Yes.

Q. And you had it about a month or two before this happened?

A. Yes, sir.

Q. You had it during that period of time where you assert Mr. Glossip was talking to you about doing what you did?

A. Yes.

Q. And this is the bat that you later got rid of?

A. Yes.

Q. And when you did that, that was your decision to hide and get rid of that bat?

A. No, when I was talking to Mr. Glossip he asked me to get rid of the bat, because he asked where it was and I told him it was still in the room.

Q. But you did?

A. But I did?

Q. Yes.

A. Yes.

Q. Now, I think you talked yesterday about being nervous?

A. Yes.

Q. Yeah, when you—is it fair—or am I clear in **[37]** understanding that when you really got nervous is when the police started showing up?

A. Yes.

Q. Up to that point in time you really hadn't gotten nervous about this?

A. I hadn't reflected a whole lot on it before that time because I was busy putting all the rooms back in order.

Q. Now, when you went to the Sinclair station after the conversation with Mr. Glossip, how much time went by from when you went to the Sinclair station to when you actually entered into the room of Mr. Van Treese?

A. Probably about 45 minutes to an hour.

Q. And during that period of time, were you thinking about what you were going to do?

A. Yes.

Q. Were you reflecting on what you were going to do?

A. Yes.

Q. Were you nervous then?

A. Yes.

Q. When he comes to your room that early morning to talk to you about it, again, this is just you and him?

A. Yes.

Q. I think you indicated yesterday that he made it sound convincing?

A. Yes, he did.

* * *

[56] Q. When was that point in time?

A. When Mr. Everhart asked for me to come to the front office and when I got there he proceeded to tell me he wanted me to search the motel room.

Q. And when he did that, Mr. Glossip wasn't present?

A. No, he was not present.

Q. And that was the one time that day you recall wearing the sunshades or the sunglasses?

A. Other than when I left, I believe I had them with me.

Q. When you went to the office, when Ms. Hooper went to the credit union, do you remember that?

A. Yes.

Q. Did you wear your glasses over there then?

A. I do not recall.

Q. Now, at the time that she went over there to look at the car at the credit union, you knew it was Mr. Van Treese's car and you knew it was there?

A. Yes.

Q. And that's why you didn't want to go over there?

A. Yes.

Q. And that was your decision not to go over there at that time?

A. Yes.

Q. Did I understand that you told the maid that morning that you would work or clean the rooms on the bottom floor?

[57] A. Yes, I did.

Q. And that would have included room 102?

A. Yes, it would.

Q. And to your knowledge, Mr. Glossip didn't tell her that?

MS. SMOTHERMON: That's speculation, Your Honor. He doesn't know.

THE COURT: Sustained.

Q. (BY MR. LYMAN) The using of Mr. Glossip's car, did you use that to go to the store to get the plexi-glass?

A. Yes, I did.

Q. That was the only time you used his car that day?

A. That day, yes.

Q. So you wouldn't have been using his vehicle or been around his vehicle at 5:30 in the morning?

A. No, I would not.

Q. Did I understand that you had planned to burn your clothes?

A. Yes.

Q. And that was your idea?

A. Yes, it was.

Q. And, of course, these clothes had a lot of blood on them, didn't they?

A. Yes, they did.

Q. And you were trying to, in effect, destroy or keep [58] people from knowing about those clothes?

A. Yes.

Q. Now, when you went to search the rooms after Mr. Everhart asked you to do that, did I understand that you pretended to do that?

A. Pretty much. Some rooms I went in and some rooms I just walked on by.

Q. You wanted to give Mr. Everhart or someone around the understanding that that's what you were doing?

A. Yes.

Q. You didn't go into room 102?

A. No, I did not.

Q. And when you started this process, Mr. Glossip hadn't returned yet?

A. No, he had not.

Q. And it was your decision to pretend or go through the process of looking through the rooms the way you wanted to at that time?

A. Yes.

Q. You told Cliff Everhart that you had checked the rooms?

A. Yes.

Q. You told him that you didn't find Mr. Van Treese?

A. Yes.

Q. Now, when you were interviewed by the police, you became aware of the punishment potentially for Murder in the [59] First Degree would be the death penalty?

A. Yes.

Q. And you gave them a statement and you wanted to know if giving them a statement would help, help you in your situation, didn't you?

A. No, actually they came to me.

Q. And when you say they came to you, are you talking about during the interview?

A. No, while I was in the county jail waiting trial.

Q. During the interview did you ever want to know if this statement would help you?

A. No, I did not.

MR. LYMAN: Transcript, page 72.

MS. SMOTHERMON: Your Honor, we can go there, but it's going to violate a Motion in Limine they made earlier. Can we approach?

THE COURT: Please.

(Thereupon, the following was had at the bench.)

THE COURT: May I see yours, please.

MS. SMOTHERMON: Your Honor, this is a discussion of what the different sentence's mean, death, life, life you get 45 years, you have to serve about a third of it, I mean, they didn't want us going into all of this, so...

MR. LYMAN: I'm talking about line 5 and 6. So is this going to help me out any at all by telling you all [60] this. That doesn't go to punishment.

MS. SMOTHERMON: Well, but if he reads that, I'm going to read the rest of the dialogue and I have a right to do that under the evidence code in it's complete form. They're talking about the sentences. And it's important that he notes at the end, he, Mr. Sneed, "Well, looks like I'm going to look forward to the next 40 years of sitting behind a cell." So it's important to note that he knew that from the get-go.

THE COURT: Well, and then you have the rest of the dialogue that says, "I'm going to tell you this, your bud Richard is planning on letting you hang by yourself for this." And he says, "Well, I'm not going to hang by myself. I'm telling you all the truth."

I think she's right. I don't think you want to go there.

MS. SMOTHERMON: I just wanted to notice that that's what I'm going to do in redirect if that's what we do. I don't have an objection to him doing that.

MR. LYMAN: Well, I think it would be improper for them to go into the rest of it and I think it's proper for them to ask that question without the risk of violating our previous motion regarding the ranges of punishment and whether or not he'd be paroled or not.

Those are two separate topics from this area of questioning.

[61] He switches gears, Well, that's the maximum sentence. Well, what's the maximum. He asks the question. The answer he makes is before he asks that question and it has nothing to do with that.

THE COURT: It has everything to do with that. There is no other reason for him to be discussing this, you know, do I get any break for doing this other than for potential sentences. I mean, it's not like—I mean, what other possible correlation could it have?

MR. WOODYARD: I think it could be read, Your Honor, into whether or not it could be read in a limited sense meaning that is this going to help me get a good recommendation from the District Attorney's Office. It has nothing with a parole.

THE COURT: You're talking about an illiterate guy who's just one notch above a street person and you are assuming that that's what was in his mind at that time. There is nothing in that transcript that would lead you to believe that he has that level of sophistication or it could be interpreted that way. You go there, I'm going to let her go.

MR. LYMAN: Well—

THE COURT: I think that's fair under the evidence code.

