

EXHIBIT A

98-1767

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,)	
)	
Plaintiff,)	
)	
vs.)	NO: CR-57526
)	
ROBERT JONES,)	
)	
Defendant.)	

BEFORE: HON. JOHN S. LEONARDO
Division 10
Pima County Superior Court

APPEARANCES:

FOR THE STATE: DAVID WHITE
Deputy County Attorney

FOR THE DEFENDANT: DAVID P. BRAUN
ERIC A. LARSEN

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL -- DAY FIVE

June 24, 1998

REPORTED BY:

TONI HENSON
Official Court Reporter
Division Ten
Pima County Superior Court

PROSECUTION

DEC 1 1998

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25

1 REBECCA MATTHEWS,
2 having been first duly sworn to state the truth, was
3 examined and testified as follows:
4

5 DIRECT EXAMINATION

6 BY MR. WHITE:

7 Q. Ma'am, will you tell the jury your name and
8 spell the last name for the court reporter, please.

9 A. My name is Rebecca Matthews, and that's
10 M-a-t-t-h-e-w-s.

11 Q. What is your occupation, please, ma'am?

12 A. I am a parole supervisor with the Arizona
13 Department of Corrections.

14 Q. How long have you worked for the Arizona
15 Department of Corrections as a parole officer and
16 supervisor?

17 A. Since '93.

18 Q. Okay. And what are your duties as a parole
19 supervisor?

20 A. I supervise the parole officers, who then
21 in turn supervise the offenders.

22 Q. Now, are you familiar with something called
23 the home arrest system?

24 A. Yes.

25 Q. Tell the jury what the home arrest system

1 is, please.

2 A. The home arrest electric monitoring system
3 is a system whereby when the offender is released, an
4 ankle monitor, a bracelet, is put on his ankle, and it
5 transmits signals that are then received by a unit
6 that's in the home.

7 When the offender gets out of range of the
8 unit that's at home, then it records that the offender
9 left or not, or when he comes back.

10 Q. Now, is that system hooked up to the
11 telephone? I mean, how does the Parole Department find
12 out that the parolee has left?

13 A. Right.

14 MR. LARSEN: I'm going to object. We went
15 over all this yesterday.

16 THE COURT: Sustained.

17 MR. WHITE: Well, let me ask some
18 questions -- actually, this is a foundational question,
19 I guess, Judge.

20 BY MR. WHITE:

21 Q. Is it hooked up to a telephone?

22 A. The FMD, yes, sir.

23 Q. Does it matter what kind of phone is used
24 at the parolee's home?

25 A. It will record regardless of what type of

1 phone is used.

2 Q. When you say it will record, what do you
3 mean?

4 A. The accuracy of the monitoring would not
5 matter.

6 Q. What difference, then, would it make what
7 type of phone was used?

8 A. If you were to use a cordless telephone,
9 cordless telephones have a tendency to pick up static,
10 and when the backup computer system in Phoenix would be
11 calling the home system, it may get a busy signal.

12 Q. Okay.

13 A. However, it wouldn't affect the actual
14 monitoring because the FMD still monitors what's going
15 on, records it, and it calls the computer in Phoenix.

16 Q. So there is still a record of what happens
17 with the parolee?

18 A. Yes.

19 Q. Even if we're talking about a portable
20 phone?

21 A. Yes.

22 Q. By portable phone, I don't mean a cellular
23 phone that you take in your car and drive all over the
24 state. I mean the kind of phone that plugs into the
25 wall and then the handset you can carry around the

1 house.

2 A. Right.

3 Q. Is that the kind you're talking about?

4 A. Yes.

5 Q. If you disconnect, unplug the FMD from the
6 power source at the house, will that prevent the FMD
7 from telling the computer in Phoenix if the parolee
8 leaves?

9 MR. LARSEN: Same objection, Judge. This
10 is all cumulative.

11 THE COURT: It is. Sustained.

12 Q. Now, are you familiar with or are you aware
13 of a parolee named David Nordstrom?

14 A. Yes, I am.

15 Q. In fact, did you have some contact with Mr.
16 Nordstrom while he was on parole?

17 A. Yes, I did.

18 Q. And why would you have contact with him?

19 A. As the supervisor, if an offender is not
20 following their program exactly, or if I have some
21 questions or if the parole supervisor has some
22 questions, or even if the offender wants to see me as
23 the supervisor, then they come into my office.

24 Q. And at some point when Mr. Nordstrom was on
25 parole you had contact with him?

1 A. I think two or three times.

2 Q. Now, were you asked to conduct a system of
3 the electronic monitoring device at David Nordstrom's
4 house?

5 A. I was asked to conduct a system testing,
6 yes, sir.

7 Q. Okay. And when were you asked to do that,
8 approximately?

9 A. It was in the fall.

10 Q. Of what year, so that we're clear?

11 A. '97.

12 Q. Okay. So we're clear, Mr. Nordstrom was on
13 parole in '96?

14 A. Yes.

15 Q. Now, what were you asked to do?

16 MR. LARSEN: Objection to the relevancy.

17 Fall '97.

18 THE COURT: Overruled.

19 Q. Let me ask you a couple more questions
20 along that line.

21 Were you asked to test the exact same type
22 of field monitoring device that Mr. Nordstrom wore?

23 A. Yes.

24 Q. Exact same type of ankle bracelet?

25 A. Yes.

1 Q. Do you know whether it was exactly the same
2 bracelet that he wore?

3 A. No, I don't know that.

4 Q. Is there any difference between the kinds
5 of bracelets used by the parole office at that time?

6 A. No. They were all the same unit.

7 Q. So what -- describe the test for us. What
8 were you asked to do from start to finish?

9 A. Well, basically I was asked to install the
10 monitoring device system, the FMD recorder, in David
11 Nordstrom's home. I was asked to put an ankle bracelet
12 onto a person, which happened to be Detective
13 Woolridge.

14 Q. Okay. This lady right here? (Indicating.)

15 A. Yes.

16 Q. Okay.

17 A. And I did put that on her ankle. We went
18 to the Nordstroms'. I plugged in the equipment. I
19 made sure that it was on line and working, and then the
20 detective left the house.

21 And I recorded when she left and then we
22 compared that to the printout to the equipment to show
23 that it was recording the exact same. And then later
24 that evening, we went back and conducted a similar test
25 whereby she would leave and come back and then we

1 compared them to my watch and what the computer had to
2 say.

3 Q. All right. May I approach, Your Honor?

4 THE COURT: Yes.

5 Q. And then after that, did you get a printout
6 of what the machine produced during the test with
7 Detective Woolridge?

8 A. Yes, I did.

9 Q. I'm showing you State's 52. Do you
10 recognize that document?

11 A. Yes.

12 Q. Is that a copy of the printout?

13 A. It appears so, yes.

14 Q. Does it appear to be in about the same
15 condition as when you got it the day after the test?

16 A. Yes.

17 MR. WHITE: Move the admission of 52.

18 MR. LARSEN: Objection to the relevance.

19 THE COURT: Yes. If counsel would
20 approach, please.

21 (Whereupon, the following proceedings were
22 held at the bench, out of the hearing of the jury:)

23 THE COURT: I'm just concerned more about
24 the foundation that was laid. You said it was the same
25 type of bracelet. I assume you are trying to test the

1 system as closely as possible to what was on David
2 Nordstrom during the period of time in question.

3 MR. WHITE: Yes.

4 THE COURT: She didn't testify as to
5 whether it was the same phone. That, to me, is the
6 missing link.

7 MR. WHITE: Terri Nordstrom is going to
8 testify. I'll avow she will testify it's the same
9 phone.

10 MR. LARSEN: The State's not calling Terri
11 Nordstrom.

12 MR. WHITE: You're going to call her.

13 MR. LARSEN: Probably. Maybe not now.
14 Actually, I will be calling her.

15 THE COURT: Well, I'll conditionally allow
16 this whole line of questioning as well as the admission
17 of 52, conditional upon that answer.

18 MR. WHITE: I understand.

19 THE COURT: And assuming also that during
20 the course of the rest of this testimony, she
21 establishes that the testing she did was as close as
22 she could to the situation that was in place.

23 MR. WHITE: I'll probably do that with
24 another witness. Detective Woolridge will testify it
25 was the same time of night as the Fire Hall, that kind

1 of thing.

2 THE COURT: All right.

3 MR. LARSEN: I guess I have a continuing
4 objection to one day, 18 months later, not having any
5 relevance to the time period in question.

6 THE COURT: That's why the Court is
7 insisting on foundation.

8 (Whereupon, the bench conference was
9 concluded.)

10 THE COURT: Exhibit 52 is admitted over
11 objection.

12 BY MR. WHITE:

13 Q. Just so we're clear, Ms. Matthews, let's
14 say the parolee has a black telephone made by, you
15 know, GE, and the test you operated on was a phone made
16 by Mountain Bell.

17 Could that make a difference in the way the
18 system operated?

19 MR. LARSEN: I guess I have an objection to
20 the foundation of this witness having that technical
21 expertise.

22 THE COURT: Well, she is offered as an
23 expert in the use of this device, and if the witness is
24 able to answer that question, she may. If she is
25 unable, she should so state.

1 BY MR. WHITE:

2 Q. The question is, in other words, does it
3 make a difference in testing the equipment if you use a
4 different phone?

5 A. No. It doesn't make a difference in
6 testing it, other than a cheaper phone may pick up some
7 static and you may get some more busy signals when the
8 computer in Phoenix is calling the home unit. But it
9 absolutely will not make any difference when the
10 computer in the home is calling the unit in Phoenix.

11 Q. And so I'm clear, is that the FMD, the
12 computer in the home?

13 A. Yes. Field monitor device.

14 Q. And when does it call the computer in
15 Phoenix?

16 A. It calls the computer in Phoenix whenever
17 the offender has left, when the offender comes home or
18 when the offender is not home and should be.

19 Q. When he is violating curfew?

20 A. Yes.

21 Q. So if it's a cheap phone and the computer
22 calls the FMD, there may be a busy signal.

23 A. Right. And the reason why the computer in
24 Phoenix calls the FMD is the back-up system. That's
25 not the primary system. That's the back-up system.

1 Q. Explain the back-up system for us so we
2 know what you're talking about.

3 A. It's a fail-proof system whereby the FMD
4 calls and gives all the information to the big computer
5 in Phoenix and then it's recorded as it actually
6 occurs.

7 The back-up system is when the computer in
8 Phoenix calls the system at home just randomly to say,
9 are you still plugged in? Is everything working okay?
10 I haven't heard from you for a while.

11 Q. Just to check on the status of the
12 equipment?

13 A. Right. Just a back-up system.

14 Q. So if it's a cheap phone, static, that kind
15 of thing, that may get in the way of the computer
16 calling the system at home?

17 A. Yes. That might cause more busy signals.

18 Q. But it won't affect it getting through, it
19 will just cause busy signals?

20 A. Well, it won't get through if it gets a
21 busy signal.

22 Q. Right, but it does not keep the computer
23 from calling the home phone totally, does it?

24 A. No, it does not.

25 MR. WHITE: With that understanding, Judge,

1 what I'd like to do is I have made copies of 52 that
2 I'd like to distribute to the Court and to the jury so
3 we can talk about it.

4 THE COURT: And is this similar to the
5 printout that the other gentleman from Parole testified
6 about?

7 MR. WHITE: No. This is a printout of the
8 test that the witness has already testified about.

9 THE COURT: All right. You may distribute
10 it for purposes of demonstrating her testimony.

11 Actually, it's exactly the same kind of
12 printout as the other gentleman testified about. This
13 relates to the test?

14 MR. WHITE: Yes, sir.

15 THE COURT: That was what I was trying to
16 get at.

17 MR. WHITE: Oh, I'm sorry.

18 THE COURT: Go ahead.

19 BY MR. WHITE:

20 Q. Ms. Matthews, what is this document called?
21 What are we looking at here, 52?

22 A. It's the last 99 messages report, and
23 apparently there's not 99 on here because we didn't
24 have 99 when we tested the equipment.

25 Q. Okay.

1 A. But this is the home arrest computer
2 generated message report.

3 Q. And does this show when the ankle monitor
4 was put on Detective Woolridge?

5 A. Yes.

6 Q. Where does it show that?

7 A. If you look to the left, it says client
8 number, 213167. That was the number of the equipment
9 that I assigned to Detective Woolridge.

10 And then where it says new client, that's
11 in fact whenever I turned the equipment on and that it
12 was at 12:06 on 10-07-97.

13 Q. Okay. And then what is -- is that message
14 date, 10-07-97? See the column?

15 A. Yes. Yes.

16 Q. Then the next column, received time zone.
17 What is that?

18 A. Okay. The one on the left, the first
19 message time zone is when the event occurred. The
20 preceding time zone is when the computer in Phoenix
21 received the message.

22 Q. Now, where was the bracelet strapped on
23 Detective Woolridge, at the Nordstrom home or at your
24 office?

25 A. At my office.

1 Q. Did you then go to the Nordstrom home with
2 Detective Woolridge?

3 A. Yes.

4 Q. And that's when you plugged in the
5 equipment?

6 A. Yes.

7 Q. Is that on here somewhere?

8 A. Yes. It says hello. That's whenever I
9 plugged in the equipment.

10 Q. Where is that on the message column?

11 A. That's the third one down, 12:57.

12 Q. Now, what are the next two entries there,
13 FMD connect, power gain and power loss? Tell us about
14 that.

15 A. The FMD connect shows, it actually records
16 the time that I plugged the equipment into the
17 electrical phone outlet.

18 Q. Okay.

19 A. And then the power gain, it actually
20 records the exact time that I also plugged it into the
21 electrical outlet.

22 Q. Okay. And what's the power loss, then?

23 A. Okay. The power loss is when I unplugged
24 it.

25 Q. So you actually unplugged it there at the

1 Nordstrom home?

2 A. Yes, I did.

3 Q. As if you were going to, you could take the
4 FMD with you?

5 A. Yes.

6 Q. And it recorded it?

7 A. If I were to attempt to do that, yes, it
8 records it, every time it's plugged in or unplugged.

9 Q. Okay. And then what's the LOC fail.
10 What's that?

11 A. Okay. That's the location fail. That's
12 whenever the computer in Phoenix calls to say something
13 has happened, that I'm not getting a good readout on
14 you, and that's in fact because I had unplugged it.

15 Q. So you unplugged it and it recorded when
16 you unplugged it?

17 A. Yes, the location failure.

18 Q. Because the computer called right to the
19 home.

20 A. Right.

21 Q. And, then, what's the next entry, call
22 back. What does that mean?

23 A. Okay. That's a call back. That's the
24 computer in Phoenix calling just a second time, just to
25 check the fail-proof -- what happened the first time,

1 there was a LOC failed, and it will call back again.

2 Q. And then these next five or six entries,
3 are you testing the machine there at the Nordstrom
4 home?

5 A. Yes.

6 Q. And does it show when you left, or more
7 appropriately, when Detective Woolridge left the home?

8 A. Well, first it shows that she entered.

9 Q. Where is that?

10 A. At 13:10. 1:10.

11 Q. To find that on a message column, where are
12 we looking for it?

13 A. Well, it's one, two, three -- the ninth one
14 down. You can see enter.

15 Q. And that shows where Detective Woolridge
16 walked into the house with the bracelet on?

17 A. Yes.

18 Q. And then these next items, is that where
19 you did some more testing of the machinery?

20 A. Yes.

21 Q. Does it show her leaving?

22 A. Yes. She finally left at 13:44.

23 Q. Okay. And that was consistent with the
24 time you noted when you were doing the testing?

25 A. Yes. And she did not leave the house

1 between the 13:10 and the 13:44 when I was unplugging
2 in all the equipment and plugging it back in.

3 Q. What's the next entry right below that?

4 See where it says call back at 17:52?

5 A. Yes.

6 Q. What's that?

7 A. The computer is set up to randomly call.

8 The FMD calls the computer in Phoenix and the computer
9 in Phoenix calls the FMD at home.

10 Q. Okay.

11 A. And that's one of those times when there
12 has just been a call back.

13 Q. Just a random call for the computer
14 checking on the equipment?

15 A. Right.

16 Q. Is that that back-up system you were
17 talking about?

18 A. Yes.

19 Q. Now, did you go back out later that night?

20 A. Yes.

21 Q. And did you make a note of when you went
22 out later that night?

23 A. Yes.

24 Q. Did you compare that to the printout when
25 you got the printout?

1 A. Yes.

2 Q. And does the printout indicate when
3 Detective Woolridge entered the home that night?

4 A. Yes.

5 Q. Where is that?

6 A. That's about three-quarters of the way
7 down. It would say, enter at 20:57 on the message time
8 zone.

9 Q. Okay. And what does that tell you? What
10 happened on that time?

11 A. That's when she entered the Nordstrom home
12 again.

13 Q. Okay. Now, did you do a series of tests
14 where Detective Woolridge would leave the home -- and
15 were you being assisted by Detective Salgado there?

16 A. Yes.

17 Q. Were you and he keeping track of when she
18 left and what time the monitors said she left, that
19 kind of thing?

20 A. Yes. We were basically the time keepers
21 and we had a notebook, and we were recording it so we
22 could later compare the time that we had recorded with
23 the time that the equipment recorded.

24 Q. What did you find after looking at the
25 times that you and Detective Salgado and the times that

1 the printout recorded?

2 A. We found that the time that we had recorded
3 and the time that the equipment had recorded were
4 virtually exact except within a few seconds that our
5 clock was off from the clock in the computer. But
6 those were consistent, just because of the difference
7 in our clocks.

8 Q. What is the last entry down there,
9 XMT TAMP. What is that?

10 A. That's a tamper, a transmitter tamper. And
11 Detective Woolridge cut the ankle bracelet off at that
12 exact time and the machine recorded it.

13 Q. Now, why did you have to cut it off? Why
14 can't you just slip it off?

15 A. It's not made to slip off. In fact, it's
16 made so it has to be cut off so the offenders can't
17 just pull it off and leave it lay and give a false
18 reading. It stays on the offender until it's cut off.

19 Q. And when it's cut off, do you always get
20 that signal that you got there?

21 A. Yes.

22 MR. WHITE: Thank you. That's all I have.

23 THE COURT: Cross-examination?

24 MR. LARSEN: Thank you, Your Honor.

25

1 CROSS-EXAMINATION

2 BY MR. LARSEN:

3 Q. Ms. Matthews, as I understand it, this is a
4 test you did over a few hour time span?

5 A. Yes.

6 Q. About 18 months after the time in question?

7 A. Well, we did it, like I said, in the fall.
8 It shows here that we did it October 7th of '97.

9 Q. So give or take a month or so, about 18
10 months after the time that we're talking about in this
11 trial, if we're talking May of '96?

12 A. Yes.

13 Q. And you're using equipment that may or may
14 not be the same equipment that was attached to Mr.
15 Nordstrom?

16 A. Correct. It would have been the same type,
17 but I don't know if it was the exact same number.

18 Q. Right. It could have been a different
19 unit?

20 A. Yes.

21 Q. For all you know, it could have been the
22 same unit?

23 A. Yes.

24 Q. You have no idea what it was?

25 A. Correct.

1 MR. LARSEN: Thanks, ma'am.

2 THE COURT: Redirect.

3

4 REDIRECT EXAMINATION

5 BY MR. WHITE:

6 Q. Were you working in the Parole Department
7 in May and June of 1996?

8 A. Yes.

9 Q. Were you a supervisor then?

10 A. Yes.

11 Q. Were you responsible for supervising
12 people, parole officers who supervised people on home
13 arrest?

14 A. Yes.

15 Q. Were you familiar with the type of
16 equipment they were using to do that?

17 A. Absolutely.

18 Q. The same type of equipment that you used to
19 conduct this test in October of '97?

20 A. The exact same equipment.

21 Q. Exactly the same kind?

22 A. Yes.

23 Q. The '97 test, did it involved upgraded
24 equipment or better equipment or anything like that?

25 A. No.

1 Q. Would this 18 months make a difference in
2 the test, in your opinion?

3 A. No.

4 MR. WHITE: Thanks. That's all I have.

5 THE COURT: Any reason this witness can't
6 be excused?

7 MR. LARSEN: No.

8 (Whereupon, the following proceedings were
9 held at the bench, out of the hearing of the jury:)

10 THE COURT: We have a couple of jury
11 questions. It's a little tough to read.

12 MR. LARSEN: If it gets a busy signal, does
13 it redial until it gets an answer? Good question.

14 THE COURT: Okay.

15 MR. WHITE: Another good question.

16 MR. LARSEN: Yes, and readable.

17 MR. WHITE: And the second one, the middle
18 one, prompted me to think of one. What if there's a
19 power failure like a power storm or something.

20 THE COURT: Well, as always, I'll give both
21 of you the opportunity to ask them to avoid confusion.

22 Can you make that out?

23 MR. LARSEN: Designated.

24 MR. WHITE: Those are all good questions.

25 MR. LARSEN: I'm having trouble reading

1 that one.

2 MR. WHITE: Okay. I agree to all of them.

3 (Whereupon, the bench conference was
4 concluded.)

5 THE COURT: Ms. Matthews, you win the award
6 for drawing the most questions from the jury so far.

7 (Laughter.)

8 There are a number of them and I will go
9 through them one at a time. The jurors write about
10 like I do, so it's a little difficult to read them.

11 If the computer gets a busy signal, does it
12 redial until it gets an answer? I assume they mean the
13 main computer.

