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TWENTY-SECOND JUDICIAL DISTRICT COURT
PARISH OF ST. TAMMANY
STATE OF LOUISIANA

STATE OF LOUISIANA

NO. 128,634

VERSUS

JURY TRIAL

DENNIS P. BROWN

* * * * *

VOLUME II

TRANSCRIPT OF PROCEEDINGS taken before
the Honorable John W. Greene, Judge
Presiding, Division "D", Twenty-Second Judicial
District Court, Parish of St. Tammany, State
of Louisiana, and a Jury, on Thursday, September
12, 1985, in Covington, Louisiana.

APPEARANCES:

JACK E. HOFFSTADT, ESQ.
JOSEPH B. TOSTERUD, ESQ.
(Assistant District Attorneys)

THOMAS E. FOLEY, ESQ.
MS. ELLEN EVANS
(Attorneys for Defendant)

REPORTED BY:

Edgar W. Assmann, R.P.R., C.S.P.
Deputy Official Court Reporter

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ELGIN MONTGOMERY

1 BY THE COURT: You may be seated. Call
2 your next witness.

3 BY MR. HOFFSTADT: Elgin Montgomery.
4 (ELGIN MONTGOMERY, AFTER HAVING BEEN
5 FIRST DULY SWORN UNDER OATH, DID TESTIFY AS
6 FOLLOWS:)

7 DIRECT EXAMINATION BY MR. HOFFSTADT:

8 Q. Give your name for the record, please.

9 A. Elgin Montgomery.

10 Q. On November 5, 1984, were you employed
11 by the Covington Police Department?

12 A. Yes, sir.

13 Q. And what were your duties?

14 A. I was a detective.

15 Q. As part of your duties, did you attend
16 a line-up that day?

17 A. Yes, sir.

18 Q. What was the purpose of the line-up?

19 A. It was a physical line-up. We had the
20 victim with us to see if she could
21 identify the individual who
22 allegedly raped her.

23 Q. Okay. When you were setting up the
24 line-up, giving everybody their
25 number and setting it up, was the
26 victim in the room?

27 A. With the suspects?

ELGIN MONTGOMERY

1 Q. When you all were first setting up the
2 line-up, was the victim in the
3 room?

4 A. No, sir.

5 Q. Okay. She observed the line-up after
6 the line-up was set up?

7 A. No, sir. She was in a room altogether
8 different.

9 Q. But she did not see the people until
10 the line-up was set up?

11 A. Yes, sir.

12 Q. Do you know whether she picked out any
13 individual?

14 A. Yes, sir.

15 Q. And who did she pick out?

16 A. Dennis Brown.

17 Q. Okay. Is Dennis Brown in this
18 courtroom?

19 A. Yes, sir.

20 Q. Would you please point him out?

21 A. He's the young black man at the far end
22 by the deputy.

23 BY MR. HOFFSTADT: Let the record note
24 that Montgomery has picked out the
25 defendant, Dennis Brown.

26 EXAMINATION BY MR. HOFFSTADT:

27 Q. Montgomery, did you tell [REDACTED]

ELGIN MONTGOMERY

1 who to pick out that day?

2 A. No, sir.

3 Q. I want to go forward to November 9,
4 1984. Did you have reason to have
5 contact with the defendant, Dennis
6 Brown, that day?