MR. LYMAN: I want to make a record that I am not

* * *

[97] because it's what this jury has to decide is what you did do. Okay?

A. Yes, ma'am.

Q. And what you did do, you have said consistently, correct?

A. Yes, ma'am.

Q. And what Richard Glossip—not what he could have done, not what he should have done, but what he did do, you have always maintained, right?

A. Yes, ma'am.

Q. So when we get out of the what-if category and the what-did, you're telling us what happened?

A. Yes, ma'am.

Q. We talked about decisions and making decisions and decisions that you made. And you made some decisions, right?

A. Yes, ma'am.

Q. Whose idea was it to kill Barry Van Treese?

A. Richard Glossip's.

Q. Okay. It was his decision to come up with that idea; is that correct?

A. Yes, ma'am.

Q. It was his decision to continually talk to you about it until you believed you had no other option?

A. Yes, ma'am.

[98] Q. It was his decision to come to you on the morning of January 7th and tell you now was the time?

A. Yes, ma'am.

Q. And his decision to do everything else he did to help you with that as far as shower curtains, sending you

to the store, getting the keys, directing you to the money, those were all his decisions, right?

A. Yes, ma'am.

Q. You made some very—we've heard them called bad decisions. Would you agree with that?

A. Yes, ma'am.

Q. Resulted in the death of another human being?

A. Yes, ma'am.

Q. Would you agree that Richard Glossip made what we could call some bad decisions?

A. Yes, ma'am.

Q. And did his decisions result in the death of Barry Van Treese?

A. Yes, ma'am.

MS. SMOTHERMON: If I could have just a moment, Your Honor?

THE COURT: You may.

MS. SMOTHERMON: Pass the witness, Your Honor.

THE COURT: Mr. Lyman.

RECROSS-EXAMINATION

[99] BY MR. LYMAN:

Q. It was your decision to enter into an agreement with the State of Oklahoma?

A. Yes, ma'am. I mean yes, sir. Excuse me.

Q. And that decision has saved your life?

A. Yes, it did.

Q. You're not facing the death penalty?

A. No, I am not.

Q. And regarding your testimony before and your testimony over the last two days, that was—that testimony has been produced, if you will, after you made the decision and entered into your agreement?

A. Yes, sir.

Q. When you indicated for the first time yesterday that you had used the knife on Mr. Van Treese by trying to put it into his chest—

A. Yes, sir.

Q. —that was after you made your deal with the State of Oklahoma?

A. Yes, sir.

Q. Conversations that you assert or say that you've had with Mr. Glossip involving a plan or how this was to happen, it was just you two that talked about it?

A. Yes, sir.

[100] Q. And there would be no way for us to know that unless we were there with you, too, right?

A. That's correct.

Q. Counsel asked you about times and approximations and I understand that you may have, as everybody does, some differences in times. That's life, right?

A. Yes, sir.

Q. You knew when to leave, though, didn't you?

A. I left when Glossip told me to leave. Other than that I probably would have stayed there.

Q. That conversation was just between the two of you, right?

A. Yes, sir.

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

THE COURT: You may.

(Brief pause in proceedings.)

Q. (BY MR. LYMAN) Now your testimony today is clearly after you made the arrangement and the deal in this case that saved your life, right?

A. Yes, sir.

Q. And is it your understanding that if you do not meet the terms of that deal, you may face the death penalty again?

A. Yes, sir.

Q. You have that hanging over your head, don't you?

[101] A. Yes, sir.

MR. LYMAN: Nothing further.

THE COURT: Do you have further?

MS. SMOTHERMON: Very briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. SMOTHERMON:

Q. I mean, there's no doubt this is a powerful document, right?

A. Yes, ma'am.

Q. But this jury knows that—I mean, you’ve said things like noon, when I’ve told you clearly that all the other witnesses say 3, right?

A. Yes, ma’am.

Q. Okay. I mean, I’ve got to explain that three-hour difference to this jury, right?

A. Yes, ma’am.

Q. If this was driving the boat, Mr. Sneed, how come you didn’t make my job easier?

MR. LYMAN: Objection, Your Honor. Speculation.

THE COURT: Overruled.

THE WITNESS: I don’t know.

Q. (BY MS. SMOTHERMON) Okay. This says: Agreement To Testify Truthfully. Do you think you’re ready to go home?

A. Yes, ma’am.

MS. SMOTHERMON: Pass the witness.

[102] THE COURT: Do you have further?

RECROSS-EXAMINATION

BY MR. LYMAN:

Q. The agreement to testify truthfully was made between you and the State of Oklahoma, right?

A. Yes, sir.

Q. The State of Oklahoma represented by the District Attorney’s Office, right?

A. Yes, sir.

Q. And is it your opinion that they're the ones that decide if you testify truthfully?

A. No, it is not.

MR. LYMAN: Nothing further.

THE COURT: May this witness be released? Are you finished as well?

MS. SMOTHERMON: Yes, he may leave the premises.

MR. LYMAN: If she's done, I'm done.

THE COURT: So I can writ him back.

MR. LYMAN: Yes, ma'am.

THE COURT: Okay. You may be excused.

Counsel needs to approach.

(Thereupon, the following was had at the bench.)

THE COURT: We talked off the record this morning about some testimony that was given by Mr. Sneed regarding the purchase of marijuana, that was evidence of other crimes **[103]** that arose whether or not we were going to give some kind of extemporaneous limiting instruction.

We looked at 9.9, and I think the counsel for the Defendant wanted an opportunity to think about it and determine whether or not they wanted to request the Court to give that instruction.

MR. LYMAN: We want it.

MR. WOODYARD: We request it.

THE COURT: Okay.

MR. ACKLEY: Your Honor, there's another matter that I intended to bring to the Court's attention as Detective Bemo is called. Would this be a good time to take it up?

THE COURT: Sure.

MR. ACKLEY: Comes now the State of Oklahoma and asks the Court for an Order In Limine preventing counsel for the defense from raising in any way in front of the jury the fact that before the murder charge on trial today was filed against Defendant Gossip, he was originally charged with the offense of Accessory To Murder in CF-97-256.

We would inform the Court that that charge was filed on or about January 14th, 1997, and that within two weeks the State had filed a motion to dismiss the case alleging its grounds to be refiled. We contend that it's more prejudicial than probative and we would ask the Court [104] to order that in limine before the jury.

MR. WOODYARD: We have no comment to that. They brought that up. We didn't.

THE COURT: All right. So are you confessing their Motion in Limine or you just have no response?

MR. LYMAN: Well, the response is I don't think we're going to be going into it, so whether you call it confession or not.

THE COURT: Well, then I'll show that Motion in Limine sustained.

MR. LYMAN: Okay.

THE COURT: That was pretty easy.

(Thereupon, the following was had in open court.)

THE COURT: Ladies and gentlemen of the jury, during Mr. Sneed's testimony there was some evidence presented that this Defendant has committed some misconduct other than that contained in the Information. You may not consider that evidence as proof of his guilt or innocence of the specific charge in this case of Murder in the First Degree.