14 THE WITNESS: Yes, it continues to redial
15 for up to -- can you hear me? I'm sorry.

16 I want to make sure that I understand the
17 question correctly.

18 If the master computer in Phoenix calls the
19 computer in the home and gets a busy signal, does it
20 continue to redial?

21 And the answer is, yes, the computer in
22 Phoenix will continue to redial, up to about four
23 times. Then it will create an alarm, and we have
24 someone sitting in our control center 24 hours a day,
25 and when they got that alarm, then a human would go to

1 the phone and try to call. And if they couldn't reach
2 them, then they would call a parole officer or beep the
3 parole officer.

4 THE COURT: Next question: Why is there
5 sometimes a delay of up to 10 minutes between the
6 message time and the message received in Phoenix, and
7 sometimes not that long?

8 THE WITNESS: There is a built-in delay,
9 and the built-in delay is because the offender may work
10 to one area of the house that has metal or it could be
11 a block wall, and it would normally show that the
12 offender left because the signals don't always go
13 through the metal or through the block walls.

14 So there's a slight grace period that's
15 built in. Anything beyond that slight grace period
16 would be when the computer in the home is trying to
17 call the computer in Phoenix and the computer in
18 Phoenix is busy.

19 So the computer at home keeps redialing
20 until it can give that message to Phoenix, but it
21 actually records what occurred, and that's why we see
22 the difference between the received time and the
23 message time.

24 THE COURT: What happens when the main
25 computer system on the home phone system goes down or

1 the home system goes down, either/or?

2 THE WITNESS: Well, if the main computer
3 system in Phoenix went down, the home unit would still
4 be working independently. It would still be recording
5 everything the offender does.

6 When the main computer in Phoenix came back
7 on line, then the home computer would dump all that
8 information for printout.

9 Now, the other question, I believe, is what
10 happens if the FMD at home goes out. The FMD at home
11 has a battery in it, and even if there's a power loss,
12 it continues to record everything that occurs. And
13 then it redumps it when it's plugged back in.

14 THE COURT: By redumping, you mean it
15 communicates all that to the main computer?

16 THE WITNESS: I'm sorry. Yes.

17 THE COURT: What is the fail rate for the
18 system?

19 THE WITNESS: You know, we don't have
20 any -- I don't have that knowledge to say exactly what
21 the fail rate system is.

22 When I went to a training on the FMD
23 system, basically we were told that it was like 99
24 percent accurate.

25 THE COURT: The other closely related

1 question is: Have there ever been times when an
2 offender tricked the system?

3 THE WITNESS: Not to my knowledge.

4 THE COURT: Is there a designated phone
5 line for the FMD unit?

6 THE WITNESS: For the home or the computer
7 in Phoenix? Or should I just cover them both?

8 THE COURT: I think you probably ought to
9 cover them both.

10 THE WITNESS: Yes. There is a definite
11 phone number in the home that the FMD is connected to.

12 Now, if I'm going too far here, just stop
13 me, Your Honor.

14 As far as a definite phone line, I don't
15 know if you're asking the question, does the phone have
16 phone has one phone number but there's like three lines
17 in the house that are connected, then that wouldn't
18 matter, because it's the same phone number.

19 If the question is, is there a definite
20 number that the big computer in Phoenix has, then, yes,
21 there is. There is a specific number that it's
22 connected to. In fact, there's more than one number in
23 case the line is busy. There's several numbers.

24 THE COURT: And are those numbers dedicated
25 simply to communication with these FMDs?

1 THE WITNESS: Yes.

2 THE COURT: What's the range of the
3 transmission?

4 THE WITNESS: The range of the transmission
5 can be changed. Generally speaking, it's about 100
6 yards, but it can be decreased.

7 Do you want me to say why it could be
8 decreased?

9 THE COURT: No.

10 THE WITNESS: Okay.

11 THE COURT: I'll give the attorneys a
12 chance for follow-up questions, so they may want to get
13 to that.

14 How do you know if and when the battery in
15 the transmitter fails, or can the battery be taken out
16 of the transmitter?

17 THE WITNESS: Somebody is familiar with
18 these.

19 Yes, there is a battery in the transmitter,
20 which is the ankle bracelet itself. And if the battery
21 in the transmitter dies, then it sends an alarm. Okay.
22 Then I would get an alarm on this printout sheet that
23 would say low battery.

24 Can the battery be changed? Yes, but only
25 by a parole officer who has the appropriate equipment

1 to take the monitoring off the ankle, install a new,
2 correct battery and reconnect it.

3 THE COURT: And if the battery is out, does
4 that mean that it cannot transmit, if the battery is
5 dead?

6 THE WITNESS: First of all, we get a low
7 battery signal and it continues to transmit during the
8 low battery signal period. If a parole officer got
9 that, they would change it immediately.

10 If they allowed it to progress until it
11 said dead battery, then, no, it would not record while
12 there was a dead battery, but it would show that the
13 offender was gone.

14 THE COURT: What is to keep the arrestee
15 from substituting another transmitter for his if he,
16 for instance, may have had contact with other felons
17 who also had similar devices?

18 Could they tamper with the transmitter and
19 have another transmitter work with his FMD?

20 THE WITNESS: No. The ankle transmitter
21 and the FMD are married, so to speak, onto one specific
22 computer number and line at the time it is put on the
23 offender. Therefore, it would not work if you tried to
24 use a different transmitter with the one FMD.

25 The other part of that question is, I think

1 it was what would prevent an offender from trying to
2 attempt to do that. The offender couldn't get it off
3 to trade it with somebody else unless they cut it off.
4 And if they cut it off, it would send the signal that
5 it had been tampered with and the parole officer would
6 know that something had occurred.

7 THE COURT: The final question is: Does
8 the FMD operate or call out in the event of a parole
9 violation if the telephone is busy or being used?

10 THE WITNESS: If the offender is not home
11 when he should be home -- let's say hypothetically
12 speaking, 5:00 o'clock in the evening.

13 He should be home at 5:00 o'clock in the
14 evening. He's not home and Mama is talking to Aunt
15 Irene on the phone.

16 The FMD will record at 5:00 o'clock that
17 the offender was not home. However, it cannot relate
18 that to the master computer in Phoenix until Mama gets
19 off the phone. So once Mama gets off the phone, it
20 will relate it, and then that would correspond with the
21 previous question as to why there is sometimes the
22 difference in the message time and the received time.

23 THE COURT: All right.

24 Mr. White, do you have any follow-up
25 questions?

1 MR. WHITE: I do. May I approach, briefly?

2 THE COURT: Yes, you may.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MR. WHITE:

6 Q. How about if there's like a power outage
7 because of an electrical storm? We have thunderstorms
8 and lightening and stuff here in Tucson. The power
9 goes out, at least it does at my house, usually right
10 in the ninth inning or something really important.

11 What happens then? You received questions
12 about power failures. What happens then?

13 A. You're correct. It's a frequent occurrence
14 in Tucson.

15 And when it does occur and the power is
16 out, the FMD has a battery that does not get changed --
17 that's the black box unit -- and it continues to record
18 all the offender's movements.

19 Then once the electricity comes back on to
20 the home, then it sends all that information that it
21 stored to the main office, the computer in Phoenix.

22 Q. And if the offender left when he wasn't
23 supposed to during that power outage, what would be the
24 result?

25 A. Well, first of all, it would record the

1 power loss.

2 Q. What would record? I'm sorry.

3 A. The FMD, or the black box in the home,
4 would record that it had actually lost power; it would
5 store that in itself in its recorder, and so first, the
6 printout would say power loss.

7 Q. Now, I've handed you an exhibit. Would you
8 read the number? There's a green tag on the back.

9 A. Yes. It's CR-57526.

10 Q. There's a number like 45?

11 A. Yes, 45.

12 THE COURT: 45.

13 Q. And that's one of these long sheets with
14 the orange thing on it?

15 A. Yes.

16 Q. Do you see any of those power loss entries
17 on that document?

18 A. Yes, I do.

19 Q. Where do you see that, so we know where to
20 look?

21 A. I see it. It's almost at the bottom. It's
22 just right after the next-to-the-last orange mark.
23 It's on 7-8-96.

24 Q. So what is that record? What is the
25 computer telling us by that record?

1 A. Power loss. That's telling us that the
2 power to the FMD, the electrical power to the FMD was
3 disconnected. Or that the electricity in the home went
4 off.

5 Q. Now, one of the juror's questions was if it
6 gets a busy signal, you said it redials up to four
7 times and then it creates an alarm.

8 A. Yes.

9 Q. Is there a record of the alarm?

10 A. Yes.

11 Q. Is the record of the alarm on something
12 like this alarm status report that you're holding in
13 your hand?

14 A. Yes.

15 Q. So there's a permanent record of that?

16 A. If it was printed and kept, yes.

17 Q. You were answering a question and you
18 mentioned something about if the parolee goes beyond a
19 metal door or a block wall.

20 A. Right.

21 Q. You were at the Nordstrom house.

22 A. Yes.

23 Q. It's a block house?

24 A. Yes.

25 Q. In fact, if we're talking about a house

1 built out of block, does that mean that the system
2 doesn't work there?

3 A. No. What that means, it works more
4 intensely there.

5 Q. What do you mean by more intensely?

6 A. I mean that it works even better.

7 Q. Why is that?

8 A. Well, because -- if I may.

9 THE COURT: Sure.

10 THE WITNESS: Stop me if I -- the equipment
11 itself is similar to a homing device in that the ankle
12 bracelet gives off signals, beep-beep-beep-beep, that
13 are picked up by the FMD unit, okay?

14 Now, if things block that signal, then it
15 would show that the offender is gone.

16 BY MR. WHITE:

17 Q. It would show a violation?

18 A. Yes, it would show a violation.

19 Q. And would it show that violation on the
20 alarm status report?

21 A. Yes, it would.

22 Q. Now, I may have interrupted you. I
23 apologize. If I did, keep answering.

24 A. The question that one of the jurors asked
25 is what is the range, and I said about 100 yards.

1 But, if in the middle of that 100 yards
2 were very heavy block walls or some cars, okay, then it
3 would probably show that the offender left at the 50
4 yard line as opposed to showing that he left when he
5 got at 101 yards.

6 Q. Because the FMD wasn't picking up the
7 transmission from the ankle bracelet?

8 A. Right.

9 Q. Okay. I gotcha.

10 In response to the juror question about 100
11 yards, so why do you give him any range at all?

12 A. So that they can use their home, so they
13 can get out of their bedroom, so they can go to the
14 kitchen or, you know, to the bathroom, to the back
15 laundry room.

16 Q. Front porch, driveway, things like that?

17 A. Sometimes they can go to their front porch
18 if it's not divided by a block wall.

19 Q. Okay.

20 A. Or sometimes they can't even go to their
21 mailbox if it's divided by a block wall. It will show
22 that they're gone. We can also skew that down to a
23 tighter range.

24 Q. Now, there was a question about if the
25 battery dies, and you said if the battery dies it sends

1 a signal or an alarm.

2 How can it send a signal if the battery is
3 dead? First of all, how many batteries are we talking
4 about?

5 A. Right. Thank you.

6 There's two batteries. There's one in the
7 FMD and there's one in the transmitter or the ankle
8 bracelet.

9 Q. Okay.

10 A. The ankle bracelet, when it starts -- it
11 will show the signal that there's a low battery, that
12 it's getting low, okay?

13 Once it officially becomes dead, then you
14 get that signal, and you're correct in that the
15 transmitter can't send that to say I'm dead because
16 it's in fact dead. But the FMD is coded to understand
17 that when it doesn't receive that signal anymore, that
18 it's dead.

19 Q. Then what does the FMD do?

20 A. Then the FMD transmits that.

21 Q. To the main computer?

22 A. To the main computer.

23 Q. And would you pick up that kind of signal
24 on this alarm status report?

25 A. Yes.

1 Q. By this, I mean the thing I'm holding up
2 with the orange lines on it?

3 A. Yes.

4 Q. Would you also get some kind of signal if
5 the battery in the ankle bracelet was weak?

6 A. If the battery were weak, you would get the
7 low battery signal. If the ankle bracelet was weak,
8 you would not get a weak signal, you would get a tamper
9 signal, because the ankle bracelet is rubber that has
10 little, tiny microfiber wires inside it, and if one of
11 those break, then you would get the signal that it had
12 been cut.

13 Q. Okay. And, finally, the juror asked the
14 question about offenders swapping transmitters.

15 Why can't they swap transmitters?

16 A. Well, there's several reasons why they
17 can't swap them. One is, they can't get them off
18 unless they cut them off.

19 Q. And if they cut them off, what happens?

20 A. I get an alarm.

21 Q. On this thing?

22 A. Yes, on that thing. That's one of the
23 reasons.

24 The other reason is if -- I don't know --
25 they couldn't put it back on if they tried to swap

1 them, because you couldn't tape it. The micro wires
2 can't be taped, so they couldn't put it on somebody
3 else's leg once they cut it. It wouldn't fit.

4 Q. What I didn't understand about your answer
5 to the juror's question, let's say I am wearing one of
6 those ankle bracelets and Detective Woolridge is
7 wearing one.

8 And I say, so, Woolridge, I want to go out
9 and have a beer. Why don't you come to my house, you
10 sit in the house with your ankle bracelet. We'll fool
11 the computer, I'll go have a beer and everybody will
12 think it's okay because there's an ankle bracelet in
13 there.

14 A. No.

15 Q. Why not?

16 A. Because your ankle bracelet has a number on
17 it and your FMD box in your home has a number on it,
18 and those two numbers and signals have been married
19 together and they then become one unit. They can't be
20 separated.

21 Q. I see.

22 A. In fact, your number is so original that if
23 the two of you go to church together, I have a piece of
24 equipment that I can drive by and use the equipment and
25 tell if one or more of you are in there and where

1 example, you're going to need it a little bit higher.

2 A. No. If you wear work boots, you need to
3 buy the lace-up kind so that you can lace it up over
4 your transmitter.

5 Q. And if you wear cowboy boots?

6 A. If you wear cowboy boots, what's going to
7 happen is you're going to keep pushing it up on the
8 heavier part of your leg --

9 Q. Up towards the calf?

10 A. Up towards the calf. And the rubber on
11 that will stretch, but, again, the little wires inside
12 will not. So you're going to break a little wire in
13 there and you're going to cause a tamper alarm and
14 you're going to have to have a new bracelet.

15 Q. All right. Do people wear cowboy boots, or
16 are people allowed to wear cowboy boots while on
17 parole?

18 A. We discourage it when they have the ankle
19 bracelet, but they -- some of them do go ahead and wear
20 cowboy boots and they do come back in for a new
21 bracelet.

22 Q. Or their parole officer just moves it up on
23 the calf and says, okay --

24 A. No. No. No, we never make it looser.

25 Q. You've never done that?

1 A. No. See, if you make it looser, then
2 you're going to make it large enough that it could be
3 pulled off.

4 Q. Okay.

5 A. It always has to be very snug. In fact, I
6 train my officers that when they put them on, just have
7 enough room for two fingers to be in between.

8 Q. Okay. How far up, if you can answer this,
9 because everybody's calves are different, I suppose,
10 how far up a leg can it go before one of the wires
11 breaks?

12 A. Not very far, because remember, we put it
13 on very snugly.

14 Q. A couple inches?

15 A. Maybe even three. It depends on, you know,
16 how the leg is made. Some people have heavier calves
17 because they're more muscular. But I'd say three
18 inches, a round figure.

19 Q. So there is some give to the wires so that
20 it slides up and down your leg, at least two or three
21 inches?

22 A. The rubber will stretch, but at some point
23 you're going to pull the wires and they're going to
24 break.

25 MR. LARSEN: Okay. Thanks.

1 THE COURT: Any reason this witness can't
2 be excused?

3 MR. WHITE: May I briefly follow-up?

4 THE COURT: Yes, you may.

5

6 FURTHER REDIRECT EXAMINATION

7 BY MR. WHITE:

8 Q. If the parolee is scooting that ankle
9 bracelet up and the rubber is stretching and they
10 finally break one of those little wires, does that show
11 up on the alarm status report?

12 A. Yes, it does. It will show up as a tamper
13 alarm, the same as if they cut it.

14 Q. So you've got a record of that?

15 A. Yes, we would.

16 MR. WHITE: Thank you.

17 THE COURT: Now, any reason this witness
18 can't be excused?

19 Thank you, ma'am. You may step down. You
20 are excused.

21 The State may call its next witness.

22 MR. WHITE: Call Detective Salgado.

23

24

25

EXHIBIT B

98-1767

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,)	
)	
Plaintiff,)	
)	
vs.)	NO: CR-57526
)	
ROBERT JONES,)	
)	
Defendant.)	

BEFORE: HON. JOHN S. LEONARDO
Division 10
Pima County Superior Court

APPEARANCES:

FOR THE STATE: DAVID WHITE
Deputy County Attorney

FOR THE DEFENDANT: DAVID P. BRAUN
ERIC A. LARSEN

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

June 23, 1998

REPORTED BY:

TONI HENSON
Official Court Reporter
Division Ten
Pima County Superior Court

PROSECUTOR

DEC 1 1998

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1 A. Yes.

2 Q. He does smoke, doesn't he?

3 A. Yes, he does.

4 Q. He could have just been standing out there
5 looking at the moon or the stars or letting off steam?

6 A. Yes.

7 MR. WHITE: Thanks, Ms. Carr. That's all I
8 have.

9 THE COURT: Any reason this witness can't
10 be excused?

11 You may step down, ma'am. Thank you. You
12 are excused.

13 The State may call its next witness.

14 MR. WHITE: Call David Nordstrom.

15

16

DAVID NORDSTROM,

17 having been first duly sworn to state the truth, was
18 examined and testified as follows:

19

20

DIRECT EXAMINATION

21 BY MR. WHITE:

22 Q. Sir, would you tell the jury your name and
23 spell your last name for the court reporter, please.

24 A. David Nordstrom, N-o-r-d-s-t-r-o-m.

25 Q. Mr. Nordstrom, how old are you?

1 A. Twenty-eight.

2 Q. Would you tell the jury the last grade you
3 completed in school.

4 A. The eighth grade.

5 Q. Do you live here in Tucson or did you grow
6 up here in Tucson?

7 A. Yes, I did.

8 Q. How many people in your family, your
9 immediate family? Just tell us who they are.

10 A. My dad and my mom, my stepmom and my
11 brothers.

12 Q. What is your dad's name?

13 A. Richard Nordstrom.

14 Q. How about your mom, your mother?

15 A. Cynthia Washbourn (phonetic).

16 Q. You said a stepmom.

17 A. Yeah.

18 Q. What's her name?

19 A. Teresa Nordstrom.

20 Q. And does she go by Teresa or another name?

21 A. Terri.

22 Q. You said you had some brothers. What are
23 your brothers' names?

24 A. Rick and Scott Nordstrom.

25 Q. All three of you boys grow up here in

1 Tucson?

2 A. Yes.

3 Q. Specifically, who did you live with when
4 you were growing up?

5 A. My dad.

6 Q. Your mom wasn't there?

7 A. Yeah. I lived with her for about three
8 months, four months. I'm not sure. I didn't live with
9 her very long.

10 Q. Why not?

11 A. My parents got divorced when I was four and
12 I stayed with my dad.

13 Q. Now, at some point did your dad get
14 remarried?

15 A. Yes.

16 Q. Any was that to Terri?

17 A. Yes.

18 Q. Was Terri sort of your mom from then on?

19 A. Pretty much, yes.

20 Q. From what age, if you can recall?

21 A. She met my dad when I was about four, five,
22 somewhere around there, and ever since.

23 Q. So when you were living at home, you were
24 living with your dad and Terri?

25 A. Yes.

1 Q. How much time do you think you spent with
2 your mother since -- how old are you now?

3 A. Twenty-eight.

4 Q. So in the last 24 years, how much time do
5 you think you've spent with your mom?

6 A. Four months, five months, the little bit of
7 time I lived with her.

8 Q. How much time do you think you spent with
9 Terri?

10 A. Twenty-four years.

11 Q. Now, Mr. Nordstrom, in the beginning of
12 1996, let's start in 1996, where were you?

13 A. Douglas penitentiary.

14 Q. You were in prison there?

15 A. Yes.

16 Q. What crime were you convicted of that you
17 were in Douglas?

18 A. Theft by control.

19 Q. Did you get out of prison in '96?

20 A. Yes, January 25th.

21 Q. When you got out, where did you go?

22 A. My father's house.

23 Q. Is that in Tucson?

24 A. Yes.

25 Q. Now, when you got out of prison, were you

1 totally done with that or was there some kind of
2 conditions on you or?

3 A. I was on home arrest.

4 Q. Explain home arrest.

5 A. I wore an ankle monitor around my ankle.

6 It pretty much kept track of me, kind of like followed
7 me wherever I went. I had certain times that I had to
8 be home, certain times I'd go to work.

9 Q. So you had kind of like a curfew?

10 A. Yes.

11 Q. And how would -- did you have a parole
12 officer?

13 A. Yes.

14 Q. Do you remember his name?

15 A. Fritz Ebenal.

16 Q. The first name was Fritz?

17 A. Yes.

18 Q. Do you know how to spell the last name?

19 A. No.

20 Q. Okay. The court reporter is giving you a
21 weird look there.

22 A. I have no idea. Sorry.

23 Q. How did Fritz keep track of you to make
24 sure you were obeying your curfew?

25 A. I had a weekly meeting on Wednesdays or

1 Thursdays. Sometime during the week I would meet with
2 him, once a week, every week.

3 Q. What would happen during this weekly
4 meeting?

5 A. I would explain where I had to go, what I
6 was doing, and he would give me time frames that on
7 certain days to go do certain things. I would go to
8 work, A.A. meetings, go to the store, free time.