7 A. Yes, sir.

8 Q. And what was the reason for that
9 contact?

10 A. That was the -- we interviewed him as a
11 suspect.

12 Q. And he had been arrested at that time?

13 A. Yes, sir, I think so.

14 Q. Okay, I'm going to ask you if you can
15 identify this?

16 A. Yes, sir.

17 Q. And what is that form?

18 A. This is a Miranda rights form that we
19 advise suspects of a crime before
20 we interview them.

21 Q. Who is that form signed by?

22 A. Dennis Brown.

23 Q. Okay. Prior to talking to Mr. Brown,
24 did you see this form?

25 A. Yes, sir.

26 Q. And who else was in the room with you
27 when you talked to the defendant,

ELGIN MONTGOMERY

- 1 Dennis Brown?
- 2 A. Lieutenant Paul Cazaubon.
- 3 Q. Were you in the room with Mr. Brown
- 4 alone?
- 5 A. No, sir.
- 6 Q. Did you threaten Mr. Brown at any time?
- 7 A. No, sir.
- 8 Q. Did you make him any promises?
- 9 A. No, sir.
- 10 Q. Did he ever tell you at that time that
- 11 he did not want to speak to you?
- 12 A. Not at that time, no, sir.
- 13 Q. Did he ever ask to speak to an attorney
- 14 at that time?
- 15 A. No, sir.
- 16 Q. He was speaking to you freely and
- 17 voluntarily?
- 18 A. Yes, sir.
- 19 Q. Did he make a statement to you and
- 20 Lieutenant Cazaubon?
- 21 A. Yes, sir.
- 22 Q. Sergeant Montgomery --
- 23 BY MR. FOLEY: Your Honor, for the
- 24 record, we would ask that our
- 25 original objection stand throughout
- 26 the testimony.
- 27 BY THE COURT: Yes, let the record so

ELGIN MONTGOMERY

1 reflect.

2 BY MR. FOLEY: As well as let it be
3 noted as an exception.

4 BY MR. HOFFSTADT: We covered this on
5 the previous motion.

6 EXAMINATION BY MR. HOFFSTADT:

7 Q. Sergeant Montgomery, please tell the
8 jury what you were told by the
9 defendant, Dennis Brown, November
10 9, 1984.

11 A. The office called me to come in to
12 assist with the interview. When I
13 got to the police station, Dennis
14 Brown was already in the
15 investigation office. I went in
16 there with Lieutenant Cazaubon. We
17 sat down -- when I sat down at my
18 desk, his Miranda rights was on the
19 desk, which I looked at it, and we
20 started talking about the rape.
21 During this conversation, he made
22 the comment, or he made the
23 statement that he grabbed the
24 victim by the left arm. I asked
25 him to go on into further details.
26 I asked him, "What was she
27 wearing?" He said, "Blue jeans." I

ELGIN MONTGOMERY

1 said, "Well, what was she doing?"
2 He said, "She was watching
3 television." I said, "Well, how
4 did you get in the house?" He said
5 through a window, but he walked
6 down a hallway and he found her in
7 the living room. And I said, well --
8 I asked him, I said, "Describe the
9 couch." He said it was tan, and
10 that he raped her on the couch or
11 the love seat or something to that
12 effect. I don't remember right now
13 whether it was the couch or the
14 love seat or whatever.

15 Well, I left the office. I left the
16 interrogation room. I was not --
17 that case was not initially mine;
18 however, I did assist on it. I
19 went back to find Sergeant Barker.
20 She was in back of the police
21 station in another office. And I
22 got her, and I asked her, I said,
23 well --

24 BY MR. FOLEY: Judge, I'll object to
25 anything -- since I think Sergeant
26 Montgomery is getting into a
27 conversation with someone else,

ELGIN MONTGOMERY

1 that's hearsay.

2 BY THE COURT: Well, I'll sustain the
3 objection. Don't tell us what
4 somebody else told you.

5 BY THE WITNESS: That's -- I asked
6 Sergeant Barker to find out what
7 color the couch was. I asked her
8 if she knew. She said she didn't.

9 BY MR. FOLEY: Your Honor, my objection
10 would stand.

11 BY THE COURT: Sustain the objection.
12 Disregard that last answer. Now,
13 do not tell us what anybody told
14 you. You understand what I'm
15 saying?

16 BY THE WITNESS: Yes, sir.

17 BY THE COURT: Okay.

18 EXAMINATION BY MR. HOFFSTADT:

19 Q. Did you ask Sergeant Barker anything
20 else?

21 A. I asked her which arm was the victim
22 grabbed by.

23 Q. Don't tell us what she said. Did you
24 get an answer?

25 A. Yes, sir.

26 Q. Then what did you do?

27 A. I went back into the investigation

ELGIN MONTGOMERY

1 office, continued to talk to Dennis
2 Brown. He talked a little bit
3 more, but he refused to -- or he
4 wouldn't talk about the rape no
5 more. Finally we just ended the
6 investigation -- or ended the
7 interrogation.

8 Q. Did he tell you anything else?

9 A. He told me if he confessed, it would go
10 easier on him. So I asked him who
11 told him that. He just said, well,
12 people out on the street he talked
13 to. That's all.