The evidence was presented solely on the issue on the Defendant's motive and intent and the evidence is to be considered by you only for the limited purpose for which it was presented to you.

Is the State prepared to call their next witness?

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA,

Plaintiff,

v.

RICHARD EUGENE GLOSSIP,

Defendant.

REPORTED BY:
THERESA L. REEL, RPR
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OKLAHOMA CITY, OK 73102
VOLUME 14 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON MAY 28, 2004**

* * *

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EXHIBITS OFFERED BY THE COURT

EX-HIBIT	DESCRIPTION	OF-FER-ED	AD-MIT-TED
3	TRANSCRIPT OF STATE'S EXHIBIT 1	7	7
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[5] (Thereupon, on May 28, 2004, with all counsel, the Defendant and the jury present, the following was had in open court.)

THE COURT: Thank you. Please be seated.

Sir, if you'll retake the witness stand, please.

All right. We need to procedurally talk about State's Exhibit 1, as yesterday, I had allowed the State to withdraw State's Exhibit 1 and 1-A, and so I believe that you've had the opportunity to work with Defense Counsel this morning on what is now marked as State's Exhibit 1; is that correct?

MR. ACKLEY: Yes, Your Honor.

THE COURT: And do you move admission?

MR. ACKLEY: We do.

THE COURT: And is there objection?

MR. WOODYARD: There is no objection.

THE COURT: State's Exhibit 1 is admitted without objection.

MR. ACKLEY: With the Court's permission then, I'll publish No. 1 at this time.

THE COURT: Please do so.

And everybody has transcripts, right?

MR. ACKLEY: Detective Bemo, yours is right there on the rail.

(Thereupon, State's Exhibit 1 was played.)

[6] THE COURT: We need to stop the tape. The transcript copy that I have has page 31 out of sequence and I can see people over here flipping through and the next page in my transcript is page 13, and it just jumps

in there. So I wanted to give you all the opportunity to all get on the same page because I want you to be able to hear what's said. So just back that up a skip. And I think you guys were fumbling for the same thing and so let's just all get on the same page here.

MS. SMOTHERMON: And there is a real 31. This is an extra. When I made copies this morning I noticed there was nothing between 30 and 32, so I made 31 and hand inserted it. I have now found the missing 31.

THE COURT: Okay. Go ahead and get that oxygen tank because every time that tape skips you look like you're going to need a hit off of it.

MS. SMOTHERMON: I'm calmer now.

THE COURT: Okay. Good. If you'll just back it up a couple of seconds and so everybody will be able to watch it.

(Thereupon, State's Exhibit 1 was played.)

THE COURT: Mr. Ackley, can I ask you to stop the tape. We've been sitting here for about an hour.

Why don't you stand up for a minute.

(Brief pause in proceedings.)

[7] THE COURT: Thank you very much, sir. If you'll hit play, please.

(Thereupon, State's Exhibit 1 was played.)

THE COURT: Are you guys ready for a break? Why don't we try for 20 minutes. So it's 1:30 now. Be back in the courtroom ready to go at 1:50. You are admonished and excused. Court's in recess.

THE COURT: Yesterday I had accepted Court's Exhibit No. 3, which was a transcript. We

noticed, for the record, that there were some typographical errors and stuff. That has been withdrawn and today on May the 28th we have substituted Court's 3, which was a transcript of the interview that was just played, and I wanted the record to be clear about that. Thank you very much.

MS. SMOTHERMON: Just for the record, I am now picking the transcripts off of the jury chairs. They all left them there and I am collecting them now.

THE COURT: Good deal. Thank you so much. (Thereupon, a recess was had, after which, with all parties present, the following was had in open court.)

THE COURT: Mr. Ackley.

BOB BEMO,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION—CONT'D.

BY MR. ACKLEY

[8] Q. Detective Bemo, a couple of follow-up questions about State's Exhibit No. 1, the video that we just viewed. I had neglected to ask you earlier, at one point in the video it appeared as though a uniformed Oklahoma City Police officer joined you and Detective Cook in the session. Is that accurate?

A. Yes, it is.

Q. Who was that?

A. That was Officer Tim Brown.

Q. Was the tape that the jury just viewed, State's Exhibit No. 1, a true and accurate depiction of the sights and sounds of that interview?

A. Yes, it was.

Q. And do you recall approximately how long that interview lasted?

A. The interview itself was probably about an hour and a half because we did take a break in there and I would say probably about an hour and a half, maybe an hour and 20 minutes actually. It seemed longer.

Q. And if I recall your testimony from yesterday correctly, you said that that started in the neighborhood of 3:15 a.m. on January the 8th?

A. Yes, sir.

Q. So the interview ended about dawn, more or less, on January the 8th?

[9] A. Yes.

Q. I'm speaking broadly. I don't mean to be specific about the time.

A. Right.

Q. Do you recall exactly what time it was when?

A. No, sir, I don't.

Q. And, lastly, about that interview, at the end of it, was Richard Glossip allowed to go wherever he felt like going?

A. Yes, he was.

Q. Sir, let's talk about Justin Sneed for a minute. First of all, you know who Justin Sneed is?

A. Yes.

Q. And at some point, as you were discussing in the interview we just viewed, were you able to actually locate him?

A. Yes, we were.

Q. And do you recall when you first made contact with Justin Sneed?

A. No, I don't. I don't recall exactly how he was picked up. I know his former employer—or his current employer, Brassfield, Mr. Brassfield, had been contacted by some of our officers and apparently he was able to locate Justin and got back with them and Justin was taken into custody and brought down to the police department.

* * *

[23] Q. Was he one of the officers that worked with Officer Kriethe on that matter?

A. Yes, he was. He was the other officer.

Q. And by the day of January the 9th, 1997, had you become concerned about whether or not Mr. Glossip might still be wishing to stay in Oklahoma City?

A. Yes, we had.

Q. What caused you to develop that concern?

A. I believe we received information that he was selling his belongings and planning on leaving the state.

Q. What did you ask Officer Kriethe and Officer Mauck to do to assist you regarding Mr. Glossip?

A. We asked them to observe Mr. Glossip and to follow him to wherever he might be going or whatever he was doing, just to watch and make sure he didn't leave town.

Q. And at some point during the day of January 9th, 1997, did you know that Mr. Glossip had a certain appointment that he was to keep at some point?

A. No, we didn't.

Q. Okay. And—

A. Or I didn't.

Q. Okay. After the beginning of January the 9th, 1997, was there a point when Sergeant Mauck and Sergeant Kriethe brought Mr. Glossip to your office or to your interview room?

[24] A. Yes, there was.

Q. And were you present when they approached Mr. Glossip or did you have personal, direct knowledge of how they approached him or how he came to come with them?