9 Q. Now, let's talk about work. When you got
10 out of prison did you try to find work?

11 A. Not immediately. After about the first
12 week I got kind of bored and then I went and looked for
13 a job.

14 Q. Did anyone help you find work?

15 A. Cindy Inman, she helped me. One of her
16 friends. She gave me a number, I called them and they
17 gave me a job.

18 Q. How did you know Cindy Inman?

19 A. I met her through somebody in prison.

20 Q. And then she assisted you in getting this
21 job?

22 A. Yes.

23 Q. Who did you get the job with?

24 A. John Mikiska, Star Masonry.

25 Q. What did you do for him?

1 A. I was a laborer. I just did what he
2 wanted, you know, helped him basically.

3 Q. And he was in the masonry business,
4 building block walls, that kind of thing?

5 A. Yes.

6 Q. Did you have a driver's license?

7 A. No, I didn't.

8 Q. How would you get to work?

9 A. Cindy, my dad, John sometimes, Terri, it
10 depends.

11 Q. And how would you get home from work?

12 A. Same way, one of them.

13 Q. After you'd get off work, would you always
14 come straight home or would you go anyplace else?

15 A. Oh, sometimes I would; sometimes I
16 wouldn't. It really depended on how much time I had
17 left before I had to be home.

18 Q. How much time you had left. Oh, you mean
19 on your curfew?

20 A. Yes.

21 Q. Okay. If you had some time left, where
22 would you go?

23 A. To the bar.

24 Q. Did you work Monday through Friday usually?

25 A. Yeah, Monday through -- six days a week,

1 pretty much Monday through Saturday.

2 Q. Sometimes you didn't work during the days
3 of the week, any times you didn't work because there
4 wasn't work available?

5 A. Yeah, but that was very seldom that that
6 happened.

7 Q. Now, at some point in time when you're here
8 in Tucson, which we're talking now the spring, February
9 on in '96, did you come into contact with a person
10 named Robert Jones?

11 A. Yes, I did.

12 Q. Can you tell us, is he in the courtroom
13 today?

14 A. Yes, he is.

15 Q. Would you tell us where he's seated and
16 what he's wearing so we know who you are talking about.

17 A. He's the defendant in the gray jacket and
18 blue shirt.

19 MR. WHITE: May the record reflect the
20 witness has identified the defendant?

21 THE COURT: The record will reflect that
22 the witness has indicated the defendant.

23 Q. Now, did you know him from before?

24 A. Excuse me?

25 Q. Did you know the defendant before you saw

1 him here in Tucson in '96?

2 A. Yes, I did.

3 Q. How long had you known him?

4 A. Since '93.

5 Q. When you saw him again here in Tucson in

6 '96, were you and he friends from before?

7 A. I don't --

8 Q. Before you saw him here in '96?

9 A. Yes.

10 Q. Were you and he friends from knowing him

11 before?

12 A. Yes, we were.

13 Q. And when you saw him here in Tucson, did

14 you re-establish that friendship with him?

15 A. Yes, we did.

16 Q. Did you start hanging out with him?

17 A. Yes.

18 Q. Now, did he have a full-time job, to your

19 knowledge?

20 A. No.

21 Q. I need to ask you about your brother, Scott

22 Nordstrom.

23 Was Scott Nordstrom here in Tucson when you

24 got out of prison in January?

25 A. Not in Tucson, no.

1 Q. At some point did he arrive in Tucson?

2 A. Yes, he did.

3 Q. Approximately when was that?

4 A. April.

5 Q. Of '96?

6 A. Yes.

7 Q. And did you ever socialize with your
8 brother?

9 A. Yes.

10 Q. How did you and he get along at that time?

11 A. Great.

12 Q. You guys loved each other?

13 A. Yeah.

14 Q. Once he got here, did he at some point get
15 a vehicle of his own?

16 A. Yes.

17 Q. Did you ever catch a ride with him?

18 A. Not to John's, no, when I was working for
19 Star Masonry.

20 But there was a transaction there, I was
21 doing masonry and dry wall -- I was trying to get back
22 into dry wall with Scott was basically what was going
23 on.

24 Q. So to make sure I understand, you were
25 working at the masonry place?

1 A. Yes.

2 Q. And then at some point you moved over to a
3 dry wall business?

4 A. Yes.

5 Q. Not your own, but work for somebody else?

6 A. Yes.

7 Q. Now, did your brother Scott work with you
8 in the masonry business?

9 A. No. He did dry wall. He had a dry wall
10 job and he wanted me to work with him.

11 Q. Okay.

12 A. But I don't remember exactly how that
13 worked out, but there was a time when I was working
14 both of them. I was working for John and then when
15 Scott had enough work, I went full-time into dry wall.

16 Q. So for a while you're working masonry, for
17 a while you're working dry wall, and in between there
18 you are doing both?

19 A. Yeah, for like maybe a week or a few days.
20 It wasn't like a long period or nothing.

21 Q. And when you're doing the dry wall, is that
22 when you'd catch a ride to and from work with your
23 brother?

24 A. Yes.

25 Q. But when you're doing the masonry, you

1 weren't riding to work with him?

2 A. No.

3 Q. And even when you were working at the
4 masonry before you started working at the dry wall, you
5 and your brother socialized?

6 A. Yes.

7 Q. When you weren't working?

8 A. Yes.

9 Q. Did the defendant socialize with you and
10 your brother?

11 A. Yes.

12 Q. Hang out together?

13 A. Yes.

14 Q. Now, where were you living at this period
15 of time?

16 A. My dad's house.

17 Q. Approximately where is it?

18 A. The south east side, Benson Highway and
19 Alvernon.

20 Q. Benson Highway and Alvernon?

21 A. Yeah.

22 Q. Who was living there?

23 A. My dad, Terri, me and Terri's mom, my
24 step-grandmother.

25 Q. Your step-grandmother?

1 A. Yeah.

2 Q. Where was Scott living?

3 A. With my grandmother.

4 Q. And then did he move to someplace else?

5 A. Yes.

6 Q. Where did he move to?

7 A. To Candi's house.

8 Q. Candi is who?

9 A. His girlfriend.

10 Q. How about Robert, where did the defendant
11 live?

12 A. At which point?

13 Q. Well, it's --

14 A. When I first met him, he was living way out
15 west somewhere, and then he moved into town on Wilmot
16 somewhere, where the hospital is.

17 Q. We've got lots of hospitals. Are you
18 talking over on the east side?

19 A. Yeah, Wilmot where it turns into Tanque
20 Verde, the hospital, El Dorado, I think maybe.

21 Q. One of those hospitals over there.

22 A. Yeah, I think it's El Dorado. Maybe. I'm
23 not even sure.

24 Q. But you know it's at Wilmot and Tanque
25 Verde?

- 1 A. Yeah, right there where it makes, you know,
2 at Pima where they change, Wilnot turns into Tanque
3 Verde.
- 4 Q. Were you over at that house?
- 5 A. Yes.
- 6 Q. How many times?
- 7 A. Quite often.
- 8 Q. What would you do there?
- 9 A. Drink beer.
- 10 Q. Okay. Did the defendant come to your
11 house?
- 12 A. Yes.
- 13 Q. What would you guys do there?
- 14 A. Party. Drink beer.
- 15 Q. Was Scott present on any of those
16 occasions?
- 17 A. Sometimes, yeah.
- 18 Q. Now, at some point, Mr. Nordstrom, did you
19 get a gun?
- 20 A. Yes.
- 21 Q. Any idea when that would have been?
- 22 A. Not exactly.
- 23 Q. Give me an approximation. In April
24 sometime, before April?
- 25 A. I'd say before April. I don't know exactly

1 when though.

2 Q. Where did you get it?

3 A. Cindy Inman.

4 Q. Tell us about that.

5 A. I asked for a gun.

6 Q. Why did you want a gun?

7 A. I'm kind of confused on that, the
8 stipulation thing.

9 Q. Let me ask you this: You wanted a gun.
10 Were you getting it for yourself?

11 A. No.

12 Q. Who were you getting it for?

13 A. For Robert.

14 Q. Did he tell you why he wanted it? That's a
15 yes or no.

16 A. Yes.

17 Q. Was it for his protection?

18 A. Yes.

19 Q. What kind of gun did you get?

20 A. A .380.

21 Q. Is that a revolver or a semi-automatic?

22 A. A semi-automatic.

23 Q. Now, how did you get it from Cindy Inman?

24 A. I asked her to borrow it.

25 Q. What did she say?

1 A. Okay. I explained why and then she said
2 okay.

3 Q. Did you return that gun to her?

4 A. Yes, I did.

5 Q. Did you ever borrow it again?

6 A. Yes, I did.

7 Q. Was the second time you borrowed it for the
8 same reason?

9 A. Yes.

10 Q. The defendant wanted it?

11 A. Yes.

12 Q. When you borrowed it again, did you ask
13 Cindy if you could borrow it?

14 A. Yes.

15 Q. Where did that conversation where you're
16 talking to Cindy about that take place?

17 A. Cindy's house.

18 Q. Do you remember anything about Cindy at
19 that time? Was she working?

20 A. No. She pretty much stayed in, like she
21 was disabled or she was in some kind of accident. I'm
22 not -- she wasn't working, I know that.

23 Q. But it's after she's had her accident?

24 A. Yes.

25 Q. Was the defendant at her house when you

1 borrowed that gun?

2 A. Yes.

3 Q. So after you borrow the gun the second
4 time, who keeps the gun? Where does it go?

5 A. Robert.

6 Q. Do you know where he kept it?

7 A. His house and his truck.

8 Q. How do you know that?

9 A. I seen it both places.

10 Q. Do you know, was there any ammunition ever
11 bought for that gun?

12 A. Yes.

13 Q. How do you know that?

14 A. I was present when it was bought.

15 Q. Who bought it? Or who all was present when
16 the ammunition was bought?

17 A. Robert and I one time, and then I think
18 Scott bought a box, and Robert and I bought a box.

19 Q. And when you and the defendant bought a
20 box, what store did you buy it from?

21 A. Wal-Mart, the one on Valencia.

22 Q. Do you remember anything about the
23 ammunition? Was it .380 ammunition?

24 A. Yes.

25 Q. Do you remember anything else about it?

1 A. Yellow box.

2 Q. A yellow box?

3 A. Yeah.

4 Q. How do you remember that?

5 A. Because I seen more than one box on the
6 shelves.

7 Q. Now, everything is going along fine and you
8 and Robert and Scott are all getting along together
9 okay?

10 A. Yes.

11 Q. Let's talk about the Moon Smoke Shop. Do
12 you remember the incident at the Moon Smoke Shop?

13 A. Yes.

14 Q. That's the day I want to talk about now.
15 Were you working that day?

16 A. In the morning I was.

17 Q. Okay.

18 A. Started into the afternoon, I was working.

19 Q. Working where?

20 A. With John Mikiska.

21 Q. At the masonry?

22 A. Yes.

23 Q. So as we've talked about this, you and
24 Scott were not working together at that time?

25 A. No, we wasn't.

1 Q. Did you meet up that day with your brother
2 Scott and the defendant?

3 A. Yes.

4 Q. Do you know about where that was?

5 A. It was one of the bars, at Berky's or the
6 Bashful Bandit.

7 Q. What makes you say that?

8 A. That's usually where I would go after work
9 with John and I called them from there, paged them. I
10 paged one of them, I don't remember who.

11 Q. Did they both have pagers?

12 A. Yes.

13 Q. By both, I mean the defendant and your
14 brother.

15 A. Yes, they both had pagers.

16 Q. So John would take you to one of these bars
17 and then would he just drop you off or would he have a
18 beer with you?

19 A. Yeah, we'd hang out. He'd make sure to see
20 if I got a ride. If not, he would take me home. If I
21 got a ride, you know, we'd just hang out and drink some
22 beer until they'd show up.

23 Q. So did they show up?

24 A. Yes.

25 Q. What did you do after they showed up?

1 A. I'm not real positive on that, but I think
2 we went back to Robert's house. But I'm really not
3 sure.

4 Q. Okay. At some point do you find yourself
5 on Grant Road?

6 A. Yes.

7 Q. Who is with you?

8 A. Scott and Robert and me.

9 Q. Are you in a vehicle?

10 A. Yes.

11 Q. What vehicle?

12 A. Robert's truck.

13 Q. Describe the truck for us.

14 A. '62 Ford. White. I think it was a unibody
15 or something like that.

16 Q. A unibody?

17 A. Yeah, I think so, if I remember right. It
18 had one big frame.

19 Q. I was going to ask you, what's a unibody?

20 A. It's just one solid truck.

21 MR. WHITE: May I approach, Your Honor?

22 THE COURT: Yes.

23 Q. I'm going to show you 13 and 14 that have
24 been admitted. Do you recognize the vehicle shown in
25 this?

1 A. Yes.

2 Q. That's --

3 A. That's the truck.

4 Q. That's the defendant's truck?

5 A. Yes.

6 MR. WHITE: May I show this to the jury,
7 please?

8 THE COURT: Yes.

9 Q. When you said a unibody, what's a --

10 A. I think it's like where the cab and the bed
11 is combined.

12 Q. There's not a big separation between them?

13 A. Yes.

14 MR. WHITE: While we're showing things, may
15 I approach again, Your Honor?

16 THE COURT: Yes.

17 Q. I'm showing you what's been admitted, I
18 think, as State's 33.

19 Do you recognize the person shown in that
20 photograph?

21 A. Yes, sir, I do.

22 Q. And is that the defendant?

23 A. Yes, it is.

24 Q. Is that how he looked in '96?

25 A. No. Well, the beard and hair, not the

1 clothing.

2 Q. Is anything else different?

3 A. No. His clothing is different. His face
4 and facial hair and his hair is pretty much the same.

5 Q. Okay. His build was the same?

6 A. I really can't tell from that picture.

7 Q. And what would be different about the
8 clothing?

9 A. That's more casual than he mostly -- when I
10 knew him in '96, he was wearing western clothes, a
11 cowboy hat, Levi's, jeans.

12 Q. Okay. Western shirts?

13 A. Yes.

14 Q. What kind, short-sleeved or long-sleeved?

15 A. Long-sleeved. Most of them were
16 long-sleeved.

17 Q. So you're on Grant Road in this pickup
18 truck. Who else is in the pickup truck with you?

19 A. Scott.

20 Q. Just Scott?

21 A. And Robert and me.

22 Q. Okay. So where do you go?

23 A. We drive down Grant. And I don't remember
24 what the conversation was but we pulled into TMC
25 parking lot and we were going to steal a car.

1 Q. The TMC parking lot?

2 A. Yeah.

3 Q. Do you remember the area of the parking
4 lot? That's a big ol' parking lot there.

5 Q. Well, it's in the back. You know, there's
6 a lot of places. Sort of in the back. There really
7 wasn't a lot of cars around, a couple of cars scattered
8 around.

9 Q. Are we talking about the parking lot that's
10 right in the front of TMC or the one that's behind it?

11 A. It's in the back, behind it, just in the
12 neighborhood back there or something.

13 Q. Okay. So tell us what you remember about
14 pulling into that parking lot.

15 A. Just driving through the parking lot
16 looking for a car, and Robert seen a car that he knew
17 how to steal so he pulled up by it.

18 Q. Do you remember the kind of car?

19 A. No. I think it was maybe like a station
20 wagon VW or maybe like a little Suburban or something.
21 I'm not really positive. It was a little car. It
22 wasn't like a big car or nothing like that.

23 Q. So you see this car. What happens? Does
24 someone get out of the truck?

25 A. Yeah, Robert got out of the truck.

1 Q. Tell us what you saw.

2 A. He walked over and he had a dent puller,
3 screwed it into the ignition and ripped the ignition
4 out.

5 Q. Now, are you inside the truck watching this
6 or are you outside the truck with him?

7 A. I'm in the truck and Scott's in the truck.

8 Q. Does the defendant get into the car?

9 A. Yeah, he's sitting in the front seat when
10 he's ripping the ignition out.

11 Q. Okay. Did you guys take the car?

12 A. No.

13 Q. Why not?

14 A. I don't think -- he couldn't get it
15 started. And I guess he started looking through the
16 car.

17 Q. Why do you guess that?

18 A. Because he stopped messing with the
19 ignition and he was feeling around, you know, looking,
20 feeling on the floorboard and looking around inside the
21 car.

22 Q. Okay. Did he eventually come back to the
23 truck?

24 A. Yes.

25 Q. Did he bring anything with him?

1 A. Yes.

2 Q. What did he bring?

3 A. A gun.

4 Q. A gun?

5 A. Yes.

6 Q. What kind of gun?

7 A. A nine-millimeter.

8 Q. How do you know that?

9 A. I didn't know that at that point in time
10 that it was a nine-millimeter until later long when I
11 seen the shells, one of the shells, and I seen the
12 bottom of it, nine-millimeter.

13 Q. When he came back to the truck, did he show
14 you guys the gun, you and your brother?

15 A. Yes.

16 Q. Tell us about that. What do you remember
17 about that?

18 A. He said something to the effect of: I've
19 got my gun now. You know, he had it in his hand. And
20 he put it like on his leg, or I don't remember exactly
21 where he put it, and we left.

22 Q. Now, you left. Where did you go, back onto
23 Grant Road?

24 A. Yes.

25 Q. Which direction do you go?

1 A. I guess there was some streets over there,
2 you know, roads. I'm not even sure. You know, we just
3 ended back up on Grant.

4 Q. I didn't ask that question very well. I'm
5 sorry.

6 Once you got onto Grant, which direction
7 did you go?

8 A. West.

9 Q. Toward the freeway?

10 A. Yes.

11 Q. Was that the way that you would take to
12 take you home?

13 A. Yes. Not every day. That's not like our
14 normal routine but that's the way we were going back on
15 that day.

16 Q. Okay. So you're driving west on Grant?

17 A. Yes.

18 Q. What's the next thing that happens that you
19 can remember.

20 A. I don't know the -- we were getting,
21 pulling up by Stone. I don't know the exact -- maybe
22 there's a little street before Stone, and the topic of
23 robbery came up.

24 Q. The topic of robbery came up?

25 A. Yeah.

1 Q. Who brought that up?

2 A. Robert.

3 Q. Tell us about that, all you can remember
4 about it.

5 A. He said something to the effect that, you
6 know: Let's do a robbery. There were two guns
7 involved, you know, we all had guns -- not all of us,
8 but Scott and Robert had guns.

9 Q. Scott had a gun?

10 A. The .380.

11 Q. Where did Scott get the .380?

12 A. Robert. Well, it was in the truck when we
13 were at TMC. Robert had his, well, he said it was his
14 nine-millimeter and he handed the gun to Scott.

15 Q. Was that at the TMC parking lot or later,
16 if you remember?

17 A. Yeah, I think it was maybe as we were
18 leaving, leaving the parking lot.

19 Q. At TMC?

20 A. Yeah.

21 Q. Tell us about that exchange.

22 A. I don't know really how that exchange
23 happened. I don't know if he gave it to me and I
24 handed it to Scott or if he handed it straight over to
25 Scott.

1 Q. Where were you sitting in the pickup?

2 A. In the middle.

3 Q. The defendant is driving?

4 A. Yeah. Robert is driving, I'm in the middle
5 and Scott's the passenger.

6 Q. But the defendant somehow gets the .380 to
7 your brother?

8 A. Yes.

9 Q. So you guys are on Grant, somewhere around
10 Stone, and the topic of robbery comes up?

11 A. Yeah.

12 Q. Okay. Tell us more about that.

13 A. When we pulled up to the light at Stone and
14 Grant, it was a red light and we stopped, and that's
15 when robbery came up again because we were stopped.
16 And then Moon came up. The Moon's right there.

17 Q. The Moon Smoke Shop?

18 A. Yeah, the Moon Smoke Shop.

19 Q. Go ahead.

20 A. And the light turned green and there's a
21 little side street by the Moon. I don't know the name
22 of it. We went down that and pulled in behind the Moon
23 Smoke Shop.

24 MR. WHITE: May I approach again, Your
25 Honor?

1 THE COURT: Yes.

2 BY MR. WHITE:

3 Q. I'm showing you what has been admitted as
4 23.

5 Okay. That's the Moon and that's Grant.
6 Does that help you orient yourself?

7 A. Yeah.

8 Q. This would be going west on Grant.

9 A. Yeah, and that's Stone right there.

10 Q. Do you see that?

11 A. Yes.

12 Q. Point for the jury, first of all, you guys
13 are going west on Grant?

14 A. Yes.

15 Q. Okay. Show us that.

16 A. We were like over here going that way.

17 (Indicating.)

18 Q. And you stopped at a light?

19 A. Stone, right here.

20 Q. And the topic of the Moon comes up?

21 A. Yeah.

22 Q. Who brought the topic of the Moon Smoke
23 Shop up?

24 A. Robert did.

25 Q. And what did he say about it.

- 1 A. Let's rob it.
- 2 Q. What did you say?
- 3 A. Take me home. I had to be home.
- 4 Q. Why did you have to be home?
- 5 A. My monitor. My curfew was up.
- 6 Q. Was it up?
- 7 A. Well, it wasn't up but it was getting close
8 to being up.
- 9 Q. Did Scott say anything?
- 10 A. I don't really recall exactly what Scott
11 said.
- 12 Q. So where did you guys go? Where did the
13 truck go?
- 14 A. Down Grant. I guess this is that little
15 side street. (Indicating.)
- 16 Q. Um-hum.
- 17 A. We went down there and pulled in like back
18 there and parked the truck right here at the corner.
- 19 Q. At the corner right here?
- 20 A. Yeah; it was like going longways. There
21 wasn't any parking spot in the corner. It was going up
22 that way. (Indicating.)
- 23 Q. Okay. Was the truck parked lengthwise like
24 that?
- 25 A. No, it was like that.