14 Q. He told you this after he made his
15 confession?

16 A. Yes, sir.

17 Q. Sergeant Montgomery, this is a very
18 serious case. You know that.

19 A. Yes, sir.

20 Q. You're stating under oath you did not
21 know what the victim had on that
22 night, is that correct? You did
23 not know the color of the couch?

24 A. No, sir.

25 Q. You did not know which arm she was
26 grabbed by?

27 A. No, sir, I did not.

ELGIN MONTGOMERY

1 Q. And that the defendant confessed to the
2 rape of [REDACTED], is that
3 correct?

4 A. Yes.

5 Q. And he gave you specifics as to that
6 rape?

7 A. Yes, sir.

8 Q. And he told you what arm he grabbed her
9 by?

10 A. Yes, sir.

11 Q. And he told you about the house?

12 A. Yes, sir.

13 Q. And he told you what color the couch
14 was?

15 A. Yes, sir.

16 Q. And he told you how he committed the
17 rape?

18 A. Yes, sir.

19 BY MR. FOLEY: I object to that last
20 question.

21 BY THE COURT: Sustained. Don't lead
22 your witness.

23 EXAMINATION BY MR. HOFFSTADT:

24 Q. Did you tell Dennis Brown to say all
25 this?

26 A. No, sir.

27 Q. Would you?

ELGIN MONTGOMERY

1 A. No, sir.

2 Q. Now, did you tape this?

3 A. No, sir.

4 Q. Why not?

5 A. It's a practice -- every policeman has
6 got his own techniques. My
7 technique is during an
8 investigation that I'm conducting
9 or interviewing, to get -- to get a
10 taped statement after I have
11 interviewed the subject at some
12 time. After I've found out the
13 facts that I want, that's when I'll
14 ask the subject to give me a taped
15 statement. The reason behind this
16 is when you turn on a tape
17 recorder, it makes the suspect or
18 the subject very nervous. I wanted
19 the suspect to feel relaxed as much
20 as possible.

21 Q. Were you trying to get information at
22 this time?

23 A. Yes.

24 Q. Are you and Lieutenant Cozaubon and the
25 Covington Police Department in a
26 conspiracy to get Dennis Brown?

27 A. No, sir.

ELGIN MONTGOMERY

1 Q. And everything that you're saying today
2 is the truth?

3 A. Yes, sir.

4 BY MR. HOFFSTADT: Mr. Foley?

5 CROSS-EXAMINATION BY MR. FOLEY:

6 Q. Sergeant Montgomery, first, concerning
7 the line-up, did you have any
8 conversations with Ms. [REDACTED] at
9 the line-up?

10 A. No, sir, I never did see Ms. [REDACTED].

11 Q. Okay. Do you know of any problems Ms.
12 [REDACTED] may have had in identifying
13 Dennis Brown at that line-up?

14 A. I know of no problems, sir.

15 Q. Do you have any knowledge of any
16 inadvertent statements that may
17 have been made in the presence of
18 Ms. [REDACTED] at that line-up on
19 November 5?

20 A. No, sir.

21 Q. By inadvertent statements, I mean
22 statements by any law enforcement
23 officers who were there on November
24 5. Do you have any knowledge of
25 such acts?

26 A. No, sir.

27 Q. On November 9 when you interviewed Mr.

ELGIN MONTGOMERY

1 Brown, was anyone else present with
2 you besides you and Mr. Brown?

3 A. Lieutenant Cazaubon and Detective
4 Spinks. But Detective Spinks, he
5 was -- he walked out of the office
6 just a couple of minutes after I
7 walked in. So it was just mostly
8 me and lieutenant --

9 Q. So for the statements that you have
10 testified to, Officer Cazaubon and
11 yourself and Mr. Brown were present
12 in the room?

13 A. Yes, sir, that was the only three of
14 us.

15 Q. Do you know how long Mr. Brown was
16 there at the station before you
17 started questioning him?

18 A. He was only there a few minutes, as far
19 as my knowledge, before I got
20 there.

21 Q. Had you reviewed the rights form with
22 Mr. Brown before you started
23 interviewing him?

24 A. No, sir. I seen it was on my desk. It
25 was signed already by Mr. Brown.
26 Upon arriving at the office, I
27 talked to Sergeant Barker, and she

ELC IN MONTGOMERY

1 told me he'd already been advised
2 of his Miranda rights and he was in
3 the investigation room.