A. It's my understanding that they—

Q. My question—please forgive my bad manners. Did you have direct, personal knowledge of that approach, or were you physically present when—

A. No, I was not physically present.

Q. As far as your understanding goes, would that rely on what you were told by others?

A. Yes, it would.

Q. Do you mind if we skip that and go on?

A. No.

Q. You weren't there when they approached Mr. Glossip?

A. That's correct.

Q. About what time did you see Mr. Glossip on January the 9th, 1997?

A. To the best of my recollection it was some time after 4:00, I think, 4:00 p.m. in the afternoon. I think that's right. I can't be sure, though. It could have been later or it could have been earlier.

Q. And after you came into contact with him, did a conversation take place that you've referred to as the second interview?

[25] A. Yes.

Q. When the second interview began, was Mr. Glossip under arrest?

A. No.

Q. At some point after that, was he advised that indeed he was under arrest?

A. Yes.

Q. But that was after the second interview?

A. That's correct.

Q. Okay. And who was present for the second interview?

A. Just me, I believe.

Q. And was that conversation tape recorded?

A. Yes, it was.

Q. And videotaped as well?

A. Yes, it was.

Q. Before that interview took place, was Mr. Glossip advised for a second time of his rights under the Miranda Decision?

A. No. He had already been advised of his rights and I brought that to his attention and he still—he said he understood what his rights were.

Q. Did you inquire specifically to insure that he remembered the advice that he'd been given earlier by Detective Cook about his rights?

A. I asked him, I said, “You do understand your rights, [26] you’ve been advised twice so—” and he said he knew what his rights were. So he was clear on them.

Q. Very well. Now, at the beginning of the interview regarding Mr. Glossip himself, let me ask you a few questions. Number one, did he appear to be awake, alert, and sober during the interview?

A. Yes, he did.

Q. Did he appear to be under the influence of any intoxicating substances of any type?

A. No, he did not.

Q. Did he appear to be oriented as to reality; that is, did he seem to know where he was and what was going on?

A. Yes, he did.

Q. Did he respond appropriately to the questions that you asked him?

A. He responded. I wouldn’t necessarily say it was appropriate, but...

Q. Let me follow-up then with a question about appropriate. When I say “appropriate,” I mean did he answer the questions that you were asking?

A. He answered the question.

Q. Did he appear to understand the questions?

A. Yes, he did.

Q. And did he more or less wait until you finished with your question before he gave you the answer?

[27] A. Some time—most of the time he did, yes.

Q. And you understand here, we're not talking about the bad manners that I show sometimes by interrupting someone who's trying to talk, but rather able to carry on an appropriate question and answer session with you?

A. Yes, he was.

Q. Did you or anyone in your presence, or to your knowledge, promise Mr. Glossip anything in order to get him to speak to you?

A. No, we did not.

Q. Did you?

A. No.

Q. I'm sorry. That was the beginning of my next question.

Did you or any person in your presence or any person, to your knowledge, threaten, coerce or intimidate Mr. Glossip in any way to get him to speak to you that afternoon?

A. No, sir.

Q. Did he agree to speak to you?

A. Yes, he did.

Q. Based on everything you saw, your training and experience as an investigator, do you have an opinion as to whether or not he spoke to you voluntarily?

A. Yes, he did.

Q. At your left elbow there is a video cassette and I [28] believe it's marked State's Exhibit No. 2. Do you recognize that item?

A. Yes.

Q. Does it contain a true and accurate recording of the sights and sounds of the so-called second interview, the second time you interviewed Richard Eugene Glos-sip?

A. Yes, sir.

Q. And does it truly and accurately depict the events of that interview?

A. Yes, it does.

MR. ACKLEY: Move admission of State's Ex-hibit No. 2.

MR. WOODYARD: Your Honor, we have an objection.

May we come forward, please?

THE COURT: You may.

And if you all want to stand while you're up here on the bench, you may do so.

(Thereupon, the following was had at the bench.)

THE COURT: If you want to rely on the previ-ous record, we've made an extensive record; is that cor-rect, Counsel.

MR. WOODYARD: Yes, we had a Motion to Suppress this particular video. We've had a full hearing on that matter. I'm not intending to try to recite the au-thorities or the facts. We do reurge that motion at this time.

[29] THE COURT: All right. And I'm going to over-rule your Motion to Suppress again and admit State's Exhibit No. 2, with your objection noted.

MR. WOODYARD: Okay.

THE COURT: And while you're up here at the bench, are there transcripts again.

MS. SMOTHERMON: Yes.

THE COURT: If you would hand me one, please, and let's make our record here. We will mark that as Court's Exhibit No. 4, and it will go on our pile of court's exhibits. And you may distribute them to the jury. Thank you very much.

(Thereupon, the following was had in open court.)

THE COURT: Once again, we're handing you out an aid to assist you when reviewing this videotape. You are not to substitute your own observations for what's memorialized here. Someone has tried to assist you, but it's someone else and you need to rely on your own observation. And then after we watch the videotape, we will ask you to pass them back to us. Okay?

MR. ACKLEY: With the Court's permission, may I play State's Exhibit No. 2?

THE COURT: You may.

(Thereupon State's Exhibit No. 2 was played.)

Q. (BY MR. ACKLEY) Was that how the second Glossip [30] interview went. Detective Bemo?

A. Yes, it was.

Q. And about how long did that interview last, please, sir?

A. I think it was about 40 to 45 minutes.

Q. We just heard you tell Mr. Glossip that you intended to have him jailed at that time?

A. Correct.

Q. Did you take him to the booking desk yourself or did you get some assistance in that matter, do you recall?

A. Actually, I don't recall.

Q. Okay. Let's see. You had testified earlier that Officer Mauck and Officer Kriethe had been involved in bringing Mr. Glossip over to see you that day?

A. Yes.

Q. Were they still around at the end of the interview?

A. Possibly. I don't recall.

Q. Okay. Let me ask you this. If Officer Mauck testified that after the interview was completed that you asked him to book Mr. Glossip, would you dispute that?

A. No, I would not.

Q. And would that be something that you've done many times when you arrested a suspect?

A. Yes, it is.

Q. If that's what happened then, I gather, you wouldn't [31] have been present at the booking desk when Mr. Glossip's personal belongings were inventoried?

A. That's correct.

Q. At some point after the interview finished, did you receive some money that had been found on the person of Mr. Glossip that day?

A. Yes, we did.

Q. And do you recall who brought it to you?

A. I don't recall.

Q. Well, the jury has heard other testimony about that. But let's ask you—let me ask you this. Once you received—did, in fact, you get the money from someone?

A. Yes.

Q. And the same day that you did interview number two?

A. It was—interview number two, I thought was done on the 9th.

Q. The one you just did?

A. Yes.

Q. Yes, sir. That was my understanding?

A. Yeah. We would have gotten the money back or would have gotten that money at the time of the booking, or after the booking.

Q. Okay. So the same day?

A. The same day, right?

Q. I direct your attention to what I've just handed you, [32] which is marked State's Exhibit No. 6. Do you recognize that?

A. Yes.

Q. And there's a clear plastic bag and the actual exhibit sticker is on a manila envelope, is it not?

A. Yes.

Q. Will you examine the markings on the manilla envelope and tell us if you recognize and recall the events that are recorded on that envelope?