1 Q. Like that, all right.

2 Now, when you guys stop there, is it still
3 Robert driving, you in the middle and Scott on the
4 passenger side?

5 A. Yes.

6 Q. Tell us what happened then.

7 A. They said they were going to go in and rob
8 it and would be right out.

9 Q. Did they want you to do something?

10 A. To drive the truck.

11 Q. Okay. Tell us what happened.

12 A. They got out. They walked in and I slid
13 over to the driver's seat. And I don't even know how
14 long it was. It wasn't very long. And I heard
15 gunshots.

16 Q. Now, when they went in there, did they take
17 their guns with them?

18 A. Yeah.

19 Q. Who had the nine-millimeter?

20 A. Robert.

21 Q. Who had the .380?

22 A. Scott.

23 Q. Which way did they go in?

24 A. They went like this. (Indicating.)

25 Q. Now, did you see them actually go in the

1 front door?

2 A. No, I didn't. You can't see the front door
3 from back there.

4 Q. So you're sitting there waiting. Do you
5 hear anything?

6 A. I hear gunshots, I don't know, probably 30
7 seconds after they left. Maybe it wasn't that long. I
8 wasn't counting or nothing. I'm just guessing.

9 Q. Okay. And then after you hear the
10 gunshots, how do you feel?

11 A. I was pretty scared, you know, that people
12 were dying in there.

13 Q. Why didn't you take off if you were scared?

14 A. My brother was in there.

15 Q. Then what did you do, what happened?

16 A. Then they came back out. Well, Robert came
17 out and then Scott came out and they jumped in the
18 truck and said, "Let's go," and then I drove off.

19 Q. Which way did you drive?

20 A. I went down here. (Indicating.) Then I
21 got on Stone and went this way and came back in front
22 of the place.

23 Q. You actually drove in front of the place?

24 A. Yeah, I was pretty -- I don't know what I
25 was thinking, but I was getting out of there basically.

1 was thinking, but I was getting out of there basically.

2 Q. Anybody say anything to you about driving
3 in front of the place you had just robbed?

4 A. Yeah, they got upset about the idea.

5 Q. Who got upset?

6 A. Robert and Scott. Like: Why are you
7 driving back in front of it because, you know, I guess
8 that's a pretty stupid thing to do.

9 Q. When they came back after the shots, were
10 they side by side or was one in front of the other?

11 A. Robert came out and then as Robert was like
12 getting in the truck, Scott was like right there. You
13 know, they didn't really didn't come out side by side.
14 One came out and then the other one came out.

15 Q. So Robert came out first?

16 A. Yes.

17 Q. And then Scott?

18 A. Yes.

19 Q. How was Robert dressed that day?

20 A. Western clothes, cowboy boots, Levi's,
21 western shirt, cowboy hat.

22 Q. Sunglasses?

23 A. Sunglasses.

24 Q. Now, you're driving after you leave, right?

25 A. Yes.

1 Q. Any conversation in the truck as you're
2 driving?

3 A. I don't remember like every bit of it, but
4 the topic came up, you know, I shot this many. Robert
5 said, "I shot two people," and Scott said, "I shot
6 one."

7 I was just focused on my driving and I just
8 wanted to get out and get home and get out of it. I
9 didn't want nothing to do with it.

10 Q. Did they have any money?

11 A. Yes.

12 Q. Who had the money?

13 A. Robert had the money in his pocket. I
14 don't know exactly at what time he pulled it out, but
15 he gave me some, he kept some and gave Scott some.

16 Q. And you kept some?

17 A. Yeah.

18 Q. Where did you go after you left the Moon
19 and you're driving west on Grant?

20 A. We went to -- well, we went down Grant, got
21 on I-10 and went toward my house.

22 Q. All right. After I-10, where did you go?

23 A. We stopped at a store, but I don't remember
24 exactly at what store. But it was by my dad's house.
25 Then we got some beer and went to my dad's house.

1 Q. What did you do when you got to your dad's
2 house?

3 A. I went inside and took a shower. Scott and
4 Robert stayed outside and drank some beers.

5 Q. Why did you take a shower?

6 A. I just got off work. And I was sort of
7 scared. You know, I just -- get inside. I felt safe,
8 I guess, in the house. I'm not sure.

9 Q. Okay. You take a shower, get dressed,
10 clean clothes, that kind of thing?

11 A. Yeah.

12 Q. Were they still there?

13 A. Yes.

14 Q. Tell us about that.

15 A. When I came out, they were leaving. They
16 were like getting in the truck as I was coming out. I
17 walked up to the truck and, you know, they told me not
18 to say anything. And I said okay and they left.

19 Q. Mr. Nordstrom, I want to ask you a few more
20 questions about that electronic monitoring thing.

21 You said something about an ankle bracelet.

22 A. Yes.

23 Q. Describe what that looked like.

24 A. It's black. It's probably about two inch
25 square box, about that big (indicating), with a plastic

1 band going around it and it had wires going through the
2 plastic band and it was strapped on my leg.

3 Q. Outside of your clothes or inside?

4 A. Inside.

5 Q. Against your bare skin?

6 A. Yes.

7 Q. When did you get that put on?

8 A. January 25, '96.

9 Q. The day you got on parole?

10 A. Yes. Well, the day I got out of prison.

11 Q. When did you get it taken off?

12 A. I don't know the exact date. It was in
13 August, I believe, if I remember right.

14 Q. Of '96?

15 A. Of '96, yes.

16 Q. Did you take it off in between those times?

17 A. No, I couldn't take it off. There's no
18 possible way to get it off without cutting it off. I
19 could have cut it off, I guess, but I never did.

20 Q. Do you shower with it and all that?

21 A. Yeah, shower, swimming, anything.

22 Q. Now, you've already told us that you had a
23 curfew imposed on you.

24 A. Yes.

25 Q. Do you always strictly abide by that

1 curfew?

2 A. No.

3 Q. You broke curfew sometimes?

4 A. Yes.

5 Q. Okay. Did you ever get caught?

6 A. Yeah. It was pretty much if you break
7 curfew, you're going to get caught. There is really no
8 way to get around it.

9 Q. Remember, around this time period, we're
10 talking now May 30th and the middle of June, what's the
11 latest time you were out, if you can recall? And don't
12 guess if you don't remember.

13 A. I'm going to say 8:00, maybe. And that's
14 only a guess. I'm not going to guess at it. It wasn't
15 that late, I know that.

16 Q. Did you think you could beat that
17 electronic monitor?

18 A. No.

19 Q. Were you using drugs during that time
20 period?

21 A. Yes.

22 Q. What kind of drugs?

23 A. Methamphetamine.

24 Q. How often were you using it?

25 A. Occasionally. It wasn't a daily habit. It

1 wasn't like I was hooked on it or nothing. It was more
2 like party time, you know, stay up all night and drink
3 a lot of beer.

4 Q. Is that a violation of your parole?

5 A. Yes.

6 Q. So why were you using it?

7 A. I figured I'd get away with it if I wasn't
8 doing it all the time. You know, like drinking, I knew
9 I could get away with drinking without getting caught.

10 Q. Drinking was also a violation?

11 A. Yes, it was.

12 Q. Did you ever get caught using the drugs?

13 A. Yeah. I dropped a dirty UA.

14 Q. UA, urinalysis?

15 A. Urinalysis test.

16 Q. Okay. Now, let's talk about the Fire Hall.

17 Were you ever a member of the Fire Fighters

18 Union Hall?

19 A. No.

20 Q. Did your mother work there?

21 A. Yes.

22 Q. How about your brother Scott, was he ever a
23 member?

24 A. Yeah, at one time he was. I don't know
25 exactly when, but he was at one time.

1 Q. Did your mother ever work there?

2 A. Yes.

3 Q. Do you remember when that was?

4 A. When I was small, maybe 11, 12 years old,
5 somewhere around there.

6 Q. Now, the night the Fire Fighters Union Hall
7 murders happened, did you work that day?

8 A. Yes.

9 Q. Where did you work?

10 A. I worked with Scott. We worked at, I think
11 it was Graybeck -- some kind of -- what was the name of
12 it.

13 I was working for -- I can't even remember
14 that dry wall company now -- Sante Fe Dry Wall, and we
15 were working -- Sante Fe contracted a job to, I think
16 the company was Graybeck Construction or something.
17 It's way out east. It's like past Houghton, way out in
18 the boonies.

19 Q. How long did you work that day, if you
20 recall?

21 A. I worked an eight-hour shift.

22 Q. Where did you go after you worked?

23 A. Home. Well, Scott and I, we left in the
24 truck. We went down Houghton, got on Houghton and
25 stopped at I think like a Chevron station or something

1 there. Bought some beer, drank some beer and drove
2 home. Went to dad's house.

3 Q. When you got home to your father's house
4 that day, did you leave the house after that?

5 A. No, I didn't. I got home at my curfew, you
6 know, maybe a half hour before. Not much time before.

7 Q. Okay. Scott hung out there at the house
8 for a while or what?

9 A. For a little while.

10 Q. And then what, he leaves?

11 A. He leaves to go home.

12 Q. Did you see him that day at all after that,
13 your brother Scott?

14 A. I don't know if I seen him, but I know I
15 talked to him.

16 Q. On the telephone?

17 A. Yeah.

18 Q. But you didn't see him after that?

19 A. I don't think I did.

20 Q. Later after that?

21 A. Yeah.

22 Q. How about the defendant, Robert Jones, did
23 you see him?

24 A. Yes.

25 Q. Let's talk about that.

1 When did you see him?

2 A. I don't remember the exact time, but it was
3 late at night that he woke me up when I was sleeping.

4 Q. Tell us about that, as much as you can
5 recall.

6 A. What I first remember is him turning on my
7 bedroom light and standing there in the doorway with a
8 pretty weird look on his face.

9 Q. A weird look on his face?

10 A. Yeah. It was like -- I don't know how to
11 describe it. It was just -- it wasn't his normal --
12 you know, he didn't look normal.

13 Q. Okay.

14 A. Pale. Eyes big.

15 Q. Go ahead and tell us what you remember.

16 A. I remember -- well, I think I asked him
17 what he did or something to that effect. He started
18 explaining and I said, well, let's go outside. I
19 thought my stepmother might have been awake in the
20 living room.

21 So we went outside on the porch and then we
22 went in the front yard.

23 Q. Now, weren't you afraid that if you went on
24 the porch in the front yard your ankle monitor would go
25 off?

1 experimented to see how far I could go in my dad's yard
2 and I could go anywhere in my dad's yard, on his
3 property. I could even go past as I really ever
4 checked. I could go to all four corners of his yard.

5 Q. Could you go on the driveway?

6 A. Yeah.

7 Q. Sidewalk?

8 A. Yeah.

9 Q. Do you have a big tree out there?

10 A. Yeah, there was a mesquite tree or
11 something, a mulberry tree.

12 Q. Is there a picnic table there somewhere?

13 A. Yeah, right underneath the mulberry tree.

14 Q. And you could go to all those places
15 without the monitor going off?

16 A. Yes.

17 Q. So you and the defendant go to the front
18 porch and then you go out into the yard?

19 A. Yes.

20 Q. Did he tell you something?

21 A. Yeah, then he started explaining what
22 happened, what he did that day.

23 Q. Tell us that in the order that he told you,
24 to the extent you can remember, please.

25 A. ~~First he said, you know: We robbed the~~

1 A. First he said, you know: We robbed the
2 Fire Hall. He said they walked in and told everybody
3 it was a robbery, put your heads on the bar. Scott,
4 you know, grabbed the bartender and took her in the
5 back and told her to open the safe. And she couldn't
6 and, you know, he kicked her and shot her, so Robert
7 shot everybody else and then they left.

8 Q. He told you that Scott took the bartender?

9 A. Yes.

10 Q. And told her to open the safe?

11 A. Yes.

12 Q. And he told you something was done to the
13 bartender?

14 A. Yes.

15 Q. What was done?

16 A. Scott kicked her.

17 Q. Why did Scott kick her?

18 A. Because she couldn't open the safe. He
19 thought if, you know, he beat her up, I guess, she
20 would open it.

21 Q. Okay. And what else did Robert tell you?

22 A. That I guess after Scott shot the
23 bartender, then Scott shot the other three people.

24 Q. Scott did?

25 A. No, Robert did. I'm sorry.

1 Q. Did he say where they were shot?

2 A. In the head, in the back of the head.

3 Q. Did he say why he did that?

4 A. I don't remember if he said why.

5 Q. What was your reaction to all that?

6 A. Mad. Upset. You know, why did you do it
7 type thing.

8 Q. How long does this conversation last, if
9 you remember?

10 A. I don't remember. I can't really say.

11 Q. Okay.

12 A. You know, we talked about that and talked
13 about other things. I don't remember.

14 Q. So how does it end, that conversation?

15 A. He says he's leaving, you know. Okay.
16 Later. Went back inside.

17 Q. Did your stepmother Terri ever ask you
18 about that?

19 A. No.

20 Q. You don't remember that?

21 A. No.

22 Q. So you go back inside. What did you do?

23 A. Went back to bed.

24 Q. Did you go to sleep?

25 A. No.

1 Q. Did you see your brother the next day?

2 A. In the morning. He came to pick me up for
3 work.

4 Q. Did you ask him about this stuff? Don't
5 tell me what he said, just did you ask him about it?

6 A. Yeah.

7 Q. Now, did he still have that .380?

8 A. It was in the truck.

9 Q. The next day?

10 A. Yeah, it was on the seat.

11 Q. How do you know that?

12 A. The gun was there. The cell phone was
13 there and some bandannas.

14 Q. Did you ever do anything with that .380 or
15 the nine-millimeter after that?

16 A. After what?

17 Q. After this conversation with the defendant.

18 A. Yeah.

19 Q. Okay. Tell us about that.

20 A. I don't know exactly like how many days
21 afterward, but Scott and I -- actually, I believe I
22 told Scott that he needed to get rid of that gun and he
23 agreed and we drove way out down south and threw it in
24 a pond.

25 Q. Why did you tell him he needed to get rid

1 of the gun?

2 (Beeping noises.)

3 THE COURT: Excuse me. Whoever is causing
4 that noise is going to have to leave the courtroom or
5 correct the situation.

6 MR. WHITE: It's a listening device, Judge.

7 THE COURT: Okay. You may continue.

8 BY MR. WHITE:

9 Q. I'm sorry, Mr. Nordstrom.

10 A. I forgot what you said.

11 A. Why did you tell him he was going to have
12 to get rid of the gun?

13 A. Because it was basically a hot gun. Now,
14 you know, if he got pulled over and they found the gun,
15 you know, it would put us right there at the crime
16 scene. So if we got rid of it then we don't have to
17 worry about it.

18 Q. How about the nine-millimeter, did you
19 dispose of it at the same time?

20 A. No.

21 Q. So you and Scott only disposed of the .380?

22 A. Yes.

23 Q. What happened to the nine-millimeter?

24 A. Robert still had it.

25 Q. Tell us about that. What did --

1 A. He had it for a while. Actually, I don't
2 know exactly how long, but he had it for a while. We
3 kept telling him he needed to get rid of it; he didn't
4 want to get rid of it, but finally we convinced him
5 that it was the right thing to do to get rid of it so
6 he got rid of it.

7 Q. How did he get rid of it?

8 A. Robert and I, we drove out to that same
9 pond. Actually, I think there's another pond up the
10 road more, but we never made it to that one. The road
11 got too rough. So we just turned around and went to
12 the other one.

13 Q. The same pond that the .380 got dumped in?

14 A. Yes.

15 Q. So tell us about that.

16 A. What gun?

17 Q. The nine-millimeter.

18 A. There was a little bit of water in it. We
19 drove pretty much down into the pond and got out.
20 Robert opened the gun up and threw it in. I had the
21 clip and the bullets, 97 bullets or something like
22 that. I threw the clips in and threw the bullets in
23 and Robert threw his gun in.

24 Q. Now, you talked about buying ammunition.
25 Did you and Scott ever go shoot the .380 for like

1 target practice or just shooting it?

2 A. Yes.

3 Q. Where did that take place?

4 A. There's some ponds out at the end of
5 Valencia. I don't know if they've got water in them,
6 but they're just a place where people go shoot guns and
7 on weekends they go party out there, big bonfires and
8 stuff.

9 Q. Okay. Now, is this the same ponds where
10 the guns were tossed?

11 A. No, this is a totally different place.

12 Q. Okay.

13 A. They aren't even close together.

14 Q. So you and your brother go shoot the .380
15 at this ponds place on Valencia?

16 A. Yes.

17 Q. Was that before the Fire Hall?

18 A. Yeah.

19 Q. Did Jones go with you on that occasion?

20 A. No.

21 Q. Did you ever go to the ponds at that
22 location with your brother after the Fire Hall?

23 A. Yes.

24 Q. What did you do there?

25 A. I don't know exactly what day it was. He

1 took some wallet out there or something and burned it
2 and he basically wanted to go see if it was burned up.

3 Q. A wallet from somebody in the Fire Hall?

4 A. Yes.

5 Q. Do you remember, did you ever hear from the
6 defendant whether they got any money from the Fire
7 Hall?

8 A. Yes. I don't know how much, but they said
9 they had some.

10 Q. You don't remember how much they said?

11 A. No, I don't remember exactly.

12 Q. When you went target practicing or shooting
13 that .380 at the ponds before the Fire Hall, were the
14 casings, the shells were left in your guy's truck?

15 A. In Scott's truck?

16 Q. Yes.

17 A. .380 shells.

18 Q. How did that happen?

19 A. My guess is from when they're shooting,
20 they eject out of the gun and they probably flew back
21 up. We always stand beside the truck and shoot.

22 Q. Did you do anything with those casings?

23 A. Yeah. We were getting the tools out. I
24 think we were going to go to the bar or something, so
25 we were taking all the tools out of the back and

1 leaving them at the house, and I seen them and I just
2 gathered them all up and threw them in my dad's front
3 yard.

4 Q. Why did you do that?

5 A. I really can't tell you. To get them out
6 of the truck, I guess.

7 Q. Did there come a time when you and your
8 brother got stabbed?

9 A. Yes.

10 Q. When was that?

11 A. June 21st.

12 Q. How badly were you injured?

13 A. Pretty bad.

14 Q. How about your brother?

15 A. He was real bad, close to death.

16 Q. Did you both get put in a hospital?

17 A. Yeah.

18 Q. How long were you in the hospital?

19 A. I was there for four days.

20 Q. And then you got out of the hospital?

21 A. Yes.

22 Q. Where did you go after you got out of the
23 hospital?

24 A. Back to live at my dad's house.

25 Q. Were you working then?

1 A. I was working before I got stabbed, but not
2 afterwards, not for a while. I was trying to heal up.

3 Q. Okay. Did the defendant come visit you at
4 the hospital?

5 A. Yeah.

6 Q. Do you remember what was said specifically?
7 Were you getting pain medication at that time?

8 A. Yeah. I know the stip --

9 Q. That's okay. Now, after you see the
10 defendant at the hospital, do you see him after the
11 hospital?

12 A. Yes.

13 Q. Where is that?

14 A. My house -- or my dad's house.

15 Q. How many times?

16 A. I don't know exactly. A couple of times, a
17 couple of three times maybe.

18 Q. Are you guys socializing again like before?

19 A. Not as much. I was more like, you know,
20 see you, you know. The first time he came over, I was
21 no company whatsoever. I was taking pain medication
22 and drinking so I was pretty much, you know, comatose,
23 you know, just walking around.

24 Q. Okay. Was this at the hospital or at your
25 dad's?

1 A. At my dad's house.

2 Q. How about the next time he came and saw
3 you?

4 A. I think it was a couple of times he did
5 that, and then -- I don't know exactly what day it was,
6 but he told me he wanted to meet me outside in about 15
7 minutes, and I said okay and went out there.

8 Q. Now, this occasion that we're talking
9 about, do you remember when this was?

10 A. The exact day, no.

11 Q. Can you give me a month?

12 A. Yeah. It wasn't long after I got out. I
13 had the truck, my brother's truck, because, you know, I
14 took over the payments on it, so I just got the truck
15 and I was just getting ready to go back to work. I'd
16 say three weeks, maybe a month.

17 Q. Mid to late July, is that we're talking
18 about?

19 A. Yeah.

20 Q. So the defendant comes to your house.
21 Daytime or night?

22 A. It was nighttime. I don't know what time.

23 Q. How does he get there, in that same white
24 Ford pickup truck?

25 A. No, he's riding a motorcycle.

1 Q. Okay. Tell us about the conversation.

2 A. Well, he walked up to me and then he told
3 me why he wanted me to meet him outside because he had
4 dyed his hair and his goatee was like a dark brown
5 maybe.

6 Q. Okay.

7 A. And we talked about he was going to rob
8 somebody and he wanted some duct tape, so I gave him a
9 roll of duct tape because I use duct tape in my job, so
10 I gave him a roll of it. And that was pretty much it
11 and then he left.

12 Q. He had dark hair?

13 A. Yeah. It was like dark brown maybe. Not
14 like real dark brown, but kind of -- I don't know what
15 color it would be. Let's see.