4 Q. You didn't ask Mr. Brown, yourself,
5 about those rights?

6 A. No, sir.

7 Q. Now, Sergeant Montgomery, did you offer
8 him any type of inducements to make
9 any type of statement whatsoever?

10 A. No, sir.

11 Q. Is there the possibility that Mr. Brown
12 may have been interviewed earlier
13 that would have covered certain
14 specific information about [REDACTED]
15 [REDACTED], such as furniture in the
16 house?

17 A. I don't see how, no, sir. I don't know
18 of any, no, sir.

19 Q. Any information as to -- would you have
20 any knowledge if anyone had
21 discussed earlier with Mr. Brown
22 such as to what Ms. [REDACTED] may have
23 been wearing that particular
24 evening?

25 A. No, sir. After Mr. Brown made that
26 statement, Lieutenant Cazaubon and
27 myself checked with Sergeant Barker

ELGIN MONTGOMERY

1 and Detective Spinks if anybody had
2 mentioned anything to him in any
3 way of that nature, and nobody had
4 mentioned anything.

5 Q. Okay. From your knowledge --

6 A. No, sir.

7 Q. -- is there any possibility that there
8 was any confusion as to his
9 understanding facts that you were
10 asking him, confusion as to what
11 Ms. [REDACTED] furniture may have
12 looked like or anything like that,
13 any possibility of anyone giving
14 him information?

15 A. Not to my knowledge, sir.

16 Q. Now, I'll step back to November 5 of
17 '84. Did you hear or learn
18 anything from any officer who may
19 have made some suggestion to Ms.
20 [REDACTED] as to an identification, as
21 to receiving information,
22 identifying Mr. Brown or suggesting
23 Mr. Brown before, during, or after
24 the physical line-up?

25 A. I assisted in escorting the prisoners
26 back -- well, some of the suspects
27 back to another location. After

ELGIN MONTGOMERY

1 that, after that was taken care of,
2 I then learned that she did
3 identify him.

4 Q. Who did you learn that from?

5 A. I believe it was Lieutenant Bulloch.

6 Q. Officer Montgomery, beyond what you've
7 testified concerning Mr. Brown, did
8 you ask -- Sergeant Montgomery, did
9 you query any further of Mr. Brown
10 of any of the specifics of this
11 particular incident on November 9?

12 A. He told me also that he described the
13 color of the house. He said it was
14 white. He said it was kind of an
15 old house.

16 Q. Sergeant Montgomery, did you do any
17 investigation as to the location
18 where Mr. Brown may or may not have
19 lived back in September of 1984?

20 A. No, sir. It's my knowledge that he
21 lived with his father.

22 Q. Would you know where his father resided
23 at or lived at?

24 A. I have to stop and think just a minute
25 of the name of the street. I think
26 it was Filmore here in Covington.

27 Q. Would that be North Filmore or South

ELGIN MONTGOMERY

1 Filmore?

2 A. Yes. It would be North Filmore. I
3 think it's North Filmore.

4 Q. At the particular time that you
5 interviewed Mr. Brown on November
6 9, it was your impression that he
7 was a suspect at that particular
8 time?

9 A. Yes, sir. To a certain degree, yes,
10 sir. I mean by that, everybody was
11 a suspect until we -- we questioned
12 a lot of people. When I bring him
13 in there to question him, he's a
14 suspect. When the victim

15 identifies a certain individual --

16 BY MR. FOLEY: I understand. Okay.

17 Thank you, Sergeant Montgomery.

18 BY THE COURT: Redirect?

19 REDIRECT EXAMINATION BY MR. HOFFSTADT:

20 Q. One or two things. Mr. Foley alluded
21 to confusion. You didn't suggest
22 the type of clothing to Mr. Brown
23 where he could be confused, did
24 you?

25 A. No, sir.

26 Q. Or suggest how he grabbed her so that
27 he could be confused, did you?

ELGIN MONTGOMERY

1 A. No, sir.

2 Q. And you didn't suggest what the house
3 looked like to confuse him, did
4 you?

5 A. No, sir. What we do, or what is common
6 practice in a crime of this nature,
7 we keep the facts hidden as much as
8 possible, so when a statement is
9 made, we can verify it. What I
10 mean by this, not everybody knows
11 the facts.