A. I see my partner's name listed down there as the person submitting it.

Q. Okay. And before you were able to tell us the date he submitted. Can you do the same on this one?

A. Yes, it's dated January the 10th of 1997.

Q. And was that envelope likewise submitted to the serology unit of the Oklahoma City Police Department?

A. Yes, it was.

Q. And is there an inventory on the outside of the envelope about what the contents are?

A. Actually it's just listed as cash.

Q. And is there an amount?

A. Yes, there is.

Q. What was the amount?

A. \$1,757.

Q. Was that the money that was found on Mr. Glossip at the

* * *

[40] A. Yes, we did.

Q. And did you ask her specifically what purchases were made and what expenditures were made?

A. Yes, we did.

Q. Did you also ask about how they were able to convert Mr. Glossip's paycheck that he had received into cash?

A. Yes.

Q. What did she tell you about how Mr. Glossip cashed his check?

A. They had tried to cash the check at a grocery store and they wouldn't accept it because the year date was wrong. It was '96 instead of '97.

Q. I see.

A. They then went to a cash checking business where they were able to cash the check.

Q. And did she explain what they received when they cashed the check?

A. Yes, they received cash back.

Q. Okay. Did she tell you how much and?

A. Well, she said that they took somewhere between 10 and 15 percent out of the check, and then they got the remainder of the amount of money.

Q. And while you were talking to Ms. Wood about her—about their expenditures and their shopping that day, did you attempt to reconstruct how much cash Mr. Glossip would [41] have had left over from his paycheck after the shopping?

A. Yes.

Q. And in trying to make that reconstruction, did you ask Ms. Glossip what they purchased on the 7th and how much they had spent?

A. Yes, we did.

Q. What did she tell you, please?

A. She told us that they went to an optometrist place where they purchased some glasses for the Defendant and that he had paid approximately \$170 for a pair of glasses.

Q. Okay.

A. And then next door to this place was a discount jewelry store where they went in and he had bought her a ring for around \$100.

Q. Did she tell you what kind of ring it was?

A. Said it was an engagement ring.

Q. Did she describe any other purchases they made that day?

A. She said that they went to Wal-Mart then and they had spent about \$40 there.

Q. Okay. Now, with respect to the cost of the engagement ring, did Detective Cook's report record the specific prices paid for that?

A. Yes, it did.

Q. And what does it say?

[42] A. The specific prices were that the glasses actually cost \$172 and the ring actually cost \$107.73. The amount of money that was spent at Wal-Mart was actually \$45.

Q. Okay. And at some point were you able to consult and to get some information from the records of the motel or a custodian of the records of the motel to find out the actual net take home pay that had been on Mr. Glossip's paycheck issued 1-6 of '97?

A. Yes.

Q. Was it as much money as Ms. Woods had in mind?

A. No, it was not.

Q. What was the net amount of his paycheck 1-6 of '97?

A. It was \$429.33.

Q. And once you received that information, did you go through the figures again with Ms. Woods in an attempt to find out how much cash Mr. Glossip had left over from his paycheck after the shopping trip?

A. I don't know that we went back over that with her. I don't recall that. But we did reconstruct it to get an amount left over.

Q. And you said \$172 for the glasses?

A. Yes.

Q. A hundred and?

A. And \$7.73 for the ring.

Q. And about \$45 at Wal-Mart?

[43] A. Yes.

Q. And starting with the actual amount of the paycheck and subtracting those three purchases, how much total did you come up with, cash left over from Mr. Glossip's paycheck?

A. It was \$104.60.

Q. Now, did that calculation include a percentage for the check cashing company for their fee?

A. I don't know that it did. I didn't do the calculations on it.

Q. But you have the figures in the report, do you not?

A. Yes.

Q. And do the figures there that result in 104.60 remainder, do they include a fee for the check cashing?

A. No, they don't.

Q. And you said you thought that was 10 or 15 percent?

A. Ten.

Q. So a 10 percent fee of \$429.33 check would be \$42.93?

A. Right.

Q. So we're well south of a hundred dollars left over once we subtract that out?

A. That's correct.

Q. Was that the information that she furnished you that day?

A. Yes.

Q. Did you ask Ms. Woods, concerning Mr. Glossip's [44] finances, whether she had any information about a savings that he had managed to accumulate or a kitty or a nest egg that he had saved up over the months and years?

A. We asked her if she was aware of the fact that he was saving money and she said she wasn't. She said she lived from paycheck to paycheck and she didn't think he could save any money.

Q. Sir, one other subject that I wanted to ask you about was the personalities of Mr. Glossip and Mr. Sneed. We've seen today somewhere in the neighborhood of two and a half hours of videotape that were made while you were in the room with Mr. Glossip.

A. Yes.

Q. During that time do you feel like you got a fair opportunity to observe his intelligence, the way he

handles himself, his personality, time to interact with him and to form opinions about his personality?

A. I have my opinions about him.

Q. Okay.

A. And the way he is.

Q. Okay. And now I'm going to ask you specifically about your opinion of his personality and I'm going to ask you a very detailed question about that in a minute. But I want to be very clear you understand. Do you feel like you were around him a sufficient period of time to form valid [45] opinions about the way he handles himself, his intelligence, maturity, things of that nature?

A. Well, I'm not a medical doctor and I don't have the qualifications to say specifically about a person's personality, and I'd never pretend to be that, but as a policeman you have to be able to size up individuals that you deal with on a day-to-day basis, especially in the homicide detail, and you have to be able to form opinions.

And you're not always correct in forming these opinions until you back it up with information, investigation, and things of that nature. But I feel like I was able to size this individual up.

Q. Okay. And did you go through the same process with Mr. Sneed?

A. Yes, I did.

Q. Did you spend hours in the same room sitting across the table from him?

A. I didn't spend hours. I spent an hour with him.

Q. One hour?

A. Yeah, that's all I spent with Mr. Sneed.

Q. Do you feel like that was enough time to gather similar information about Mr. Sneed, what kind of fella is he, what's his maturity, what does his intelligence appear to be, things of that nature?

A. Well, again, I form my own opinions and I was just [46] reflecting on how I based those opinions.

Q. And make no mistake about it, sir, we're certainly not offering you to the jury as a psychologist or a psychiatrist and I'm not going to ask you to make any opinions about mental disease or defect or any of those kind of things.

I know that you didn't administer any IQ tests or show anyone any ink blots or anything like that. That's why I use the term, "personality." Are we on the same page there, do you think?

A. I hope.

Q. Now, based on your observation and interaction with Richard Glossip, would you please briefly tell the jury the opinions you formed about his intelligence, maturity, and sophistication based on all your dealings with him.

A. I think that Richard Glossip is a very intelligent individual. He's a very manipulative individual. And he's mature enough to—that's what he does with everything that he does is he's manipulating, using people.

Q. Now, Mr. Glossip is quite a few years older than Mr. Sneed, is he not?

A. That's correct.

Q. What kind—what was your opinion of the intelligence, just the intelligence of Justin Sneed?

A. I didn't think that Justin at the time that we interviewed him and brought him in was very mature or he was [47] below average in intelligence.