16 Q. Dark, but it wasn't his regular hair color?

17 A. No, it wasn't red, not at all.

18 Q. Did he say where he was staying?

19 A. Phoenix.

20 Q. I'm sorry?

21 A. In Phoenix.

22 Q. Did you see him after that?

23 A. No.

24 Q. Did you have any conversations with him
25 after that?

1 A. No.

2 Q. Were you told that he was trying to call
3 your house?

4 A. Yes.

5 Q. Did you call him back?

6 A. No.

7 Q. Why not?

8 A. Because he was in jail.

9 Q. Now, in December -- well, between the time
10 that you saw him the last time after the stabbing and,
11 let's say, December of 1996, did you tell anybody about
12 what you just told us today about these crimes?

13 A. My girlfriend.

14 Q. When was that?

15 A. I don't know exactly what day it was, but
16 it was around Christmastime, maybe like after Christmas
17 or right before. I'm not exactly sure what time it
18 was.

19 Q. Okay. But you didn't tell anybody other
20 than her?

21 A. No, I didn't tell nobody else.

22 Q. And you didn't tell her up until around
23 Christmas?

24 A. Yeah.

25 Q. So what made you tell?

1 THE COURT: Yes, you may.

2 (The following proceedings were held at the
3 bench, out of the hearing of the jury:)

4 MR. LARSEN: Based on the last series of
5 questions and answers before Mr. White moved on to the
6 Christmas conversation with his girlfriend, Mr. White
7 asked a question directly designed to elicit an answer.

8 The question was, "Why didn't you call him
9 back?"

10 Mr. Nordstrom answered, "I couldn't because
11 he was in jail."

12 That's highly prejudicial to my client.

13 The question before that, Mr. Nordstrom
14 talked about Jones wanting to do a robbery and wanting
15 duct tape.

16 Neither of those should have been
17 admissible.

18 Both of those are instances of the type of
19 conduct we talked about in pre-trial motions in limine.

20 Mr. Nordstrom violated both of those
21 directly.

22 The jury. there were a couple of raised
23 eyebrows and some of them were taking notes based on
24 that comment.

25 So I would move for a mistrial.

1 I see no way to rehabilitate that.

2 THE COURT: Are you asking for any curative
3 instruction?

4 MR. LARSEN: I don't see how we can get a
5 curative instruction in to dissuade the jury unless you
6 want to call Mr. Nordstrom a liar, that he was not in
7 jail, that he was not talking about going and doing
8 other robberies.

9 I think it would draw more attention to the
10 fact that Mr. Nordstrom is talking about Mr. Jones
11 doing other crimes and Mr. Jones being in jail, which
12 was strictly forbidden.

13 THE COURT: There has not been any
14 reference as to why he might have been in jail.

15 I assume the jury can assume that it may
16 have something to do with this case.

17 There's not been any indication that he
18 actually did commit another robbery.

19 But, Mr. White, I'll hear you on the
20 record.

21 MR. WHITE: Well, those answers were
22 unexpected. Previously, he said he didn't call Robert
23 Jones back because he didn't like him after the
24 murders.

25 That is not the answer I anticipated.

1 Mr. Nordstrom and I spent awhile, quite
2 awhile, yesterday talking about not answering questions
3 that way.

4 I gave him specific instructions about not
5 talking about not talking about what were in the
6 motions in limine.

7 Those were not anticipated on my part.

8 MR. LARSEN: The only reason is Mr.
9 Nordstrom has his own agenda.

10 He's going to answer the way he wants to
11 answer them and he's going to portray my client in the
12 worst light possible.

13 THE COURT: Well, we have had, of course,
14 other references to the non-charged conduct in this
15 case.

16 And it seems to me that we ought not go any
17 further without instructing the jury, at least in some
18 minimal fashion, that any other criminal activity is
19 not to be used by them as any indication that he's of
20 bad character and that he may be guilty of these
21 offenses and that he isn't charged with anything other
22 than what appears in the indictment.

23 MR. LARSEN: I think we have relevant
24 circumstances where this has been litigated prior to
25 starting.

1 I would agree if the witness had not been
2 briefed, but Mr. White apparently spent a couple hours
3 with him yesterday.

4 He's testified before. He's certainly
5 experienced at this.

6 I don't see where a curative instruction is
7 going to help, Judge.

8 I think that the only remedy is to move for
9 a mistrial based on Mr. Nordstrom's agenda.

10 THE COURT: Mr. White?

11 MR. WHITE: I object.

12 There's been testimony that Mr.
13 Jones has had contacts with police.

14 The point is the jury knows he was in
15 contact with the Phoenix police.

16 The references are unfortunate. They were
17 unexpected, but they happened.

18 But they are so minor that I don't think
19 they are going to prejudice the defendant.

20 When we are talking about a robbery where
21 we've got six dead people, frankly, that's not going to
22 have an extremely prejudicial effect.

23 So I would oppose a mistrial.

24 MR. LARSEN: I would respond with at least
25 the contacts with the police were hidden under the

1 guise of a search warrant.

2 So the jury has not had any indication that
3 the contact with the police was based on illegal
4 contact, because the police were investigating this
5 particular situation.

6 We can't hide this, not the way he phrased
7 it.

8 This is clearly other criminal activity.

9 And then he was in jail.

10 Clearly, the jury is left with the
11 impression that at the very least that he actually used
12 the duct tape and did a robbery and was arrested and
13 put in jail.

14 That's precisely what we litigated to not
15 have happen.

16 THE COURT: Well, it's unfortunate that the
17 comments were made, but I don't think it was to the
18 level that it requires a mistrial in this case.

19 I am perfectly willing to give, as I
20 indicated, a limiting, a cautionary instruction.

21 And if you'd like me to do that, I will.

22 I'll do it in the final instructions.

23 Because there is a two-edged sword, drawing
24 more attention to it, a limiting instruction.

25 I'll leave it up to you.

1 (End of bench conference.)

2 THE COURT: Ladies and gentlemen, we'll
3 take the afternoon recess a tad early. It is about
4 quarter till 3:00. So if you would be ready to come
5 back in the courtroom at about 3:00 o'clock, we'd
6 appreciate it.

7 Remind you not to discuss the case with
8 each other or anyone else and to keep an open mind.

9 (Jury out.)

10 THE COURT: The record will show the
11 presence of counsel and the defendant and the absence
12 of the jury.

13 And if counsel would approach again,
14 please.

15 (The following proceedings were held at the
16 bench:)

17 THE COURT: In line with our discussion
18 before the break, this is my latest offering for a
19 proposed cautionary instruction to the jury.

20 MR. WHITE: The State has no objection.

21 MR. BRAUN: The way you've got it worded, I
22 do think we probably need some sort of curative
23 instruction. It makes it sound like he actually
24 committed those acts.

25 THE COURT: I'm open to suggestions.

1 MR. BRAUN: I prefer that we have some
2 wording in there --

3 MR. WHITE: Alleged criminal acts?

4 MR. BRAUN: He's not on trial for any such
5 acts, if they exist.

6 MR. WHITE: If they occurred?

7 THE COURT: It does say for any such acts.

8 MR. BRAUN: And after that, because "any
9 such acts" seem to say that those acts did in fact
10 occur. So I'd like some more English softening that,
11 something to the effect of: If they in fact occurred,
12 if they in fact exist --

13 THE COURT: On trial for any crime not
14 charged --

15 MR. BRAUN: No, because again, it tells the
16 jury that Mr. Nordstrom has just told the truth about
17 these but you ignore those. And he's obviously the
18 centerpiece of the case and we're attacking his
19 credibility, and I think a curative instruction to that
20 effect gives him credibility because it does say those
21 acts in fact occur, those statements did in fact occur.
22 And we're disputing his testimony almost 100 percent.

23 My major problem is with, "Not on trial for
24 any such acts."

25 MR. WHITE: Alleged acts? And I'm just

1 making suggestions. I'm not --

2 THE COURT: For anything other than the
3 crimes charged in the indictment.

4 MR. BRAUN: Maybe if we just word it, you
5 are reminded that the defendant is not on trial for
6 such acts, because then it reads, "Alleged criminal
7 acts by the defendant unrelated to the charge against
8 him in this trial. You must disregard this testimony."

9 That would be acceptable and I prefer to
10 have something along that line for any such acts if
11 they do indeed exist, but if the Court is not willing
12 to go that far --

13 THE COURT: I'm willing to say that, too,
14 if you want it.

15 MR. BRAUN: That would be my first
16 preference.

17 MR. WHITE: How about: You must disregard
18 any testimony about these alleged acts?

19 MR. BRAUN: Again, that says they exist.

20 MR. WHITE: No.

21 MR. BRAUN: I understand your insertion of
22 the word "alleged."

23 THE COURT: For any such acts, if in fact
24 they occurred.

25 MR. BRAUN: That would be fine.

1 THE COURT: Mr. White?

2 MR. WHITE: That would be fine.

3 THE COURT: All right.

4 MR. BRAUN: Without waiving any of my prior
5 motions for mistrial.

6 THE COURT: To be sure, is that what we are
7 discussing?

8 MR. BRAUN: Yes. That would be fine.

9 THE COURT: As soon as they come back in, I
10 will read it to them.

11 MR. WHITE: Fine. I'm going to ask him
12 about the date, the last time he saw Robert Jones,
13 which I think was right before he went to work. But
14 can I just speak to him about that for a second?

15 THE COURT: Yes.

16 (End of bench conference.)

17 (Jury in.)

18 THE COURT: Please be seated. The record
19 will show the presence of the jury, counsel and the
20 defendant.

21 Ladies and gentlemen, references have been
22 made in the testimony as to other alleged criminal acts
23 by the defendant unrelated to the charges against him
24 in this trial.

25 You are reminded that the defendant is not

1 on trial for any such acts, if in fact they occurred.
2 You must disregard this testimony and you must not use
3 it as proof that the defendant is of bad character and
4 therefore likely to have committed the crimes with
5 which he is charged.

6 You may proceed, Mr. White.

7 MR. WHITE: Thank you.

8 BY MR. WHITE:

9 Q. Mr. Nordstrom, this last conversation that
10 you had with the defendant outside your house, do you
11 know the conversation I'm talking about?

12 A. Yes.

13 Q. I'm going to try to put that in some kind
14 of time frame. Like I asked you if you knew the date
15 and you didn't.

16 A. Yes.

17 Q. Were you back to work when that
18 conversation occurred?

19 A. No, I was getting ready to go to work, like
20 the next day or the day after.

21 Q. So you had had to not work while you were
22 recovering from the stab wounds?

23 A. Yes.

24 Q. And this conversation occurred when you
25 were pretty much back where you could work?

1 A. Yes.

2 Q. So you're going to go to work shortly after
3 this conversation?

4 A. Yeah, a couple days probably.

5 Q. So if we can determine when you would have
6 gone back to work, would that help us narrow down the
7 time frame when this conversation with the defendant
8 would have occurred?

9 A. Yeah.

10 Q. Were you reporting to your parole officer
11 about when you were getting a job and going to work,
12 that kind of thing, at that time?

13 A. No, the way the job worked, I got called.
14 I think his name is Mike from Valenzuela Dry Wall, he
15 would call and say, can you come to work.

16 Q. Right.

17 A. And I said okay. I didn't answer the
18 phone, so --

19 Q. I'm sorry. I didn't ask the question very
20 well.

21 A. All right.

22 Q. As part of your conditions of parole, did
23 you have to keep your parole officer advised of where
24 you were working?

25 A. Yes.

1 Q. So when you went to work for Valenzuela Dry
2 Wall, is that the place you went to work for after this
3 conversation?

4 A. Yes.

5 Q. Would you have told that to your parole
6 officer?

7 A. Yes.

8 Q. Would you have told the parole officer that
9 near in time to when you actually went back to work?

10 A. I would have told him the same day.

11 Q. Okay. So we might be able to determine
12 from your parole officer when you went back to work?

13 A. Yes.

14 Q. And thereby maybe determine the time, the
15 approximate date of this conversation?

16 A. Yes.

17 Q. Does that make sense to you?

18 A. Yes.

19 Q. That's what I was trying to get at.

20 Before the break, I was asking you about
21 whether you told anybody about these crimes and you
22 said you told Toni, your girlfriend.

23 A. Yes.

24 Q. And you think sometime before Christmas?

25 A. Yes. Right around Christmas.

1 Q. So how was it that that came about that you
2 ended up telling her, because you hadn't told her
3 before this?

4 A. Well, we were laying in bed. I think it
5 was about 10:00 o'clock and the news came on and I seen
6 stuff on the news about these crimes and, I don't know,
7 they were asking for help.

8 And, I don't know, I just thought about it
9 and then I think the next day or a couple of days later
10 I told Toni about it.

11 Q. You didn't tell her that night when you saw
12 the TV?

13 A. No. I think she was sleeping.

14 Q. Okay.

15 A. It could have been the next day or the next
16 night. I told her at nighttime.

17 Q. Watching this TV, why did that finally
18 motivate you to tell after all those weeks and months?

19 A. It was just -- just the crimes, you know.
20 I was scared and it was driving me crazy.

21 Q. What do you mean it was driving you crazy?

22 A. I started using drugs and drinking a lot
23 more than I usually did. My conscience, it was getting
24 to me, and I didn't feel right with it, hiding it no
25 more.

1 Q. Well, why didn't you feel right? I mean,
2 you didn't shoot people -- did you shoot people at the
3 Fire Hall?

4 A. No. No.

5 Q. So why didn't you feel right about it?

6 A. Because I knew who did it and I wouldn't
7 tell nobody.

8 Q. So after you told Toni, did you tell
9 anybody else?

10 A. No.

11 Q. Did you go out and tell the police right
12 then?

13 A. No.

14 Q. Why not?

15 A. Because I was involved in one of them and I
16 didn't want to get myself involved.

17 Q. So did you and Toni talk about what, how it
18 had happened or --

19 A. She said that we should call the cops.

20 Q. And you didn't call the cops?

21 A. No.

22 Q. So how did it come out?

23 A. Actually, really I don't remember that
24 conversation that took place, but she kept saying, you
25 know, you need to do something about this, you need to

1 do something about this, and then I told her to call
2 the cops.

3 Q. And did you call the cops or somebody else?

4 A. She called them.

5 Q. The cops or 88 Crime?

6 A. Yeah, 88 Crime.

7 Q. All right. And after she called 88 Crime,
8 did you guys just leave it at that?

9 A. I don't know exactly -- no, we didn't drop
10 it, but we didn't like pursue it like the next day or
11 something. It wasn't like we forgot about it.

12 And I think Toni called the detectives..

13 Q. Did she meet with the detectives?

14 A. Yes.

15 Q. Did she come back and tell you about that?

16 A. Yes.

17 Q. So that was fine, then, you didn't need to
18 get involved after that?

19 A. No. She came back -- she talked to them
20 for an hour or so, a couple of hours. I don't remember
21 how long it was.

22 She came back to the car and I started
23 driving back to the house and then she said, they don't
24 have enough information. This ain't enough. And I
25 said, well, I guess it's time for me to do it then.

1 And I don't know, 20 minutes after we left,
2 15 minutes, whatever it was, I was on the phone paging
3 them back. Then they called me back and that's when I
4 told them, I said, well, I know pretty much everything
5 you need to know.

6 Q. Then did you meet with them?

7 A. Yes.

8 Q. Not necessarily that night, but later on?

9 A. Yeah. I don't know exactly when it was.

10 Q. Now, when you met with them, did you
11 actually meet with them face to face?

12 A. Yes.

13 Q. Did you tell them your name, David
14 Nordstrom?

15 A. No.

16 Q. Who did you tell them you were?

17 A. At first I didn't tell them nothing, and
18 then I told them my name was John.

19 Q. Why did you tell them that?

20 A. Because I didn't want to get my name
21 involved in it.

22 Q. When you had this conversation posing as
23 John with the detectives, did you tell them the whole
24 truth?

25 A. No.

1 Q. Why not?

2 A. I was involved and I didn't want to get
3 myself in trouble.

4 Q. Did you have just one conversation or more
5 than one?

6 A. We had more than one. Quite a few,
7 actually, I think.

8 Q. And at some point does the subject of money
9 come up?

10 A. Yes.

11 Q. And by money, I mean you getting some money
12 for this information.

13 A. Yes.

14 Q. Who brought that subject up?

15 A. Detective Salgado.

16 Q. It wasn't you?

17 A. No.

18 Q. You're sure about that?

19 A. Yes..

20 Q. At some point did you tell them you would
21 take them to show them where the guns where?

22 A. Yes.

23 Q. And at some point did you do that?

24 A. Yes.

25 Q. Tell us about that. Who went along on that

1 trip?

2 A. Detective Woolridge, Detective Salgado,
3 myself and my girlfriend Toni.

4 Q. You guys get in a vehicle and go to these
5 ponds someplace?

6 A. Yes.

7 Q. Did you get some money as a result of that?

8 A. Yes.

9 Q. How much?

10 A. \$5,000.

11 Q. Did you guys all drive down to the pond?

12 A. Yeah. We went to -- I didn't get the money
13 until we got back, but we drove to the pond. The pond
14 was totally full of water. I couldn't really point
15 nothing out to them. I guessed, well, maybe they're
16 over there. And we left.

17 Q. Come back to Tucson?

18 A. Yes.

19 Q. What happened when you got back to Tucson?

20 A. I got arrested.

21 Q. Was that on the 16th of January?

22 A. Yes.

23 Q. Of '97?

24 A. Yes.

25 Q. Now, did you give a statement to Detective

1 Salgado and Detective Woolridge that evening?
2 A. Yes.
3 Q. Actually, did you give two statements?
4 A. Yes.
5 Q. Was one of them around 8:00 o'clock?
6 A. Yeah. I really don't remember, but yeah.
7 Q. Have you seen the transcripts of those?
8 A. Yes.
9 Q. They are dated the 16th, one of them at
10 8:00 o'clock?
11 A. Yeah.
12 Q. Did you tell the whole truth in that
13 statement?
14 A. No.
15 Q. What did you leave out?
16 A. Me.
17 Q. Okay. Why did you leave out you?
18 A. I didn't want to get involved in it.
19 Q. Later that night did you give them a second
20 statement?
21 A. Yes.
22 Q. Did you include you in that statement?
23 A. Yes.
24 Q. Was that the full truth?
25 A. No.

- 1 Q. What did you leave out?
- 2 A. The gun, the .380, where it came from.
- 3 Q. Where did it come from?
- 4 A. Cindy Inman.
- 5 Q. Why did you leave that out?
- 6 A. I didn't want to get her involved.
- 7 Q. Now, you get taken to jail, right?
- 8 A. Yes.
- 9 Q. You get indicted for these crimes?
- 10 A. Yes.
- 11 Q. Were you indicted for the Moon Smoke Shop
- 12 crimes?
- 13 A. Yes.
- 14 Q. Were you also indicted for the Fire Hall
- 15 crimes?
- 16 A. Yes, I was.
- 17 Q. What happened to the counts against you
- 18 related to the Fire Hall crimes?
- 19 A. They were dismissed because I wasn't there.
- 20 Q. Was that a part of any plea bargain?
- 21 A. No.
- 22 Q. They were just dismissed?
- 23 A. They were dismissed.
- 24 Q. How about the counts against you relating
- 25 to the Moon Smoke Shop crimes?

1 A. They were dropped -- the murder charge was
2 dropped to armed robbery.

3 Q. In exchange for what?

4 A. My testimony.

5 Q. Part of a deal?

6 A. Yes.

7 Q. Now, we talked about you being in prison.

8 How many prior convictions do you have?

9 A. I think three.

10 Q. What were they for?

11 A. Burglary and forgery.

12 Q. Burglary and forgery?

13 A. Forgery.

14 Q. And theft?

15 A. Yeah, theft.

16 Q. Did the defendant ever tell you -- did he
17 ever talk about his friends, that kind of thing, when
18 you and he were hanging out together?

19 A. Yes.

20 Q. Anytime, just general conversation, friends
21 in general?

22 A. Well, yeah, but really nobody -- it was
23 pretty much we just hung out. It was us three hanging
24 out, pretty much.

25 Q. Did he ever mention to you that he knew

1 anybody in Phoenix?