12 BY MR. HOFFSTADT: Okay. I have no
13 further questions.

14 BY THE COURT: You may step down.

15 All right, I believe the tape is ready.
16 Let's see if we can play it, try
17 one more time, play the tape with a
18 different machine.

19 (AT THIS TIME THE VIDEOTAPE WAS AGAIN
20 PLAYED TO THE JURY.)

21 BY MR. FOLEY: Your Honor, for the
22 record, I believe at this point in
23 time I don't think the jurors can
24 identify anybody.

25 BY THE COURT: I haven't seen the tape,
26 gentlemen. Does it get any better
27 than this?

PAUL CAZAUBON

1 concerning this case whatsoever?

2 All right, call your next witness.

3 BY MR. HOFFSTADT: Lieutenant Paul
4 Cazaubon.

5 (PAUL CAZAUBON, AFTER HAVING BEEN FIRST
6 DULY SWORN UNDER OATH, DID TESTIFY AS FOLLOWS:)

7 DIRECT EXAMINATION BY MR. HOFFSTADT:

8 Q. What is your name, please?

9 A. Paul Cazaubon.

10 Q. And by whom are you employed?

11 A. City of Covington, Police Department.

12 Q. And what do you do there?

13 A. I'm a shift supervisor.

14 Q. I want to call your attention to
15 November 9, 1984. On that date did
16 you have reason to come in contact
17 with one Dennis Brown?

18 A. Yes, I did.

19 Q. Do you see Dennis Brown in this
20 courtroom?

21 A. Yes, I do.

22 Q. Would you please point him out?

23 A. The defendant. (Indicating).

24 BY MR. HOFFSTADT: Let the record note
25 Lieutenant Cazaubon has pointed out
26 the defendant, Dennis Brown.

27 EXAMINATION BY MR. HOFFSTADT:

PAUL CAZAUBON

1 Q. What was the reason for that contact?

2 A. It was investigating a rape case that
3 occurred in Covington.

4 Q. And where did you see Mr. Brown?

5 A. In the investigation office at the
6 Police Department.

7 Q. I'd like to show you a document and ask
8 you whether you're familiar with
9 it?

10 A. Yes.

11 Q. And what is that document?

12 A. That's the Miranda rights that you give
13 anyone that you interrogate, talk
14 to, or arresting.

15 Q. Who is that signed by?

16 A. Dennis Brown.

17 Q. And who is it witnessed by?

18 A. Detective Spinks.

19 Q. Did you see this form on November 9,
20 1984?

21 A. Yes, I did.

22 Q. When did you see it?

23 A. It was on Sergeant Barker's desk in the
24 investigation section where I was
25 sitting.

26 Q. Did you at that time have a
27 conversation with Dennis Brown?

PAUL CAZAUBON

1 A. We were -- myself and Sergeant
2 Montgomery were in there, and we
3 were talking to him. He came up
4 and he said he wanted to tell us
5 something. I said, okay, we'll
6 listen. And --

7 Q. Just a second. Prior to him saying he
8 wanted to tell you something, did
9 you threaten him in any way?

10 A. No, I didn't.

11 Q. Did you promise him anything?

12 A. No.

13 Q. Did you offer him any inducements?

14 A. No.

15 Q. Did you try in any way or force him to
16 make a statement?

17 A. I did not.

18 Q. Okay. Then would you relate to the
19 jury what he told you?

20 A. He said he wanted to tell us something.
21 He said that -- he was describing
22 what he -- what we was talking
23 about, about this rape case. He
24 said he went to a little white
25 house off one of the streets, and
26 he went in the back door. And he
27 said he went in there and there was

PAUL CAZAUBON

1 a girl laying on the couch watching
2 the television. He said he grabbed
3 her on the arm, and then he stopped
4 for a few minutes. And I think
5 Sergeant Montgomery was questioning
6 him further. And he continued his
7 story. He said he grabbed her on
8 the left arm, I think. And we was
9 asking him, what was she wearing?
10 Was she wearing a nightgown or
11 something? He said no. Was she
12 wearing pajamas --

13 BY MR. FOLEY: Your Honor, I'll object
14 unless these are the questions
15 directly by Detective Cazaubon. I
16 think he's relating to questions
17 asked by Officer Montgomery.