Q. Now, I noted during the videotaped session with Mr. Glossip that he appeared very animated, he used his hands a lot. He was very aggressive in supporting his positions at times, specifically when Sergeant Tim Brown was brought into the first interview, he was very direct and forceful with the officer. Do you think that's a fair characterization of how he handled himself at that time?

A. Yes.

Q. Did Justin Sneed exhibit any behavior of that sort where he's stridently, confidently speaking out for himself and taking care of business with you and the other officers?

A. No. Justin had none of those qualities. As a matter of fact, he was kind of a pitiful person. You know—I mean, he was kind of an individual that you felt sorry for.

Q. Mr. Glossip was the manager of a motel and had been a manager of motels for at least six years. Is that the information he furnished you?

A. That was my understanding.

Q. Mr. Sneed was the housekeeping/maintenance guy at a motel for six months or so since he'd quit roofing. Was that your information about Mr. Sneed?

A. Yes.

Q. Sir, based on your observation of these two men and the experience and people sense, if you will, that you've gained [48] in the 30 years you were an Oklahoma

City Police officer, which of these two people appeared to be the more aggressive and intelligent of the two?

A. The Defendant, Richard Glossip.

MR. ACKLEY: Pass the witness, Your Honor.

THE COURT: I'm going to ask counsel to take up the transcripts from the jury and give them an opportunity to stand for a couple of minutes.

I thought we'd work about 10 more minutes and then take a break. Is that okay? Does anybody need me to go ahead and break now? Are we okay for 10 more minutes? Okay. Well, then let's do that.

Please proceed, sir.

CROSS-EXAMINATION

BY MR. WOODYARD:

Q. Good afternoon.

A. Good afternoon.

Q. Detective Bemo, when did you retire?

A. I retired June the 23rd of 2000.

Q. So it would be approximately three years after your investigation in this case?

A. Yes, sir.

Q. And at the time you retired, you had about 31 and a half years as a police officer?

A. Yes.

[49] Q. And can you tell us again how much of that time was as an investigator or a detective?

A. As a detective—

Q. Yes.

A. —I was 21 years in the detective bureau.

Q. Are police officers or detectives required to take certain training in their various positions?

A. Yes, sir.

Q. And you took some courses, I believe, in regard to interrogation, interrogation techniques and things of that nature?

A. Yes, sir.

Q. And I won't ask for an exact number, but can you give us just a general figure on how many people you've interrogated in this 31 and a half years?

A. Oh, my goodness. No, I couldn't even begin to imagine.

Q. Thousands?

A. I would say thousands.

Q. There are a number of ways to ask questions of people that you are interviewing. Isn't that a fair statement?

A. Yes, sir.

Q. If you truly want to know what a person knows without guidance from the interrogator, you can ask a question like tell us what happened, something like that; isn't that correct?

[50] A. Uh-huh.

Q. And if you're looking for like a yes or no answer, you can direct somebody by saying, Did you see the red car, and they can answer that yes or no?

A. Yes.

Q. And there are other ways to render your feelings available to the person you're interviewing. Isn't that also correct?

A. Are you saying render my feelings to them?

Q. Yes.

A. Yes.

Q. In fact, an interview process in the police station is an intimidating process, isn't it?

A. I suppose it is.

Q. You've been on the questioning end. I assume you've never been on the questioned end?

A. That's correct.

Q. And, well, I've got to know you in the last couple days as a gentle man. You are a pretty good-sized fellow and have kind of a deep voice. You can kind of intimidate some people. Would you agree?

A. I've been told that, yes.

Q. And at times during your interview with Mr. Glossip you indicated you had to kind of get gruff or harsh with him or something like that?

* * *

[83] any particular surprise or pertinence to you?

A. No.

Q. Did not Mr. Glossip tell you in his statement that he took that very money that night—or that he made it available to Mr. Van Treese and that Mr. Van Treese sat down at a desk with an adding machine and worked over the figures and the documents and so forth?

A. Yes, he did.

Q. Are you suggesting to the jury—regarding Mr. Van Treese's wallet, the one that you obtained his driver's license from, are you suggesting to the jury that that item was not processed to see if there were fingerprints on it?

A. Yes.

Q. You don't think it was processed?

A. I don't know.

Q. Okay. It might well have been?

A. It could have been.

Q. Sergeant Fiely was charged with the responsibility of processing everything in that room that was appropriate, was he not?

A. That's true.

Q. Let's talk briefly about interviewing suspects and witnesses and let's start with the decisions that were made out at the Best Budget Inn in the wee hours of January the [84] 8th, 1997. I believe you testified that John Prittie was interviewed a little bit after midnight and that there were other witnesses that were interviewed and then you went downtown and interviewed Mr. Glossip?

A. Yes, sir.

Q. Counsel asked you specifically if you asked him whether he was tired or not?

A. I don't remember if I did or not.

Q. Okay. Were you?

A. Yes.

Q. Would you have preferred a more convenient time to be called out on a homicide investigation?

A. Yes, I would have.

Q. And would you have found it personally more preferably and more pleasing to interview suspects or witnesses at 8:00 a.m. right after you had breakfast and coffee and a good night's sleep?

A. Yes, sir.

Q. Is that how you do your work when you're a homicide detective?

A. No. We—they do interviews at all hours of the evening and depending on how many hours you work, I mean, you know, everybody was tired.

Q. Now, you've heard Mr. Glossip describe his usual working schedule to you. Do you recall that portion of his [85] statements?

A. Yes.

Q. He said that usually he went to bed about 2 or 3:00 a.m. and slept until 8:30, got up and let Ms. Hooper into the office, then returned to bed, often had difficulty returning to sleep but once he did get back to sleep stayed in bed until 1:30 or so?

A. Yes.

Q. Is that pretty much what he told you?

A. That's what he said on that day.

Q. So in terms of 3:00 or 3:15 a.m. when your interview started with Mr. Glossip on January the 8th, it would have been a lot closer—it would have been a lot further past your bedtime, would it not, than it would have been past Mr. Glossip's bedtime?

A. Yes.

Q. Did Mr. Glossip frequently complain about fatigue, hunger, or thirst during that interview?

A. Yes.

Q. Frequently?

A. Not frequently, but he'd keep mentioning how tired he was and all that.

Q. He mentioned it a couple of times, did he not—

A. Yes.

Q. —something like that?

[86] Do you dispute two or so, as a fair count of the times he mentioned it?

A. Probably is two.

Q. In a two-plus hour interview?

A. Sure.

Q. Some creature comforts were furnished to him, were they not?

A. As good as we could make it.

Q. I know you shared your cigarettes with him?

A. My whole pack.

Q. There was a lengthy break in the middle of State's Exhibit No. 1, the videotape, was there not?

A. Yes, sir.

Q. Several minutes?

A. Yes.

Q. Based on everything you saw during that interview and everything you know about police work, do you

think that the circumstances of the interview, especially fatigue of Mr. Glossip, overbore his free will and forced him to make a statement to you when, in fact, he preferred to remain silent?