2 A. Yeah.

3 Q. Do you know a person named Lana Irwin?

4 A. No.

5 Q. Do you know a person named David Evans?

6 A. Yes.

7 Q. Did you know him in the summer of 1996?

8 A. No.

9 Q. You've heard his name since then?

10 A. Yes.

11 Q. Have you ever heard the expression, "run
12 their neck"?

13 A. Yes.

14 Q. Did you ever hear that expression from this
15 defendant?

16 A. Yes.

17 Q. What does that mean?

18 A. People that talk stupid, you know, telling.

19 Q. People telling?

20 A. Just slang.

21 Q. People talking stupid or people telling?

22 A. Yeah, pretty much.

23 Q. Do you smoke?

24 A. Cigarettes?

25 Q. Yes.

1 A. Yes.

2 Q. Were you smoking cigarettes back when you
3 were living at your dad's house?

4 A. Yes, I was.

5 Q. Did you smoke inside or outside?

6 A. Outside.

7 Q. Why outside?

8 A. My dad don't allow smoking in his house.

9 MR. WHITE: May I approach one more time,
10 Judge?

11 THE COURT: Yes.

12 Q. Showing you a photograph marked State's 18.
13 Do you recognize the people in that
14 photograph?

15 A. I recognize Robert.

16 Q. Okay. The defendant is in that photograph?

17 A. Yes, he is.

18 Q. And do you recognize one of his family
19 members?

20 A. His little sister.

21 Q. Calling your attention to the way the
22 defendant appears in that photograph.

23 Is that how he appeared on May 30, 1996
24 when you robbed the Moon Smoke Shop?

25 A. Yes.

1 Q. Any difference?

2 A. The clothing. It was still western attire,
3 cowboy hat.

4 Q. The shirt is different?

5 A. The shirt is different.

6 Q. How about the hat?

7 A. Same hat.

8 MR. WHITE: Move the admission of State's
9 18.

10 MR. LARSEN: No objection.

11 THE COURT: Exhibit 18 is admitted.

12 MR. WHITE: May I publish it?

13 THE COURT: You may.

14 Q. That's a black cowboy hat that you saw him
15 wear on all those occasions that you would hang out
16 with him?

17 A. Yes.

18 Q. Is that the black cowboy hat that he was
19 wearing when he entered the Moon Smoke Shop on May
20 30th?

21 A. Yes, it was.

22 MR. WHITE: That's all my questions, Judge.

23 THE COURT: Cross-examination?

24 MR. LARSEN: Thank you.

25

1 CROSS-EXAMINATION

2 BY MR. LARSEN:

3 Q. Mr. Nordstrom, as I understand it, in
4 January of 1996 you were released from the Department
5 of Corrections.

6 A. Yes, I was.

7 Q. And that you then went to live here in
8 Tucson with your father?

9 A. Yes.

10 Q. And you were on home arrest via electronic
11 monitor?

12 A. Yes.

13 Q. And that was the ankle bracelet thing that
14 you explained to the jury earlier?

15 A. Yes.

16 Q. I gather that you were allowed and required
17 to go to work?

18 A. Yes.

19 Q. And you eventually in April or so began
20 working with your brother, correct?

21 A. Yes.

22 Q. And your --

23 A. In April?

24 Q. Yes.

25 A. I don't know the exact dates when I started

1 working with him.

2 Q. Your brother would be the one who would
3 drive you to work, correct?

4 A. Yes, he would drive me.

5 Q. And Scott drove a GMC truck that was blue
6 in color, correct?

7 A. Yes.

8 Q. And it was a lighter blue, was it not?

9 A. It was more like a greenish-blue color.

10 Q. Kind of blue?

11 A. Yeah, you could call it blue. Some people
12 called it green and some people said it was blue.

13 Q. Your recollection would be kind of blue?
14 At least that's what you said --

15 A. Bluish-green.

16 Q. -- in your previous testimony, correct?

17 A. Okay. I don't -- it's a bluish-green.
18 It's a hard color to describe.

19 Q. Did you describe it as kind of blue?

20 A. I don't recall.

21 MR. LARSEN: May I approach, Judge?

22 THE COURT: You may.

23 Q. Showing you what has been marked as
24 Defendant's Exhibit F.

25 Does that appear to be a copy of the

1 testimony you gave earlier in a related matter?

2 A. It appears that way, yes.

3 Q. Would you turn to Page 12.

4 I'm sorry. Page 15.

5 And if you will read to yourself Lines 4
6 through 12.

7 A. (Witness complies.)

8 Q. The color you settled on for Scott's truck
9 was blue, correct?

10 A. Yes.

11 Q. You indicate that it was a GMC truck. And
12 in response to, "Do you remember the color,"
13 "bluish-greenish in color, I guess blue."

14 A. Yes.

15 Q. When you were released from the Department
16 of Corrections, you were on parole, correct?

17 A. Yes.

18 Q. And you made a contract with the Parole
19 Department to certain rules to live by, correct?

20 A. Yes, I did.

21 Q. One was to commit no crime.

22 A. Yes.

23 Q. Another was not drink alcoholic beverages.

24 A. Yes.

25 Q. Another was not use illegal drugs.

- 1 A. Yes.
- 2 Q. Another was not associate with felons.
- 3 A. Yes.
- 4 Q. Another was to be home at a certain time.
- 5 A. Yes.
- 6 Q. Another was to go to your N.A. and A.A.
- 7 meetings.
- 8 A. Yes.
- 9 Q. Another was to report information about
- 10 work.
- 11 A. Yes.
- 12 Q. And another one was to not possess a gun.
- 13 A. Yes.
- 14 Q. As I understand it, you drank on a
- 15 continuing basis.
- 16 A. Yes.
- 17 Q. You used illegal drugs.
- 18 A. Yes.
- 19 Q. You associated with felons.
- 20 A. Yes.
- 21 Q. You violated your curfew.
- 22 A. Yes.
- 23 Q. You didn't go to the A.A. meetings.
- 24 A. Excuse me?
- 25 Q. You did not go to the A.A. meetings?

1 A. Yes, I did.

2 Q. I'm sorry?

3 A. I did. I went to them.

4 Q. You went to some of them?

5 A. Yes.

6 Q. You failed to give employment information.

7 A. Employment? Usually I always told them

8 where I was working.

9 Q. Are you supposed to give accurate

10 employment information?

11 A. Yes.

12 Q. That wasn't what you gave them, though, was

13 it?

14 A. No.

15 Q. Did you falsify the records?

16 A. Yes.

17 Q. John Mikiska, your employer, helped?

18 A. Yes.

19 Q. And you had, I believe, a relative help you

20 to falsify the records, correct?

21 A. Yes.

22 Q. That was your Aunt Connie, correct?

23 A. Yes.

24 Q. Connie Altieri?

25 A. Yes.

1 Q. You possessed a gun, correct?

2 A. Yes.

3 Q. This was the .380 semi-automatic, correct?

4 A. Yes.

5 Q. The one you obtained from Cindy Inman,
6 correct?

7 A. Yes.

8 Q. You indicated earlier with Mr. White that
9 you borrowed this from Cindy Inman, correct?

10 A. Yes.

11 Q. You also indicated that you didn't include
12 her in one of your statements because you didn't want
13 to get her involved, correct?

14 A. Yes.

15 Q. Isn't it true you didn't want to include
16 her in the statement because you had stolen the gun?

17 A. No.

18 Q. If she has another opinion as to how you
19 obtained that gun, would she be correct?

20 A. If she had another opinion?

21 Q. Yes. If she said you stole it.

22 A. She's lying.

23 Q. Does she have any motive for lying on that?

24 A. I guess if I would lend somebody a gun and
25 people would get killed with that gun, I'd lie too.

1 Q. Or perhaps if you used the gun and didn't
2 want to have another theft charge on you.

3 MR. WHITE: That's argumentative.

4 THE COURT: Sustained.

5 BY MR. LARSEN:

6 Q. When you first contacted the Tucson Police
7 Department in late December of January, you were aware
8 of the cash reward, correct?

9 A. When I first -- I don't remember.

10 Q. Why don't you turn to Page 155 of that
11 transcript.

12 Why don't you read from Line 8 to the
13 bottom. That should give you some context.

14 A. (Witness complies.)

15 Q. Do you recall testifying back on October
16 30th and 31st of '97 that you were aware there was a
17 reward out there?

18 A. When the crimes first happened? Yes.

19 Q. And eventually I think you indicated to Mr.
20 White that Detective Salgado indicated that there might
21 be some cash reward involved for your cooperation,
22 correct?

23 A. Yes.

24 Q. And you negotiated that dollar amount,
25 correct?

1 A. Yes.

2 Q. And I think you in fact consulted again
3 with your Aunt Connie, the one that helped falsify your
4 work records, for what dollar amount you should ask
5 for, correct?

6 A. Not exactly what dollar amount, no.

7 Q. Did you arrive at that figure after
8 consulting with her?

9 A. Yes.

10 Q. I guess she indicated something to the
11 effect of, get as much money as you can for this.

12 A. I think she said the reward was \$25,000.

13 Q. Did she in fact indicate, though, get as
14 much money as you can?

15 A. I don't recall.

16 Q. Why don't you turn to 176.

17 A. Okay.

18 Q. If you want to read from the last three
19 lines of 175 down to Line 13 of 176, that should give
20 you some context.

21 A. Through what lines again?

22 Q. About Line 12 or 13, the end of your answer
23 regarding the money situation.

24 A. (Witness complies.)

25 Q. Do you see where you're talking about

1 Connie Altieri being your legal advisor?

2 A. Yes.

3 Q. And she's talking with you about the money?

4 A. Yes.

5 Q. And in the sense of, get as much money as
6 you can, that's what you're talking about, correct?

7 MR. WHITE: I'm sorry. I would ask that
8 counsel ask him to repeat the answer that he gave if
9 he's impeaching him.

10 THE COURT: Sustained.

11 Q. Beginning -- read with me on Line 8.

12 Question: Paralegal, right? So now you
13 told your aunt about what you're doing concerning the
14 Fire Fighters Hall and information you have about Red.
15 And she's saying, go for it, get as much money as you
16 can.

17 Answer: In that sense, yeah. I didn't go
18 into no details with her about it.

19 Is that an accurate reading?

20 A. Yes.

21 Q. And in fact, you were going to get that
22 \$5,000 or you weren't cooperating, no matter what,
23 correct?

24 A. Yes.

25 Q. You've indicated that you were using

1 illegal drugs, methamphetamine, I believe?

2 A. Yes.

3 Q. You were using them on an ongoing basis
4 from your release in January of '96 to approximately
5 the 21st when you were stabbed, correct?

6 A. I don't remember exactly when I started
7 using them. I don't think it was in January. It might
8 not even have been in February. Maybe March.

9 Q. March to when you were stabbed?

10 A. Yeah.

11 Q. So from the third month of the year to the
12 sixth month of the year, give or take?

13 A. Yeah, give or take.

14 Q. And if you used drugs for weeks on end, you
15 would agree that you would have certain memory losses?

16 A. I didn't use drugs for weeks on end. I'd
17 use them occasionally. I had to report to my parole
18 officer once a week, so --

19 Q. I understand that. Would you agree that
20 the third month through the sixth months has 12 weeks?

21 A. Excuse me?

22 Q. Would you agree that the third month
23 through the sixth month of a year has 12 weeks?

24 A. Yes.

25 Q. Would you agree that you used on a

1 continuing basis on each of those weeks?

2 A. I couldn't say.

3 Q. Your first contact with the Tucson Police
4 Department came at the urging of Ms. Hurley, your
5 girlfriend, correct?

6 A. Yes.

7 Q. And you and she talked about it and I
8 assume the plan was that you would give some
9 information initially, you'd get a reward and not get
10 arrested.

11 MR. WHITE: I'm sorry. That's a compound
12 question, Your Honor.

13 THE COURT: Sustained.

14 Q. Was that plan that you would give some
15 information?

16 A. Yes.

17 Q. Was the plan that you would get some sort
18 of reward?

19 A. No.

20 Q. Was the plan that you would not get
21 arrested?

22 A. At the beginning, yeah.

23 Q. Eventually you were indicted on the murder
24 charges, correct?

25 A. Yes.

1 Q. You got some of them dismissed?

2 A. Yes.

3 Q. And you got some of them taken care of in a
4 plea bargain with the State, correct?

5 A. Yes.

6 Q. And they agreed that instead of facing the
7 rest of your life in prison, you're going to get a
8 recommendation for only five years, correct?

9 A. Yes.

10 Q. Have you been given immunity for any other
11 charges you want to talk about?

12 A. Yes.

13 Q. Now, as I understand it from your
14 conversation with Mr. White, before you began talking
15 with TPD or on your first occasion with them, you began
16 this by using a fake name.

17 A. Yes.

18 Q. And that was approximately January 9th of
19 '97?

20 A. I don't remember the exact date.

21 Q. Would it be about a week or so before you
22 got arrested?

23 A. Something like that.

24 Q. That's not the first time you had lied to
25 police officers, correct?

1 A. Yes.

2 Q. In fact, you were convicted of false
3 information to a police officer on January 30th of
4 1989?

5 A. Yeah. I don't remember that, but I guess
6 there's record of it, yes.

7 Q. In fact, you've got a bunch of other
8 convictions too?

9 A. Yes.

10 Q. You've got a couple out of Texas in 1992.

11 A. Yes.

12 Q. One for forgery.

13 A. Yes.

14 Q. One for burglary.

15 A. Yes.

16 Q. You've got a theft in Pima County in 1992.

17 A. Yes.

18 Q. And you've got another theft out of Pima
19 County in 1994, correct?

20 A. Yes.

21 Q. And then you've got the one that is
22 currently pending, correct?

23 A. Yes.

24 Q. The gun that you obtained from Cindy Inman,
25 this was a black .380 semi-automatic, correct?

1 A. Yes.

2 Q. And you kept it at your house?

3 A. I have, yes.

4 Q. Mr. Jones did not want it when he was
5 driving around, correct?

6 A. When he would be drunk and he had to drive
7 all the way back across town, he wouldn't want to keep
8 it in his truck.

9 Q. So there were times when he would make sure
10 that that gun was not in his vehicle because he didn't
11 want to get in trouble, right?

12 A. Yes.

13 Q. Now, I gather it's you and your brother
14 Scott that went out target shooting with this
15 particular .380, correct?

16 A. Yes.

17 Q. And you went with a nephew, Sean, or
18 something like that?

19 A. I think that's Tammy Land's son.

20 Q. But you didn't go with Mr. Jones?

21 A. No.

22 Q. Now, as I understand it, on the day of the
23 Moon Smoke Shop, the three of you were in Robert Jones'
24 truck, which is your version of this event, correct?

25 A. Yes.

1 Q. And the three of you are fairly large
2 gentlemen, correct?

3 A. Yes.

4 Q. You sit in the front of that truck shoulder
5 to shoulder, correct?

6 A. Pretty much.

7 Q. Mr. Jones, I guess, was the smallest of the
8 bunch, correct?

9 A. Shortest.

10 Q. He's about five-nine, 200 pounds, right?

11 A. Somewhere around there.

12 Q. Now, as I understand it, on your way down
13 Grant you stopped at Tucson Medical Center, correct?

14 A. Yes.

15 Q. And you've indicated that Mr. Jones found a
16 car that he knew how to steal, I think were your words,
17 correct?

18 A. Yes.

19 Q. And so he breaks in?

20 A. I think it was unlocked.

21 Q. Somehow he gets into the car, whether he
22 breaks in or it's unlocked, and somehow he can't get it
23 started, right?

24 A. Yes.

25 Q. But he does, according to your testimony,

1 come out with a black nine-millimeter semi-automatic,
2 correct?

3 A. Yes.

4 Q. Now, is the .380 that you got from Cindy
5 Inman and this nine-millimeter that Robert Jones
6 supposedly gets from this car, those are the two guns
7 that are used at the Moon Smoke Shop?

8 A. Yes.

9 Q. The Moon Smoke Shop event occurs. You
10 indicate that Mr. Jones is with you and goes in and
11 then he comes out, correct?

12 A. Yes.

13 Q. And as you're driving away, you're the
14 driver, correct?

15 A. Yes.

16 Q. And Mr. Jones is in the middle, correct?

17 A. Yes.

18 Q. And Mr. Nordstrom, your brother Scott, is
19 in the passenger right side, correct?

20 A. Yes.

21 MR. LARSEN: If I may approach, Judge?

22 THE COURT: You may.

23 Q. You've indicated in what is entered as
24 State's 18 that the hat that Mr. Jones is wearing in
25 State's 18 is the hat that he wore into the Moon Smoke

1 Shop?

2 A. Yes.

3 Q. He didn't drop it in the Moon Smoke Shop,
4 did he?

5 A. No.

6 Q. So he wore it out of the Moon Smoke Shop,
7 correct?

8 A. Yes.

9 Q. And so he would have worn it into the
10 truck, correct?

11 A. Yes.

12 Q. And you guys all take off, correct?

13 A. Yes.

14 MR. LARSEN: If I may approach again,
15 Judge?

16 THE COURT: Yes.

17 Q. I'm showing you what has been marked as
18 State's Exhibit 31.

19 Without taking it out of the bag, sir,
20 would you take a look at that.

21 A. Okay.

22 Q. Does that look familiar at all?

23 A. It's kind of smashed up, but --

24 Q. Understood.

25 A. They are some color as his hat.

1 Q. They were?

2 A. Yes.

3 Q. And there was also a red hatband on his
4 hat, correct?

5 A. Missing from that.

6 Q. And there's a red hatband missing here?

7 A. Yes.

8 Q. So that appears to be Mr. Jones' hat?

9 A. Yeah.

10 Q. You indicate that he wore western garb
11 frequently, correct?

12 A. Yes.

13 Q. Do you recall what kind of shoes he would
14 wear?

15 A. Cowboy boots.

16 Q. Do you recall with any specificity what
17 kind of cowboy boots?

18 A. Some kind of skin. I'm not exactly sure.

19 Q. Showing you what's been marked as State's
20 Exhibit 32.

21 Without pulling them out of the bag, do
22 those appear to be --

23 A. Yes.

24 Q. Yes, they appear to be Mr. Jones' boots?

25 A. Yes. They are.

1 Q. I'm sorry?

2 A. I'm going to say yes, they look like them.

3 Q. They certainly match what you've seen him
4 wear in the past, correct?

5 A. Yes.

6 Q. Would those be the black hat and shoes that
7 he always wore?

8 A. Yes.

9 Q. Now, would those be the black hat and shoes
10 that he was supposedly wearing on this day of the Moon
11 Smoke Shop?

12 A. Yes.

13 Q. Would those be the same black hat and
14 shoes, cowboy boots, that he was wearing when he came
15 over on the night of the 13th after the Fire Fighters
16 Hall incident?

17 A. I don't recall.

18 Q. As I understand it, you also own a black
19 cowboy hat, correct?

20 A. Yes, I do.

21 Q. Now, as I understand it from your
22 testimony, you drove around to the front of the Moon
23 Smoke Shop and headed out towards Grant and Stone
24 again, correct?

25 A. I went out the back, went on Stone and then

1 went to Grant and went up Grant.

2 Q. So you're headed back up Grant?

3 A. Towards I-10, yeah.

4 Q. Nobody was bending down or anything,
5 correct?

6 A. I don't recall.

7 Q. If anyone had bent down, you would have
8 noticed that because of the close confines of the cab,
9 correct?

10 A. I couldn't say.

11 Q. Couldn't say one way or the other?

12 A. Yeah. I was concentrating on driving and I
13 was scared.

14 Q. But nothing sticks out in your mind as any
15 gross movements like that, someone bending down?

16 A. No.

17 Q. No one bent down and interfered with your
18 driving?

19 A. Not with driving, no.

20 Q. I'm sorry?

21 A. Not with me driving, no.

22 Q. Now, as I understand it, the Moon Smoke
23 Shop happened around 6:15 that day?

24 A. I guess, yeah. I'm not sure.

25 Q. And you were on the electronic monitor that

1 day?

2 A. Yes.

3 Q. As I understand it, your curfew, you
4 believe, was around 5:30 that day?

5 A. Yeah.

6 Q. And you were worried about being late
7 getting home?

8 A. I was worried about getting home, yes.

9 Q. Now, as I understand it, you violated this
10 curfew any number of times, correct?

11 A. Excuse me? I didn't hear you. I'm sorry.

12 Q. As I understand it, you violated this
13 curfew any number of times, correct?

14 A. I violated it, yeah.

15 Q. Probably upwards of 25 times?

16 A. Give or take.

17 Q. Regarding the Fire Fighters Hall, you're
18 indicating to the jury that you were home at around
19 10:00 p.m.?

20 A. Yes.

21 Q. Did you attend an A.A. meeting on that
22 date?

23 A. No.

24 Q. Were you scheduled to?

25 A. I don't recall.

1 Q. When you did go to A.A. meetings, your
2 father would take you, correct?

3 A. Sometimes.

4 Q. You indicate that you saw Mr. Jones that
5 night?

6 A. Yes.

7 Q. Somewhere between 10:00 and 11:00 p.m.?

8 A. I don't remember exactly the time.

9 Q. Did you remember it back on October 30th or
10 31st when you talked to Mr. White?

11 A. I don't remember.

12 Q. If you told that jury on Page 64 that it
13 was between 10:00 and 11:00, would you have been
14 accurate then?

15 A. What page, 64?

16 Q. 64. Line 17.

17 MR. WHITE: I would ask that the witness be
18 allowed to read the entire answer at Line 17 and 18 out
19 loud.

20 MR. LARSEN: That would be fine.

21 THE COURT: Yes. Do you want him to read
22 it now?

23 MR. WHITE: Yes.

24 THE COURT: Go ahead, Mr. Nordstrom.

25 THE WITNESS: Between 10:00 and 11:00. I

1 don't know the exact time. I didn't look at the clock,
2 but it was late.

3 BY MR. LARSEN:

4 Q. So you're guessing between 10:00 and 11:00?

5 A. I didn't know the exact time.

6 Q. The lights were on?

7 A. No, not in my room, it wasn't. I was
8 sleeping.

9 Q. And then he flipped the lights on?

10 A. Yes.

11 Q. And you walked out to the front yard,
12 correct?

13 A. Yes.

14 Q. Through the living room?

15 A. Yes.

16 Q. And Teresa Nordstrom was on the couch,
17 correct?

18 A. I believe so.

19 Q. The lights were on in the living room,
20 correct?

21 A. Maybe just the TV, because she stays up
22 late and watches TV.

23 Q. Was she awake?

24 A. I don't remember.

25 Q. When you walked through the bedroom and

1 through the living room, you don't see any blood on Mr.
2 Jones, correct?