18 EXAMINATION BY MR. HOFFSTADT:

19 Q. Just relate what you were told by the
20 defendant, Dennis Brown, what you
21 heard.

22 A. He said that he went in the house
23 through the door. And he went in
24 the room, and this girl was laying
25 on the couch watching TV. And he
26 grabbed her on the arm, and she
27 woke up and they talked. And then

PAUL CAZAUBON

1 he started describing what she
2 wore. He said she had on pants.

3 ~~A~~ Through further questioning, he
4 described something about a brown
5 couch that she was on, and that's
6 where he assaulted her.

7 Q. ~~A~~ He indicated to you that he had raped
8 her?

9 A. ~~A~~ He said he stood her up and she bent
10 over, and then he quit.

11 Q. Lieutenant Cazaubon, you understand
12 this is a very serious case?

13 A. Yes.

14 Q. Did you give any of this information to
15 Dennis Brown?

16 A. No, I did not. That's the first
17 contact I had with him, sir.

18 Q. To your knowledge, did anyone else give
19 him any of that information?

20 A. Not to my knowledge.

21 Q. Were you able later on to confirm the
22 information that Mr. Brown had
23 given you?

24 A. Yes.

25 Q. After he gave that initial statement,
26 did he say anything else to you?

27 A. He told me he didn't want to talk any

PAUL CAZAUBON

1 more.

2 Q. After he described the pants, the
3 couch, the house, the attack?

4 A. Right.

5 Q. You didn't tape this statement?

6 A. No.

7 Q. Why is that?

8 A. We were just talking to him. They done
9 talked to him, Ann Barker and Roy
10 Spinks. And we were in there, and
11 he just -- we didn't have a tape.
12 We weren't asking him for no
13 confession or anything.

14 Q. But you're swearing this is what he
15 told you on November 9, 1984?

16 A. I am.

17 BY MR. HOFFSTADT: Mr. Foley.

18 CROSS-EXAMINATION BY MR. FOLEY:

19 Q. Lieutenant, is there the possibility
20 that Mr. Brown learned any
21 information from any other officer
22 in regards to what he had told you?

23 A. To my knowledge, no.

24 Q. Are you positive that Mr. Brown was not
25 in any way offered any benefits for
26 making a statement such as this?

27 A. As far as I'm concerned, yes.

PAUL CAZAUBON

- 1 Q. Are you positive that no officer in any
2 way may have threatened him or
3 coerced him to make a statement?
4 A. Not in my presence.
5 Q. Now, were you present at the physical
6 line-up on November 5, 1984?
7 A. As an observer, yes, I was there.
8 Q. Did you have any contact with [REDACTED]
9 [REDACTED] at that line-up?
10 A. No. I seen her when she came in. I
11 didn't speak with her or nothing.
12 Q. Did you hear or see any person who may
13 have given a suggestion of any --
14 implying anything against Mr.
15 Brown?
16 A. No. No, sir, I didn't.
17 Q. Did you notice any irregularities
18 whatsoever about that physical
19 line-up?
20 A. No.
21 Q. Irregularities, what I mean is contrary
22 to normal police procedure.
23 A. No, I didn't.
24 Q. Was there a tape recorder in the room
25 when you were talking to Mr. Brown
26 on November 9 of '84?
27 A. Yeah, there was one present, yes.

PAUL CAZAUBON

1 Q. You chose not to turn it on?

2 A. Right.

3 BY MR. FOLEY: I have nothing further,
4 Your Honor.

5 BY THE COURT: Redirect?

6 REDIRECT EXAMINATION BY MR. HOFFSTADT:

7 Q. Lieutenant Cazaubon, did you choose
8 purposely not to turn it on, or was
9 that not your procedure?

10 A. That wasn't -- we chose -- we were just
11 talking to him. We chose not to
12 turn it on.

13 Q. No one in your presence threatened or
14 coerced Mr. Brown?

15 A. No, sir.

16 Q. And you know, Lieutenant, you and
17 Sergeant Montgomery did not sit
18 down and make up a store to get Mr.
19 Brown?

20 A. No.

21 Q. Is that correct?

22 A. That's correct.

23 BY MR. HOFFSTADT: I have no further
24 questions.

25 BY THE COURT: You may step down.

26 BY THE COURT: Call your next witness.

27 BY MR. HOFFSTADT: At this time the