A. No.

Q. What is the goal of a police interrogation?

A. To get at the truth.

Q. When you interview suspects, are all of them eager to [87] tell you the truth?

A. No.

Q. Do you recall the portion of your interview with Mr. Glossip where you specifically mentioned to him that part of your job was to find innocent people and to make sure that innocent people weren't blamed for crimes?

A. Yes, sir.

Q. You told him that at least once, didn't you?

A. Yes, sir.

Q. Counsel asked you—Mr. Woodyard—during his questions, about you referring to your behavior at times to Mr. Glossip as harsh. And I think you also used the word, "gruff"?

A. Yes.

Q. In fact, was there ever any kind of physical contact of any sort or physical intimidation that you applied towards Mr. Glossip?

A. Absolutely not.

Q. And did you ever threaten him in any way?

A. No, I did not.

Q. It appeared at times—we all watched the video with you today. It appeared at times you became cross or ill-tempered or gruff. Is that a fair characterization of your behavior at times?

A. Yes, sir.

* * *

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CASE NO. CF-97-244

THE STATE OF OKLAHOMA, *Plaintiff,*
v.

RICHARD EUGENE GLOSSIP, *Defendant.*

REPORTED BY:
THERESA L. REEL, RPR
321 PARK AVENUE, SUITE 201
OKLAHOMA CITY, OK 73102
VOLUME 15 of 17

Filed March 23, 2005
BEFORE THE HONORABLE
TWYLA MASON GRAY, DISTRICT JUDGE.

**TRANSCRIPT OF PROCEEDINGS,
JURY TRIAL,
HAD ON JUNE 1, 2004**

* * *

[14] time to settle instructions?

MS. SMOTHERMON: I don't believe so. Your Honor.

MR. WOODYARD: I don't think so either, Judge. There were a couple we wanted to discuss.

THE COURT: So are you all prepared to close and instruct today?

MS. SMOTHERMON: Yes.

MR. LYMAN: Yes.

THE COURT: Okay. All right. Well, let's get on with it.

MR. WOODYARD: We will have, of course, a demurrer at the close of the State's case. Did you want to do that at this time?

THE COURT: Well, I really think we ought to finish with the testimony and then I'll let you approach the bench.

Would you bring the jury in, please.

Do you wish me to present the stipulation prior to your testimony or after?

MS. SMOTHERMON: I believe prior, Your Honor. (Thereupon, with all counsel, the Defendant and the jury present, the following was had in open court.)

THE COURT: Good morning. We worked late Friday and we've done some work this morning while we were waiting for the Defendant to be brought over. He was accidentally [15] left behind when the bus came over this morning. And we think that there is a possibility that we can argue and instruct today, which would put you out deliberating some time this afternoon and possibly into this evening.

Now, I'm asking you now to tell me whether there's anything going on that would interfere with your deliberating until a verdict is reached. If you have something going on tonight that you've got to be at, I'm sure you can understand that we don't want anybody to feel

pressured. There can be no rush to judgment. So if you need to wait and make phone calls, if you'll let me know now, then I'll know it's still up in the air.

Does anybody have anything going on that would prevent you from working on this tonight? Okay. Well, one person looks glum and one person has raised their hand.

So Ms. Deselle?

JUROR DESELLE: I just need to let my mother know to get my kids.

THE COURT: Okay. And you can make some arrangements?

JUROR DESELLE: Yes.

THE COURT: Okay. All right. Mr. Vobornik?

JUROR VOBORNIK: We're open every day so there's not going to be a day I wouldn't—I just need to call them and say today is the day I won't be able to go in if that's **[16]** the case.

THE COURT: Okay. Do you usually go in in the evening?

JUROR VOBORNIK: Well, I do during the trial.

THE COURT: During the trial, I guess you're just there every minute we're not in trial. So is this as good as any other day for you?

JUROR VOBORNIK: May as well be today.

THE COURT: Okay. All right. Well, then what I'm going to do is let you guys make phone calls when we break and then if there's something urgent, something

in particular that comes up, if you'll let me know. Okay? All right.

We're going to begin this morning by my reading to you a stipulation between the parties. The stipulation is that on June the 9th of 1998, the Defendant was under oath and answered some questions as follows:

“QUESTION: Isn't it true on January the 6th of 1997 your paycheck was short because you had to have cash advances against your paycheck?

“ANSWER: Yeah. I do that because I hide the money from D-Anna and then when I get my check it's not as much so she can just go out and blow it.

“QUESTION: And isn't it true that you got no bonuses in November and December of 1996.

[17] “ANSWER: I can't recall. I don't think I did in December.

“QUESTION: Isn't it true that your January the 5th, 1997, paycheck was only a little over \$400 instead of your usual 640?

“ANSWER: Yes, because I had withdrawn some money.

“QUESTION: Isn't it true on January the 8th you spent your entire paycheck except for approximately \$120 on the engagement ring and the glasses for yourself?

“ANSWER: No, I spent roughly \$285 that day.

“QUESTION: And isn't it true when you were arrested that you had \$1,700 in your possession?

“ANSWER: Yes, ma'am.

“QUESTION: Isn’t it true that you began to sell your possessions the day after you were questioned or released by police?

“ANSWER: Yes, ma’am.

“QUESTION: Isn’t it true that you only got \$130 for your television set, your futon, and your stereo cabinet.

“ANSWER: No, ma’am.

“QUESTION: How much did you get?

“ANSWER: I got 190 for the TV and the futon. I got, like I said, \$200 for my vending machines, then the money I got out of the vending machines. Then I sold an aquarium to Cliff Everhart for \$100.”

[18] And I believe that that contains the entire stipulation between the parties. Am I correct?

MS. SMOTHERMON: That’s correct. Your Honor.

THE COURT: And for the Defendant; is that correct?

MR. LYMAN: Yes, Your Honor.

THE COURT: Thank you.

The State has asked to recall a witness.

And you may do so at this time.

MS. SMOTHERMON: Thank you, Your Honor.

The State recalls Kenneth Van Treese.

THE COURT: Mr. Van Treese, you have been previously sworn in this case and you continue to testify under that oath. Please be seated.

KENNETH VAN TREESE,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SMOTHERMON:

Q. Mr. Van Treese, just to remind the jury, you are the brother of Barry Van Treese; is that correct?

A. That is correct.

Q. And you are the person who testified that you had the power of attorney given to you, you took over the operations of the motel after Barry was killed, had Bill Sunday come in along with Jim Gainey to do the day-to-day operations; is [19] that correct?

A. That's correct.

Q. And that you had done an inventory and had them conduct an inventory of the premises?

A. That's correct.

Q. And of the bookkeeping; is that correct?

A. Yes, ma'am.

Q. All right. Now, you have been sitting in here and watching and listening to the testimony; is that correct?

A. Yes, ma'am.

Q. Including when we ended Friday with Detective Bemo. Were you in here then?

A. Yes, ma'am.

Q. And you heard the cross-examination where, I believe, accusations were being made that Justin Sneed had never mentioned the hacksaw or the plexiglass or

what happened to that when they first interviewed him. Do you remember that?

A. I recall that, yes.

Q. And you recall Justin Sneed's testimony that he put those items in room 112?

A. Yes, ma'am.

Q. Okay. Now, you've testified before, right?

A. Yes, ma'am.

Q. And we had you on the stand for a while?

A. Yes, ma'am.

* * *

[68] climbing up on roofs in Oklahoma in July, satisfied and contented with that humble life, do you really think he did this alone? What reason above and beyond the reasons of Richard Glossip did Justin Sneed have to kill Barry Van Treese? Did he do it for \$10,000? Was that his only reason? He didn't even argue with Mr. Glossip, according to the testimony, when he was offered a fifth of that.

You know, in the movies when criminals argue over the loot somebody else gets killed during the argument. That's not what happened in this case, according to the evidence. According to the evidence, he said, Well—you know, he just meekly took what he was given, somewhere in the neighborhood of \$2,000 and rode off on his skateboard later on that day.

He didn't even have a bed, the testimony has established, he was able—he knew one other person in Oklahoma City besides the people in the motel group and that was Mr. Brassfield and the guys that came up from Texas to do roofing work in Oklahoma. And he was able

to find them and go back to work as a laborer with them and able to get one or two drawers to keep his things, which must have been plenty of storage space, and a sofa to sleep on at night after he got through roofing.

So where did Justin Sneed come out on this deal? How did it help him out? He'd been contented. He'd walked

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[73] evidence establishes this—that's going to follow Justin Sneed, 19 years of age, 8th grade education, when it comes to a homicide. And I suggest to you that there's no reasonable doubt, based on the evidence and the instructions, that Mr. Glossip participated willingly in this homicide and was the leader, the decision maker and the planner in it.

If you'll forgive my bad manners, it's as if Justin Sneed was a Rottweiler puppy, let's say 11 months old, and Richard Glossip was the dog trainer. You can sure sick a dog on somebody, but if you're going to do that and you send a dog that's not trained or is a little bit too young, he might trip and fall, he might get scared and run away, he might do something stupid, he might not do a good job. But no matter how you slice it, no matter how you parse it, the person that says "sick 'em" is the person that makes the decision.

And under the evidence that you've heard in this case and under the instructions the judge has given you, you know now that it was Mr. Glossip that sicked Justin Sneed on Barry Van Treese. And, unfortunately, despite his youth, despite his lack of sophistication, and despite his inexperience, he did a fairly credible job of it. The proofs in the pudding.

And although they got caught right away and

* * *

[92] it for credibility.

When Justin Sneed fled on his skateboard the afternoon of January 7th, 1997, without a place to lay his head with the intention to go nearby and hide under a bridge on Reno Avenue, he told you that he did that because Richard Glossip told him to. I suggest to you that under the facts, is there any other reason why a guy that was content to play a little Nintendo, clean a few rooms, stay down off those 105 degree roofs in Oklahoma, not paid much, not putting out much effort, kind of a casual take it as it comes kind of life that a 19-year-old might see some merit in?

Do you realize that when he took off on his skateboard that afternoon he left what little he had left. All he took with him were some clothes, his Dickie jacket, his skateboard and his Crown Royal bag with his paraphernalia and his blood money in it. And he still had, what was it, \$1,680 a week later when he was arrested? If he could even bring himself to spend any of it, he didn't spend much, did he?

And we know also from his testimony that he had gotten a partial paycheck for roofing after he left the motel. Could he even bring himself to buy a 12-year-old used pickup with that 1,800 bucks? 1,700 bucks? What joy did he find in it? It doesn't make sense to put all this on [93] Justin Sneed.

There's other circumstances that corroborate, the fact, the contention by the State and the testimony by Justin Sneed that Richard Glossip took part in this crime and helped plan and carry it out.

Let's talk about money for a second. You know from the evidence that Richard Glossip had been paid,

and although he earned quite a bit more, what he actually netted was about 429 bucks, \$430, let's say. You know from his statements and from the testimony of Donna Woods (sic) and the statements the judge allowed you to hear that she couldn't remember was that he had about \$66 left over after they went shopping including the check cashing fee of 10 percent.

According to the statement of the Defendant that the judge read out loud to you this morning, he sold his furniture for about \$490 and then he got an undetermined amount, an unstated amount from his vending machines. When you add all that together, you come up with about \$550. Yet when Mr. Glossip was arrested on January the 9th or 10th, a day or two later, he had \$1,757 cash on him.

Folks, that's about \$1,200 that can't be explained other than the offered explanation that they came from the out of the vending machines or some from other source.

Folks, that's a lot of candy bars. That's, what, [94] \$1,200 or so? You know that he didn't get that in quarters, nickels, and dimes out of a vending machine. And you have a ready explanation for his source of almost \$2,000. That's his half of almost \$4,000 that was taken at the pain of the life of Barry Van Treese.

The fact that he chose to offer that unfounded, contradictory and ill-advised excuse for why he had so much money on him is another piece of evidence that corroborates his involvement in the killing.

Another piece of corroboration is this study that you've heard, this conversation you've heard about the comparison of the personalities of these two men, Justin Sneed and Richard Glossip. You've heard from people

that knew them and people that spent a lot of time with them that Richard Glossip was the boss and that he gave instructions to Justin Sneed, that Justin Sneed was the kind of guy that needed to be told what to do.

You saw from the videotape that Mr. Glossip seemed very confident and very assertive. And a remarkable piece of tape was shown there when he was denying that he contradicted himself three times in statements to Tim Brown on the afternoon of January the 7th. Do you recall that specific section? He said, "Well, I sure would like to see him because that's not what I said."

And Detective Bemo said, "Well, we'll just do

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[151] that box. It is my job as a District Attorney in the State of Oklahoma and my duty to the family of Barry Van Treese to speak to you and I'm just asking you to pay attention for 30 more minutes, then I promise, as hard as it will be, after seven years of hanging onto this for us, we'll give him to you, I promise. Don't put him in the box yet. Let's talk about why he doesn't exist anymore.

You know, why would Sneed do this by himself? I mean, why? He's got an okay life. The only possible reason that they can even suggest to you that he would even do it by himself is because, well, you know, he's a druggie. He needed some drug money. Why? He was getting it. He was bumming it off of people. He didn't use it that often, but he kind of like liked it when it was there. Why would he need that much money?

But you know what? If everything they tell you is true, if Justin Sneed needed some money, then take the baseball bat, break out the window of the car, and

take it. It doesn't make any sense. It is nonsense that Justin Sneed would act alone. Nonsense.

But for Richard Glossip, Justin Sneed would never have killed Barry Van Treese. And you heard that. You heard that the only motive that you have here for the death of Barry Van Treese is Richard Glossip's. You have Billye Hooper telling you, "I know things need to be taken

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