3 A. I didn't notice none, no.

4 Q. Now, you're indicating that Mr. Jones then
5 told you all about the Fire Fighters Union Hall,
6 correct?

7 A. Yes.

8 Q. I gather that -- you have indicated that
9 Teresa Nordstrom is your stepmom?

10 A. Yes.

11 Q. And she knows you, I think, for about 24
12 years?

13 A. She's known me a long time, yeah.

14 Q. So that she would be a person who knows you
15 best, correct?

16 A. Yes.

17 Q. Now, as I understand it, you didn't see any
18 proceeds off of the Fire Fighters Hall incident,
19 correct?

20 A. No.

21 Q. You did indicate that there was a place out
22 in the desert where a wallet was burned?

23 A. Yes.

24 Q. Did you take the police out to where you
25 thought this wallet was burned?

1 A. Yes.

2 Q. There was no evidence of that, though, was
3 there?

4 A. No.

5 Q. And you also indicated that the .380 and
6 nine-millimeter were thrown into a pond, correct?

7 A. Yes.

8 Q. And you pointed out to the police which
9 pond this was, correct?

10 A. Yes.

11 Q. And those guns have never been found,
12 correct?

13 A. They didn't find the guns or the golf balls
14 I threw in there.

15 Q. Now, as I understand it, when you were
16 arrested, you had an attorney appointed, correct?

17 A. Yes.

18 Q. You received all the police reports, all
19 the interviews and everything else, correct?

20 A. Not all of them, no.

21 Q. You received a great many of them, correct?

22 A. Mostly my statements, yes.

23 Q. That helped you remember the order of
24 things and so on and so forth?

25 A. I didn't study them. I read them.

1 Q. Okay. Now, you've given a number of
2 different statements to the Tucson Police Department,
3 correct?

4 A. Yes.

5 Q. They've talked with you a number of times.

6 A. Yes.

7 Q. And would it be fair to say that each time
8 you spoke with them different information was provided
9 to them?

10 A. I don't understand what you're saying. Did
11 I like add more stuff? Is that what you're saying?

12 Q. Yes.

13 A. Yes.

14 Q. And that was sort of your plan because you
15 didn't want to say too much in your early contacts,
16 correct?

17 MR. WHITE: Can we get a time frame, Judge?

18 THE COURT: Yes, please.

19 Q. That was your plan in December and early
20 January, correct?

21 A. Yes.

22 Q. Because you didn't want to say too much.

23 A. I didn't want to involve myself.

24 Q. Okay.

25 A. I was hoping maybe they could just figure

1 it out by themselves. They're cops.

2 Q. But what they figured out, apparently, was
3 that the information your girlfriend was providing was
4 insufficient and they needed more?

5 A. Yes.

6 Q. So you made some contacts with TPD?

7 A. Yes.

8 Q. Using a fake name?

9 A. Yes.

10 Q. But that didn't get you what you wanted
11 either, correct?

12 MR. WHITE: I'll object to that.

13 THE COURT: Sustained.

14 Q. Did it keep you out of the loop? Did they
15 come back and talk to you some more?

16 A. Yeah, I talked to them a bunch of times.

17 Q. You would prefer just to have that one or
18 two contacts and be done with it, correct?

19 A. Yes.

20 Q. So you didn't get what you wanted, did you?

21 A. I wasn't trying to get nothing.

22 Q. You didn't want them involved in your life,
23 I assume.

24 A. Yeah.

25 Q. On the 9th of January, I guess they

1 arrested you for hindering prosecution, correct?

2 A. On the 9th?

3 Q. Yes.

4 A. Not on the 9th.

5 Q. Were you arrested for hindering
6 prosecution?

7 A. I don't know what I was arrested for,
8 actually.

9 Q. Was that the only time you were arrested,
10 on the 16th?

11 A. That was on the 16th, yes.

12 Q. That's when you spoke to Detectives Salgado
13 and Woolridge and gave them another version of what
14 happened, correct?

15 A. Yes.

16 Q. You indicated to them right off the bat you
17 had no idea about what happened at the Moon Smoke Shop,
18 correct?

19 A. Yes.

20 Q. And that you didn't go to the Tucson
21 Medical Center parking lot and steal a gun, correct?

22 A. That I didn't? Yes.

23 Q. But you did put the blame on Mr. Jones and
24 your brother Scott?

25 A. Yes.

1 Q. You talked with them for about 42 minutes,
2 correct?

3 A. I don't know how long it was.

4 Q. A little more than a half hour?

5 A. Yeah. I don't -- that would be fair.

6 Q. And then you told them that there was
7 nothing about that statement that you wanted to change,
8 correct?

9 A. I don't remember.

10 MR. LARSEN: Your Honor, may I approach?

11 THE COURT: Yes.

12 Q. Showing you what has been marked as
13 Defendant's Exhibit G.

14 Have you had a chance to look at this
15 statement?

16 A. Yes.

17 Q. Would you turn to Page 31.

18 A. Okay.

19 Q. Why don't you go ahead and read Lines 8
20 through 12.

21 A. (Witness complies.)

22 Q. They asked you whether there was anything
23 you wanted to change, correct?

24 A. Yes.

25 Q. And you didn't give them anything that

1 there was to change, correct?

2 A. No.

3 Q. A couple of hours later, as I understand
4 it, Detective Fillipelli talks with you?

5 A. Yes.

6 Q. And after his interview with you, he
7 indicates to you flat out that you're lying, you're
8 being deceptive, correct?

9 A. Yes.

10 THE COURT: Excuse me. Mr. Larsen, the
11 date that we're discussing.

12 MR. LARSEN: I'm sorry. January 16th and
13 probably into the morning hours of January 17th.

14 THE COURT: Thank you.

15 Q. Detective Fillipelli says that you're not
16 going to go home, correct?

17 A. Yeah.

18 Q. That was something that you didn't really
19 want, correct?

20 A. Yes.

21 Q. Now, as I gather, on a break between some
22 of these statements, you and your girlfriend are
23 allowed to talk to each other, correct?

24 A. It was right before I talked to Detective
25 Fillipelli.

1 Q. And she whispers in your ear that the
2 police have found your black Stetson, correct?

3 A. No.

4 THE WITNESS: Is there some way I can use
5 the bathroom?

6 THE COURT: We'll take a couple of minute
7 recess here and allow the witness to use the bathroom.
8 Go ahead.

9 Ladies and gentlemen, if you can just stay
10 in place, if you would like to stand and stretch,
11 that's fine, or get a drink.

12 If counsel would approach, please.

13 (The following proceedings were held at the
14 bench, out of the hearing of the jury:)

15 THE COURT: I don't think it makes any
16 difference to anything, but the jurors passed me this
17 note, which I'll pass on to you.

18 MR. WHITE: I don't either. I think we
19 probably ought to call her up and ask her if there's
20 anything about that that would affect her ability to be
21 fair to either side, just for caution's sake.

22 MR. LARSEN: That would be fine.

23 THE COURT: Just do it right now, you
24 think?

25 MR. LARSEN: Sure.

1 THE COURT: Ms. Lucetti, would you come
2 forward please?

3 (Juror complies.)

4 THE COURT: We received your note here. I
5 have discussed it with the attorneys and we'd just like
6 to know, is there anything about what you related that
7 you think is going to have any effect on your ability
8 to be --

9 JUROR: No. I just heard the name and I
10 thought I would let you know that.

11 THE COURT: You don't think it's going to
12 have any effect on your ability to be fair?

13 JUROR: No. I don't even know if it's the
14 same John. I never knew his last name, just name of
15 Big John and Crazy John. He built my wall and he
16 worked with the builders that built my home, Graybeck.

17 THE COURT: So you don't think it's going
18 to have any effect on you at all?

19 JUROR: No.

20 THE COURT: All right. We appreciate you
21 bringing it to our attention.

22 JUROR: Okay.

23 MR. WHITE: Can I ask her a question?

24 THE COURT: Sure.

25 MR. WHITE: Assuming the Court tells you

1 not to discuss that with other jurors, could you follow
2 that instruction?

3 JUROR: Oh, yeah.

4 THE COURT: We would prefer that you didn't
5 mention anything about it to any other jurors during
6 the course of your service as a juror.

7 JUROR: Okay.

8 THE COURT: Thank you. Please have a seat.

9 (End of bench conference.)

10 THE COURT: All right. The record will
11 show the presence of the jury, counsel, the defendant
12 and the witness.

13 You may proceed.

14 MR. LARSEN: Thank you, Judge.

15 BY MR. LARSEN:

16 Q. We were talking about this whispered
17 conversation that you had with your girlfriend just
18 before you spoke with Detective Fillipelli and you
19 denied having it.

20 Why don't you turn to Page 125 --

21 A. I didn't deny having it.

22 Q. Page 125.

23 A. Did you say that I denied having the
24 conversation?

25 Q. Are you now indicating you did have this

1 whispered conversation with Toni Hurley?

2 A. What you said I said, I said I didn't --
3 wasn't -- excuse me.

4 I had the conversation, but what you said
5 she told me, she never said, is what I'm getting at.

6 Q. Do you recall the subject of that
7 conversation being your black Stetson?

8 A. No. My black Stetson?

9 Q. Right.

10 A. Yes.

11 Q. And do you recall that being in a whispered
12 tone of voice?

13 A. Yeah.

14 Q. Do you recall that that was about the
15 police having your Stetson?

16 A. Yes.

17 Q. All right.

18 A. I was confused there.

19 Q. Do you recall concluding that conversation
20 with her by telling her that you'll talk to Detective
21 Fillipelli and then you'll be able to go home?

22 A. Yes.

23 Q. But Detective Fillipelli believed that you
24 had lied and you don't go home?

25 A. Yes.

1 Q. And somewhere around 3:00 a.m., and now
2 we're probably into the morning hours of the 17th of
3 January, Detective Salgado and Woolridge visit you,
4 correct?

5 A. Yes.

6 Q. And they indicated that you would be
7 released if you gave them another statement with
8 further information, correct?

9 A. I don't recall.

10 Q. They indicate that if you're truthful with
11 them, you would not be prosecuted and you would be
12 released, correct?

13 MR. WHITE: That's a compound question.

14 THE COURT: Sustained.

15 Q. Why don't you turn to Page 132.

16 A. Okay.

17 Q. Lines 19 through 21.

18 A. Okay.

19 Q. They promise you you were not going to be
20 prosecuted. You would be released if you were
21 truthful. Your answer: Yes.

22 A. Yes.

23 Q. And you took those as a promise to be
24 released, correct?

25 A. Yes.

1 Q. They would also tell the prosecutors that
2 the detectives believed you, correct?

3 A. Yes.

4 Q. So you spoke with them again?

5 A. Yes.

6 Q. And this time you gave them different
7 information?

8 A. Yes.

9 Q. Would it be fair to say, sir, that today
10 you are being sincere in your testimony to the jury?

11 A. Yes.

12 Q. And is that sincerely truthful or is that
13 sincerely lying?

14 A. Truthful.

15 Q. How is the jury to know?

16 MR. WHITE: I object to that, Judge.

17 THE COURT: Sustained.

18 Q. Isn't it true, sir, that you were sincere
19 when you told Tucson Police Department that you had
20 nothing to lose and on your fucking life, you weren't
21 at the Moon Smoke Shop?

22 A. I think I said that, yes.

23 Q. Today you are telling the jury with that
24 same false sincerity?

25 MR. WHITE: I object to that. That's

1 argumentative.

2 THE COURT: Sustained.

3 BY MR. LARSEN:

4 Q. Is it with the same degree of sincerity or
5 do you have different degrees of sincerity?

6 A. I'm telling the truth today.

7 Q. But you were sincere with the Tucson Police
8 Department, were you not?

9 MR. WHITE: That's argumentative, Judge.
10 I'll object.

11 THE COURT: Sustained.

12 Q. You did indicate to them that you were
13 sincere, correct?

14 A. I have no idea what I was thinking.

15 Q. All right.

16 A. Obviously I was lying to them all the way
17 through this.

18 Q. Do you recall testifying that when you told
19 Tucson Police Department that you had nothing to lose
20 and on your fucking life, you weren't at the Moon Smoke
21 Shop, that you were sincere?

22 A. I don't know if I said "sincere."

23 Q. Why don't you turn to Page 120.

24 A. Which one?

25 Q. 120. Why don't you read Lines 15 through

1 21.

2 A. (Witness complies.)

3 Q. Do you recall testifying previously last
4 October that: On your fucking life, I wasn't there.

5 Yes. You were real sincere at that time
6 when you were talking, then, weren't you?

7 Your answer: Yes.

8 A. Yes.

9 Q. I read that correctly, did I not?

10 A. Yes, you did.

11 MR. LARSEN: I don't have anything further
12 of this witness, Judge.

13 THE COURT: Redirect?
14

15 REDIRECT EXAMINATION

16 BY MR. WHITE:

17 Q. Do you remember, Mr. Nordstrom, the second
18 interview that you had with the police detectives that
19 night? We're probably now 3:40 in the morning.

20 Do you remember what your belief was
21 whether you were going to go to prison as a result of
22 all this?

23 A. I don't recall exactly what I said.

24 MR. WHITE: May I approach?

25 THE COURT: Yes.

1 BY MR. WHITE:

2 Q. You've got lots of transcripts. Do you
3 recognize this one?

4 A. Yes.

5 Q. Being a transcript of the interview you had
6 with the detectives on the morning of the 17th at 3:40
7 a.m.?

8 A. Yes.

9 Q. On Page 16, do you remember this question
10 and answer? And you tell me if I read it incorrectly.

11 Question: And you know there is still a
12 possibility that you could go to prison?

13 Answer: I'm pretty sure I'll probably go.

14 A. Yes.

15 Q. Is it in that conversation that you told
16 them that you were present at the Moon Smoke Shop?

17 A. That I was present?

18 Q. At the second interview that night?

19 A. Yes.

20 Q. The \$5,000 that you got that you and Mr.
21 Larsen were talking about, you actually got handed
22 \$5,000 by the police?

23 A. Yes.

24 Q. Did you get to keep that \$5,000?

25 A. No.

1 Q. How long did you have it?

2 A. About three minutes.

3 Q. Now, Mr. Larsen asked you about working
4 with your brother in April. When did your brother get
5 out of prison?

6 A. In April.

7 Q. Did you immediately start working with him?

8 A. No. No.

9 Q. So in April, where do you work?

10 A. John Mikiska, with John.

11 Q. The masonry business?

12 A. Yes.

13 Q. Okay. Do you know now the date that you
14 started working with dry wall with your brother?

15 A. The exact date? I don't know the exact
16 date.

17 Q. But it wasn't in April?

18 A. No, it wasn't in April. I know that.

19 Q. Speaking of the job with Mr. Mikiska,
20 that's Star Masonry?

21 A. Yes, it is.

22 Q. Mr. Larsen asked you about falsifying some
23 records.

24 A. Yes.

25 Q. And you said you did.

1 A. Yes.

2 Q. What records did you falsify?

3 A. My check stubs.

4 Q. Why would you falsify check stubs?

5 A. Because he was paying me cash and I wasn't
6 taking no taxes out, but I needed the check stub to
7 show my parole officer that actually I was working.
8 And he would give me -- he had a little check book and
9 he'd give me the stubs out of it. And I didn't know
10 how to do the taxes, so my Aunt Connie did them for me.
11 I'd tell her the time that I worked and she'd write it
12 in and then she'd give me the check stub and I'd take
13 it to my parole officer.

14 Q. So that's the records you're talking about?

15 A. Yes.

16 Q. The check stubs?

17 A. The check stubs, yes.

18 Q. Speaking of your Aunt Connie, Mr. Larsen
19 was asking you about conversations you had with her
20 about getting money from the police, that kind of
21 thing.

22 A. Yes.

23 Q. When did those conversations occur?

24 A. I don't know exactly when.

25 Q. But when in the context of when you started

1 talking to the detectives?

2 A. I think it was then.

3 Q. After you started talking to them?

4 A. Yes.

5 Q. But before you got arrested?

6 A. Before, yeah.

7 Q. So after you start talking with police?

8 A. Yes.

9 Q. But before you got arrested on January

10 16th?

11 A. Yes.

12 Q. All right. Mr. Larsen asked you about your

13 brother's pickup truck.

14 A. Yes.

15 Q. Do you remember the year, the year model?

16 A. '92.

17 Q. A 1992?

18 A. Yes.

19 MR. WHITE: May I approach?

20 THE COURT: Yes.

21 Q. Showing you what's going to be marked as --

22 what's the next exhibit number, Madam Clerk?

23 THE CLERK: 47.

24 Q. -- going to be marked as State's 47.

25 Do you recognize the vehicle in that

1 photograph?

2 A. Yes, Scott's truck.

3 Q. Is that Scott's pickup truck?

4 A. Yes.

5 Q. The same one that you and Mr. Larsen were
6 talking about?

7 A. Yes.

8 Q. Does it look in this picture the way it
9 looked in May of 1996?

10 A. Yes.

11 Q. The doors are open in the picture, but
12 other than that it's --

13 A. Oh, yeah.

14 MR. WHITE: Move the admission of State's
15 47.

16 THE COURT: Exhibit 47 is admitted.

17 MR. WHITE: May I publish it?

18 THE COURT: Yes, you may.

19 BY MR. WHITE:

20 Q. Would you describe that pickup truck as a
21 light blue, Mr. Nordstrom?

22 A. No. It's dark colored.

23 Q. Would you describe that as an older model?

24 A. No.

25 Q. Would you describe that as a Ford pickup

1 truck?

2 A. No.

3 Q. Mr. Larsen was asking you about your plea
4 agreement with the State of Arizona.

5 A. Yes.

6 Q. You've read a copy of that, haven't you?

7 A. Yes, I have.

8 Q. Showing you what's going to be marked as
9 State's 48.

10 Is that a copy of your plea agreement?

11 A. Yes.

12 Q. Now, look at it carefully. Does that plea
13 agreement contain every agreement you've got with the
14 State of Arizona?

15 A. Yes.

16 MR. WHITE: Move the admission of 48.

17 MR. LARSEN: No objection.

18 THE COURT: Exhibit 48 is admitted.

19 Q. Does that have on it a range of sentence
20 that you're eligible for?

21 A. Yes, it does.

22 Q. What's the range of sentence as a result of
23 the plea agreement you entered into with the State of
24 Arizona?

25 A. Three to ten years.

1 Q. Three to ten years?

2 A. Yes.

3 Q. You could get up to ten years?

4 A. Yes, I could.

5 Q. Could you get probation?

6 A. No.

7 Q. You'd have to go to prison?

8 A. Yes.

9 Q. Is there an agreement that the State may
10 recommend a certain sentence?

11 A. Yes.

12 Q. Is it your understanding that's some kind
13 of guarantee you're going to get what the State
14 recommends?

15 A. No.

16 Q. You could get the full ten years?

17 A. Yes.

18 Q. After the Moon Smoke Shop, did you ever see
19 blood on the boots or hat or clothing worn by the
20 defendant?

21 A. No.

22 Q. Did he ever tell you there was blood?

23 A. No.

24 Q. The night of the Fire Hall, when he came to
25 your house and told you these things, Mr. Larsen asked

1 you if you saw any blood while you were walking through
2 the living room. Were you looking for blood?

3 A. No.

4 Q. At that time or at any other time, did he
5 ever tell you that he had gotten blood on his clothing?

6 A. No.

7 Q. Did you ever see any blood on his clothing?

8 A. No.

9 Q. Now, the gun you said you kept at your
10 house sometimes, this .380.

11 A. Yes, I did.

12 Q. Why would you keep it at your house?

13 A. Because Robert would be drinking or Scott
14 would be drinking and they didn't want to have it in
15 the truck and I would just keep it at the house.

16 Q. Why didn't they want to keep it in the
17 truck when they were drinking?

18 A. Felons.

19 Q. Pardon me?

20 A. They were felons, convicted -- they were
21 both on parole.

22 Q. And they didn't want it in the truck if
23 they got pulled over by police, is that what you are
24 saying?

25 A. Yeah. If they got pulled over, then they'd

1 be in trouble having a gun.

2 Q. All right. Now, when the defendant kept
3 the gun, did he keep it in the truck occasionally?

4 A. Yes.

5 Q. Where would he keep it?

6 A. Under his leg while he's driving, or on the
7 seat or under the seat.

8 Q. On the seat or under the seat?

9 A. Yeah, or under his leg.

10 Q. Okay. Now, if there are three people in
11 the truck and he had to put it under the seat, how
12 would he do that?

13 A. Bend down and put it under the seat.

14 Q. And you don't know whether he did that the
15 day of the Moon Smoke Shop or not?

16 A. Yeah, I don't know if he did or not.

17 Q. You weren't paying attention to him?

18 A. No.

19 Q. On the day of the Moon Smoke Shop, Mr.
20 Larsen asked you if your curfew was 5:30. Do you know
21 for sure what your curfew was?

22 A. No.

23 Q. Would the best way to tell be check with
24 your parole officer, do you think?

25 A. Yes.

1 Q. You took the police to a place in the
2 desert where a wallet was supposedly burned.

3 A. Yes.

4 Q. Is that a wallet taken from one of the
5 victims in the Fire Hall?

6 A. Yes.

7 Q. Now, I think we've agreed the Fire Hall
8 occurred on June 13th of 1996.

9 A. Yes.

10 Q. When did you take the police there?

11 A. June maybe? I'm not real -- exactly -- I
12 don't even know what month. It was late -- it was hot,
13 sometime.

14 Q. What year?

15 A. '97.

16 Q. A year later?

17 A. Yeah.

18 Q. Did it surprise you there wasn't the
19 remnants of a burned wallet there?

20 A. No.

21 MR. LARSEN: Objection. Argumentative.

22 THE COURT: Sustained.

23 Q. Now, Mr. Larsen asked about whether the
24 guns were ever found in the stock pond or whatever pond
25 where they got thrown.

1 A. Yes. He asked me that.

2 Q. You said something about golf balls. At
3 some point after you begin to cooperate with the State,
4 did you go back out to that pond?

5 A. Yes.

6 Q. When was this, approximately?

7 A. I don't remember.

8 Q. Was it 1996?

9 A. No, it was '97.

10 Q. Okay, 1997.

11 A. June or July.

12 Q. And what was the purpose for you going out
13 there?

14 A. To try and help them find the guns again.

15 Q. Okay.

16 A. To point them out maybe a little better.

17 Q. And did somebody ask you to do something to
18 show where you had tossed those guns?

19 A. There was another detective and I don't
20 remember his name.

21 Q. Okay.

22 A. But he gave me maybe three or four or five
23 golf balls and said, throw these the best place where
24 you know, you know. Actually, I was showing them where
25 the nine-millimeter was and I threw the golf balls, and

1 from my understanding, they went right after it and
2 they couldn't even find the golf balls down there.

3 Q. They couldn't even find the golf balls?

4 A. No.

5 Q. You lied to the police on a number of
6 occasions about this case, right?

7 A. Yes.

8 Q. You even lied to them in that last
9 statement in the early morning hours of the 17th when
10 you lied about where the .380 came from?

11 A. Yes.

12 Q. Does that plea agreement that I showed you,
13 State's 48, does it talk about what happens if you lie?

14 A. Yes.

15 Q. What happens?

16 A. They take my plea bargain away and I get
17 charged with the regular murders.

18 Q. At the Moon?

19 A. At the Moon.

20 Q. Do you want that to happen?

21 A. No.

22 MR. WHITE: Thank you. That's all I have.

23 THE COURT: Any reason that this witness
24 can't be excused?

25 We have some juror notes. Would counsel

1 approach.

2 (The following proceedings were held at the
3 bench, out of the hearing of the jury:)

4 MR. LARSEN: I have no objection to either
5 one of those.

6 While we're here, I would like to renew my
7 motion to mistrial based on his response to Mr. White's
8 question about not wanting the guns in the truck
9 indicated that the reason he didn't want it in the
10 truck because they were both felons.

11 That could have been answered any number of
12 ways. Again, Mr. Nordstrom has ignored Mr. White's and
13 this Court's instructions and prior rulings, and I
14 think he's fully intent on doing whatever he can to
15 make sure this jury is aware of other bad acts and now
16 prior convictions that my client has.

17 We can instruct this jury until we're blue
18 in the face, but after a while it begins to mount up
19 and it has now mounted to a point where Mr. Nordstrom
20 has prejudiced my client.

21 THE COURT: Mr. White, I'm going to ask
22 that you be a little more careful in those opening
23 questions, especially in areas that are likely to
24 result in these kinds of statements.

25 MR. WHITE: Absolutely. I was attempting

1 to obtain what he said on cross, that they wouldn't
2 want to be found drunk in the truck with the gun.

3 That's what I thought he was going to say,
4 because he said it on cross and I was just trying for a
5 repeat of that.

6 MR. LARSEN: I don't think Mr. White
7 intentionally asked that.

8 And there probably was some room for error
9 there.

10 I relied on his conversation yesterday with
11 Mr. Nordstrom, but that doesn't unring the bell.

12 The jury has heard it.

13 The jury has heard Mr. Nordstrom again talk
14 about prior bad acts and felony acts that he was
15 involved with my client.

16 Judge, there's just no way around there.

17 THE COURT: Well, there's no way to
18 eliminate it entirely, but I think we can contain it
19 with the usual instructions.

20 --

21 --

22

23

24

25

1 Once this witness is finished testifying,
2 which I think will be very shortly, I will again read
3 to them the same cautionary instruction that I did
4 before.

5 So to the extent that you're moving for
6 mistrial, the mistrial is denied.

7 (End of bench conference.)

8 THE COURT: Mr. Nordstrom, the jury has
9 proposed a couple of questions to you.

10 The first is: Did your curfew change daily
11 or on a weekly basis?

12 THE WITNESS: Daily.

13 THE COURT: So it wasn't the same day to
14 day?

15 THE WITNESS: No, it varied. Sometimes I
16 would go to A.A. meetings so it would be later, you
17 know. Sometimes I'd just come straight home from work.
18 It depends. Sometimes I'd get free time.

19 THE COURT: But you worked it all out with
20 your probation officer?

21 THE WITNESS: With my parole officer, yes.

22 THE COURT: Parole officer.

23 Secondly, do you recall looking back at
24 someone after you left the Moon Smoke Shop prior to
25 exiting the rear of shopping center before you drove

1 out in the street?

2 THE WITNESS: No, I didn't look back. I
3 just kept driving.

4 THE COURT: Any reason this witness can't
5 be excused at this point?

6 MR. WHITE: No.

7 MR. LARSEN: No.

8 THE COURT: You may step down, sir. You
9 are excused.

10 Ladies and gentlemen, I again instruct you
11 that references have been made in the testimony as to
12 other alleged criminal acts by the defendant unrelated
13 to the charges against him in this trial.

14 You are reminded that the defendant is not
15 on trial for any such acts, if in fact they occurred.
16 You must disregard that testimony and you must not use
17 this testimony as proof that the defendant is of bad
18 character and therefore likely to have committed the
19 crimes with which he is charged in this case.

20 The State may call its next witness.

21 MR. WHITE: Call Toni Hurley.

22

23

24

25

EXHIBIT C

98-1767

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,)	
)	
Plaintiff,)	
)	
vs.)	NO: CR-57526
)	
ROBERT JONES,)	
)	
Defendant.)	

BEFORE: HON. JOHN S. LEONARDO
Division 10
Pima County Superior Court

APPEARANCES:

FOR THE STATE: DAVID WHITE
Deputy County Attorney

FOR THE DEFENDANT: DAVID P. BRAUN
ERIC A. LARSEN

TRANSCRIPT OF PROCEEDINGS

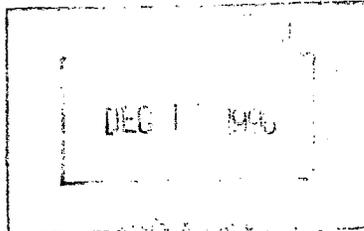
JURY TRIAL -- DAY SIX

June 25, 1998

REPORTED BY:

TONI HENSON
Official Court Reporter
Division Ten
Pima County Superior Court

PROSECUTION



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1 MR. LARSEN: Yes, Judge. We will call
2 Carol Stevenson.

3 THE COURT: Very well.

4 (Ms. Stevenson not present.)

5 MR. LARSEN: All right. If I can
6 substitute, Judge, I'll call Teresa Nordstrom.

7 THE COURT: Mr. Larsen, the name again,
8 please?

9 MR. LARSEN: Teresa Nordstrom.

10

11 TERESA NORDSTROM,
12 having been first duly sworn to state the truth, was
13 examined and testified as follows:

14

15

DIRECT EXAMINATION

16

BY MR. LARSEN:

17

Q. Would you state your name, please?

18

A. Teresa Mae Nordstrom.

19

Q. And you are married to Richard Nordstrom?

20

A. Yes.

21

Q. And you have a stepson?

22

A. Yes.

23

Q. Is one of your stepsons named David?

24

A. Yes, it is.

25

Q. How long have you lived with David?

- 1 A. Ever since he was four years old.
- 2 Q. Can you give the jury some idea of how long
3 that might be?
- 4 A. Twenty-some years.
- 5 Q. Do you have a close relationship with him?
- 6 A. Yes, I do.
- 7 Q. Do you know friends of his?
- 8 A. Yes.
- 9 Q. Is one of the people that you know Robert
10 Jones?
- 11 A. Yes.
- 12 Q. Does Robert Jones look about the same as
13 when you saw him in June of '96?
- 14 A. Yes.
- 15 Q. And you would have seen him right around
16 the time of your son's stabbing incident when he went
17 to Kino, correct?
- 18 A. Yes.
- 19 Q. Your other stepson would be Scott?
- 20 A. Yes, it is.
- 21 Q. Can you describe for the jury what Scott
22 looked like back in May and June of '96?
- 23 A. He had short hair down to his collar and he
24 always carried a heavy beard.
- 25 Q. How about David?

1 A. David had a mustache. He tried a beard but
2 decided he didn't like it.

3 Q. Back in May/June, 1996, did you have an
4 opinion as to David's reputation for truthfulness?

5 A. Yes, I did.

6 Q. And what was that?

7 A. He was a liar.

8 MR. LARSEN: Thank you, ma'am. I have no
9 further questions.

10 THE COURT: You may cross-examine.

11

12

CROSS-EXAMINATION

13

BY MR. WHITE:

14 Q. You said Scott Nordstrom had a heavy beard.
15 Do you mean a heavy, full beard or --

16 A. No, just around the mouth area here.

17 (Indicating.)

18 Q. Now, are we talking about a full goatee or
19 are we talking about he just would go three or four
20 days without shaving?

21 A. He would go days without shaving.

22 Q. But he didn't have a full --

23 A. Not from here up, no. (Indicating.)

24 Q. All right. But he had a mustache, right?

25 A. Yes.

1 Q. But beyond the mustache and the fact that
2 he would go a number of days without shaving, other
3 than that he was --

4 A. Right.

5 Q. So you're not saying he had one of those,
6 like the Three Musketeers with a goatee and a beard,
7 you're not saying that?

8 A. No.

9 Q. Okay.

10 A. He would just look rough.

11 Q. Looked rough as in unshaven?

12 A. Correct.

13 Q. Lawyers aren't very clear sometimes, Ms.
14 Nordstrom, so I hope you'll bear with us here.

15 Now, you said that you lived with David
16 Nordstrom as his stepmom, I guess as his mom?

17 A. As his mom.

18 Q. Since he was four years old?

19 A. That's correct.

20 Q. Is his real mother dead?

21 A. No. She lived here in Tucson until just
22 about two years ago, she moved to New Mexico.

23 Q. So she was right here in town?

24 A. Yes, she was.

25 Q. And she never had much contact with David,

1 did she?

2 A. No, she didn't.

3 Q. She basically ignored him, didn't she?

4 A. Yes, she did. In fact, when he was six
5 years old, him and his brother Rick went to spend the
6 weekend with her and his aunt brought him home crying.

7 And he come running up to me and I hugged
8 him and picked him up and I asked him what was the
9 matter. And he said, "Mama said she didn't love me and
10 she didn't want me."

11 Q. Now, David was in prison for a while,
12 wasn't he?

13 A. Yes.

14 Q. And he got out of prison in January of '96?

15 A. Yes.

16 Q. January two years ago?

17 A. Right.

18 Q. And he wasn't done with conditions -- I
19 mean, he was still on parole, right?

20 A. Yes, he was.

21 Q. And he had some kind of ankle monitor on?

22 A. Yes, he did.

23 Q. Was there something plugged into your phone
24 there?

25 A. Yes.

1 Q. A little black box?

2 A. Yes.

3 Q. The phone plugged into the box?

4 A. Yes.

5 Q. And then the box plugged into the wall?

6 A. Yes. Like an answering machine.

7 Q. Right. Okay. And something would happen
8 occasionally that parole officers would call asking
9 where David was?

10 A. They did that a few times, yes.

11 Q. Do you remember one time you were sweeping
12 or vacuuming or something and you accidentally unplugged
13 the box, moving furniture or something?

14 A. I was moving furniture and it accidentally
15 hit it. I plugged it back in right away, but I called
16 Fritz Ebenal and he called Phoenix and said it hadn't
17 been off long enough for that to make any -- to affect
18 it.

19 Q. In fact, do you remember telling us back in
20 June of '97 that after you unplugged that accidentally,
21 the parole called you?

22 A. Yes, after I called Fritz, and they said it
23 was okay.

24 Q. So they knew that that was unplugged?

25 A. Yes.

1 Q. Now, did David ever try to beat that thing?

2 A. No, he didn't.

3 Q. As a matter of fact, he was conscious of
4 it, wasn't he?

5 A. He was very conscious of the bracelet.

6 Q. And I think you said on direct the
7 defendant looks pretty much the same now as he did
8 then?

9 A. Pretty much. The only thing, back then he
10 had tight curly hair.

11 Q. Tight curly hair?

12 A. Yes, it was like curls.

13 Q. It was shorter than it is now?

14 A. Yes.

15 Q. More collar-length?

16 A. It was cut just a little bit shorter. It
17 was up above his collar.

18 Q. Up above his collar?

19 A. Yes. Like I said, it was curly.

20 Q. Right. It wasn't hanging down like it is
21 now?

22 A. No.

23 Q. And in addition to that difference, he
24 dressed western all the time, didn't he?

25 A. Each time I had seen him, yes.

1 Q. Western shirts?

2 A. Western shirts, western black hat, usually
3 black trousers, Levi's.

4 Q. Cowboy boots?

5 A. Yes.

6 Q. Now, do you remember, he would come over to
7 the house and visit David, right?

8 A. Yes, he would.

9 Q. And Scott would come over and visit?

10 A. After Scott got out, yes.

11 Q. And the three of them would sit on the
12 porch and talk and socialize, that kind of thing?

13 A. Yes.

14 Q. Now, the defendant didn't come over there
15 late at night very often?

16 A. No. He was usually there between 5:00 and
17 5:30, because that was about the time David would get
18 home from work.

19 Q. But he didn't stay late into the night
20 hours, did he?

21 A. No. He was usually gone by 9:30.

22 Q. And Scott was usually gone also?

23 A. Well, Scott would usually leave before
24 Robert did.

25 Q. Do you remember a night that the defendant

1 showed up to your house late at night?

2 A. Yes.

3 Q. Now, when this occurred, where were you at
4 in the house?

5 A. I was sitting on my sofa watching the news
6 on TV.

7 Q. The news, you mean CNN, the cable news?

8 A. No, it was local news.

9 Q. Okay. One of the network stations, NBC,
10 ABC, CBS, one of those?

11 A. ABC.

12 Q. So we're talking after 10:00 o'clock
13 actually?

14 A. Yes.

15 Q. He shows up at the house, bangs on the
16 door?

17 A. He knocked on the door and I got up.

18 Q. Okay.

19 A. And he would come over to the house, and
20 each time he'd see me, he'd call me ma'am or Mrs.
21 Nordstrom.

22 Q. Very polite?

23 A. He was very polite.

24 Q. That night was he polite like that?

25 A. He says, "I need to talk to David."

1 And I says, "Well, David's sleeping."

2 And he pushed the door wide open and walked
3 past me and said, "I need to talk to David."

4 He went in David's room and then David
5 walked out with him.

6 Q. Where did they go?

7 A. They went out on the porch.

8 Q. Okay.

9 A. I heard David say a couple of cuss words
10 and then they walked out to a picnic table that was
11 underneath the mesquite tree right there in front of
12 the house.

13 Q. And you didn't hear what was said?

14 A. No, I didn't.

15 Q. Now, you didn't mark this date on your
16 calendar or anything like that, right?

17 A. No.

18 Q. So of your own independent knowledge, you
19 don't know the specific date we're talking about in
20 terms of July 1st, May 27th, I mean, right?

21 A. No.

22 Q. I understand you've put two and two
23 together since then, right?

24 A. Yes, and --

25 Q. Wait for the question.

1 And you have an idea what night that was?

2 A. Yes.

3 Q. But in fairness, you don't specifically
4 remember the date?

5 A. No.

6 Q. And you didn't hear anything they were
7 saying, you told us, right?

8 A. That's right. I didn't.

9 Q. Now, do you remember being asked by -- do
10 you remember the police coming to your house and
11 executing a search warrant?

12 A. Yes.

13 Q. And do you remember them asking you if you
14 were aware of David or Robert or anybody being involved
15 in criminal activity --

16 A. All I --

17 Q. -- or words to that effect. Do you
18 remember them asking you that?

19 A. Yes.

20 Q. Okay. And you didn't tell them about this
21 conversation that you just told us?

22 A. No.

23 Q. You didn't have any reason to at that
24 point, did you?

25 A. No, I didn't.

1 Q. Didn't know it had anything to do with
2 criminal activity?

3 A. No.

4 Q. Did David have a job when he got out of
5 prison on parole?

6 A. Yes. He managed to get one within three or
7 four days.

8 Q. He got a job working with Star through John
9 Mikiska, something like that?

10 A. Something like that.

11 Q. And then after Scott got out, Scott got a
12 job, to your knowledge, at a dry wall company, right?

13 A. That's correct.

14 Q. And David starting working with him?

15 A. That's right.

16 Q. And David would drive to work with Scott?

17 A. Yes.

18 Q. Because David didn't have a driver's
19 license.

20 A. That's right.

21 Q. And to your knowledge, he didn't drive, did
22 he?

23 A. No.

24 Q. Did you and your husband let him use your
25 guys' cars?

1 A. No way. If anything happened, I wanted to
2 be behind the wheel for the insurance company.

3 Q. I understand. Now, was there a time when
4 David was stabbed?

5 A. Yes.

6 Q. And his brother was stabbed also?

7 A. Yes.

8 Q. Do you remember the date?

9 A. That was June 21st. That day I remember.

10 Q. June 21st. A Friday?

11 A. Right.

12 Q. Now, you're not -- I take it you like David
13 Nordstrom very much.

14 A. I love that little boy. Or young man.

15 Q. You're not willing to lie for him, though,
16 are you?

17 A. No. That's something I've never done for
18 him.

19 Q. You've come in here and told us that you
20 think he is a liar.

21 A. He is.

22 Q. Can you tell when he is lying?

23 A. Yes, I can.

24 Q. How can you tell when he's lying?

25 A. When I ask him a question and he can't tell

1 the truth, he'll always look down and twitch around or
2 fiddle with his hands.

3 Q. It sounds like he's not a very good liar.

4 A. No, he's not. I could catch him every
5 time.

6 MR. WHITE: Thank you, Ms. Nordstrom.

7 THE COURT: Redirect?

8 MR. LARSEN: No, Judge.

9 THE COURT: Any reason this witness can't
10 be excused?

11 Thank you, ma'am. You may step down. You
12 are excused.

13 You may call your next witness.

14 MR. LARSEN: Carol Stevenson.

15
16 CAROL STEVENSON,
17 having been first duly sworn to state the truth, was
18 examined and testified as follows:

19
20 DIRECT EXAMINATION

21 BY MR. LARSEN:

22 Q. Would you state your name, please?

23 A. Carol Stevenson.

24 Q. Ms. Stevenson, do you know a person by the
25 name of Robert Jones?

1 THE COURT: Thank you for calling attention
2 to it. You may resume your seat.

3 (Whereupon, the bench conference was
4 concluded.)

5 THE COURT: Any reason this witness can't
6 be excused?

7 You may step down. Thank you. You are
8 excused.

9 You may call your next witness, Mr. Larsen.

10 MR. LARSEN: Your Honor, at this time the
11 only thing that the defense has left is a couple of
12 stipulations.

13 THE COURT: Very well.

14 MR. LARSEN: The first stipulation will be
15 State and defense have agreed that the hat and boots in
16 State's 31 and 32 were tested by the Tucson Police
17 Department Crime Lab and they were tested negative for
18 any blood at all.

19 THE COURT: That's for the presence of
20 blood?

21 MR. LARSEN: The presence of blood, yes,
22 sir.

23 The other stipulation between State and
24 counsel for the defense, the testimony of Cindy
25 Wasserburger, if called to the stand, Ms. Wasserburger

1 would testify to the following:

2 Number 1: That she is the natural mother
3 of Scott and David Nordstrom.

4 Number 2: That in her opinion, Scott
5 Nordstrom is a manipulative person.

6 Number 3: That David Nordstrom is a
7 manipulating and conniving person.

8 Number 4: That David Nordstrom is not a
9 truthful person.

10 Number 5: That Ms. Wasserburger knew Art
11 and Judy Bell.

12 Number 6: That she was a member of the
13 Fire Fighters Hall in the early 1990s.

14 Number 7: That she had a party at her
15 house where Art and Judy Bell were present. And she
16 has told Detective Woolridge that Scott Nordstrom was
17 at that party on approximately June 20, 1993 or 1994.

18 Number 8: That she has met Robert Jones on
19 a couple of occasions, one of which was at the hospital
20 while Scott and David Nordstrom were being cared for
21 from their injuries from the stabbing incident.
22 Another time was out in the community.

23 The extent of the contact was only a few
24 minutes in length and no issues of substance were
25 discussed.

1 And with that, Your Honor, the defense
2 rests.

3 THE COURT: Very well. Have those
4 stipulations been reduced to writing?

5 MR. LARSEN: The second one --

6 MR. WHITE: I think the second one also.
7 We can get it reduced to writing.

8 THE COURT: Please do. Make them part of
9 the record.

10 Ladies and gentlemen, now the State has the
11 opportunity to present rebuttal evidence, if they wish
12 to do so.

13 Mr. White, do you wish to present rebuttal?

14 MR. WHITE: Yes, I do.

15 Call Detective Woolridge to the stand.

16 THE COURT: Very well. Detective, if you
17 will resume the stand, and I remind you that you remain
18 under oath.

19

20

21 BRENDA WOOLRIDGE,
22 having been previously sworn, was examined and
23 testified as follows:

24

25

FURTHER EXAMINATION

BY MR. WHITE: