

1 and, I guess, the probative value is highly outweighed by the
2 prejudicial nature of that sort of testimony.

3 THE COURT: Mr. Smith?

4 MR. SMITH: Can I see that deposition? If it please
5 the Court. Further on down in that testimony right after
6 where Mr. Redman questioned:

7 "Q. Did you know what was going to happen prior to this
8 happening?

9 A. I was -- I heard -- I overheard them talking about rape
10 if the person gave them a hassel."

11 But no means were ever mentioned. "I wasn't putting two
12 and two together on what was going down." In other words,
13 she does have knowledge and she told Mr. Redman that. She
14 had knowledge and would corroborate what Mr. Dean has
15 indicated on direct and cross-examination. I think it's
16 definitely relevant and corroborates and it shows they
17 planned -- Well, she wasn't real clear on that. She did
18 indicate she overheard the situation. And I think that that
19 corroborates with what Mr. Dean has testified to.

20 MR. REDMAN: My problem is the vagueness that she
21 overheard it. That's -- It's pretty weak and again I would
22 say that the probative value of that certainly is outweighed
23 by the prejudicial nature.

24 THE COURT: There's evidence in the record that
25 demands for money were made early on after the people entered
the apartment. There is evidence of prior conversations
involving the defendant with respect to such activities. And
I can't say within the context of the motion in limine that it

1 would be improper to bring it up. I'm going to have to hear
2 what it is. If there's proper foundation, if it reflects
3 testimony of the defendant and so on, I'll let it in. I
4 don't believe in the circumstances, Mr. Redman, that I can
grant that motion. It is overruled.

5 MR. REDMAN: I have a couple more motions in limine.
6 JoAnn Taylor -- Well, again, I would move in limine that the
7 State not elicit any testimony from JoAnn Taylor wherein
8 she recalls a conversation with Joseph White and he said that
9 he was talking about a killing in North Carolina and a
10 reference to the Mafia. Maybe you're not even going to get
11 into that.

12 MR. SMITH: I wasn't.

13 MR. REDMAN: Well, I think it's so far removed.

14 THE COURT: You've paraphrased the situation. I
15 think anything about the time frame or what was specifically
16 said, whether it is something that he indicated he partici-
pated in or what, you'd have to be more specific for me.

17 MR. REDMAN: It had to do with -- and Judge I don't
18 have it her with me -- it had to do with one of her first
19 statements to the police. They asked about Joe White and
20 what she knew about him. "Well, he told me that he'd been
21 involved in a killing in North Carolina and that he was
somehow Mafia-related.

22 MR. SMITH: I think words came up and I think this
23 is how defense counsel would continually ask what she knew
24 about him and this is how it came out. I don't plan on
25 asking about that type of situation, but I'm not so sure with

1 with the nature whether it's proper evidence on the
2 character of the defendant either. If they ask the question--

3 THE COURT: Well, the general rule on prior
4 offenses is if it shows intent, motive, any of those things --
5 Again, it's going to depend a little bit on how it comes
6 up. If the State doesn't ask it, it's one thing. If it
7 comes out on cross, I don't know I can say that that would
be inappropriate, not inappropriate but not admissible.

8 MR. REDMAN: I'm just saying I would not like the
9 State to bring that up.

10 THE COURT: Well, Mr. Smith, you'll have to respond
11 to that.

12 MR. SMITH: Your Honor, we are not planning and have
13 not discussed at all, and we are not planning that to be
14 a question regarding "Tell us about Joe White" type of
situation.

15 THE COURT: I think what I'm going to do is to take
16 that under advisement because I don't know in what context.
17 If it appears that it's coming and you want to approach the
18 bench on it, let's deal with that at that stage. I am
19 reluctant to move.

20 MR. REDMAN: I understand. More than anything
21 I want to alert you on the possibility. I have one final
22 motion in limine in regards to Lisa Podendorf or Lisa Brown.
23 I'd move in limine that the State not be allowed to elicit
24 any testimony from her that she recalled the defendant would
25 say when he was drunk that he would just like to go out and
kill someone.

1 THE COURT: Mr. Smith?

2 MR. SMITH: Again, Your Honor, as the previous
3 motion, we weren't intending to ask anything in that area.
4 I think that again was elicited by defense, "What did he do
5 when he was drinking?" We're not even indicating he was
6 drinking that night. You know if it comes out in cross, it's
7 appropriate, an appropriate response. I don't think it's
8 inappropriate.

9 MR. REDMAN: Again, I'm just asking the State
10 not to bring it up.

11 THE COURT: I'm going to take that one under
12 advisement also. Some of these things in a a given context,
13 I think would be admissible, but I'm going to have to hear.
14 I can't -- I don't feel I can make a judgment on that at
15 this time. So I'll take that one under advisement.

16 MR. REDMAN: As long as we're alerted before the
17 question.

18 THE COURT: Well, if you see it coming, you can
19 certainly approach the bench. We'll just take it from there.

20 ** ** ** **

21 (At 9 a.m. on November 7, 1989 with counsel for the
22 parties present and the defendant present and the jury IN the
23 jury box, the following proceedings were had:)

24 THE COURT: Good morning ladies and gentlemen.
25 All right. Gentlemen, are we all ready to proceed this
morning?

MR. SMITH: Yes, Your Honor. The State would call
JoAnn Taylor to the stand.

JOANN TAYLOR

Called as a witness on behalf of the
plaintiff, having been first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q. Would you state your name for the record, please?

A. It's Ada JoAnn Taylor.

Q. What is your present age?

A. Twenty-six.

Q. What is your date of birth?

A. 7-30-63.

Q. Where are you presently living?

A. In the Gage County Jail.

Q. How long have you been there?

A. Since March 15.

Q. Were you arrested on March 15?

A. Yes.

Q. Of what year?

A. This year, 1989.

Q. What were you arrested for?

A. First degree murder.

MR. SMITH: May I approach the reporter, Your
Honor?

(Whereupon, Exhibit
No. 37 was marked
for identification)

Q. (By Mr. Smith) ~~Handing you what's been marked for~~
purposes of identification is Exhibit No. 37. Tell me what
that is, if you know?

1 A. Yes, sir. It's a copy of my plea agreement.

2 Q. Are there signatures on that agreement?

3 A. Yes, sir.

4 Q. Is your signature there?

5 A. Yes, sir.

6 Q. Do you remember when you signed that agreement?

7 A. It was the 30th of August.

8 Q. Does that document truly and accurately reflect the plea
9 agreement you entered into?

10 A. Yes, sir.

11 MR. SMITH: We would offer that, Your Honor.

12 MR. REDMAN: I have no objection.

13 THE COURT; 37 is received.

14 (Exhibit No. 37 is hereby
15 made a part of this bill
16 of exceptions and may
17 be found herein
18 immediately following.)
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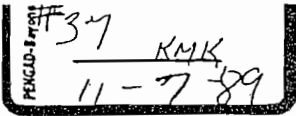
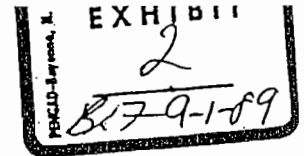


EXHIBIT NO. 37



P L E A A G R E E M E N T



☒ Richard T. Smith

Lyle J. Koenig
Defense Counsel Joseph H. Murray

☐ Jerry L. Shelton

CASE: State of Nebraska v. Ada Joann Taylor

Docket 9 Page 247 (Case No. 9297 - District Court of Jefferson County, NE)

AGREEMENT:

1. The defendant has agreed to waive her preliminary hearing rights in this action.
2. The State has agreed to file an amended Information charging the defendant with Second Degree Murder of Helen L. Wilson, and defendant will plead guilty to said amended Information.
3. The defendant has agreed, if necessary, to waive her preliminary hearing rights on this amended Information, to waive her 24-hour notice and service of the amended Information.
4. The defendant agrees to testify truthfully to the best of her recollection in any and all cases and give total cooperation to the State of Nebraska regarding the homicide of Helen L. Wilson.
5. The defendant and the State will stipulate and agree that the defendant should not be sentenced in this matter until all homicide cases have been tried in the Helen L. Wilson matter.
6. The State will make a recommendation of 15 years imprisonment for a sentence in this cause if the defendant complies with all of the above.

Richard T. Smith
Counsel for State

Date: 8/30/89

Joseph H. Murray
Counsel for Defense

Date: 8/30/89

Ada Joann Taylor
Counsel for Defense

Date: 8/30/89

Ada Joann Taylor
Defendant

Date: 8-30-89

1 Q (By Mr. Smith) Miss Taylor, can you remember back to
2 February 5, 1985 for me?

3 A Yes, sir.

4 Q What's the first thing you remember on February 5, 1985?

5 A Being with some friends of mine.

6 Q Approximately what time?

7 A About 6:30 that evening.

8 Q And who are these friends?

9 A Joseph White, Tom Winslow, Debra Shelden, Darren Munster-
man, and myself.

10 Q You've indicated an individual by the name of
11 Joseph White; is that correct?

12 A Yes, sir.

13 Q Did you know that individual by any other name at that
14 time?

15 A I knew him by Lobo.

16 Q Was that the first date that you met Lobo?

17 A No, sir.

18 Q How long had you known him previous to that time?

19 A Approximately six to eight months.

20 Q How many times during that six to eight months had you
21 seen him?

22 A Quite a few.

23 Q Daily basis, weekly basis?

24 A Pretty much daily.

25 Q Do you see -- Would it be correct then that Joseph
White is Lobo; is that correct?

A Yes.

1 Q Do you see Joseph White in the courtroom today?

2 A Yes, sir.

3 Q Would you point that individual out, please?

4 A The gentleman at the other table, sir.

5 Q Now, you've indicated the third gentleman. There are
6 three of them. Is he the one sitting closest to you or
7 farthest?

8 A Farthest.

9 MR. SMITH: Let the record reflect she has
10 identified the defendant.

11 THE COURT: It will so reflect.

12 Q (By Mr. Smith) Where were you at when you were with
13 these friends of yours?

14 A Well, we were first at my apartment.

15 Q All right. Who was there?

16 A Darren Munsterman, myself, Debra Sheldon, Tom Winslow,
17 and Mr. White.

18 Q Then did you stay at your apartment all that rest of
19 the night?

20 A No, sir. We went riding around later on.

21 Q All right. How long did you stay at the apartment, if
22 you can remember?

23 A I can't remember right off.

24 Q A long time, short time?

25 A About an hour, hour and a half. Just best I can recall.

Q All right. ~~You've indicated you went riding around; is~~
that correct?

A Yes, sir.

1 Q Do you remember what type of vehicle it was you were
2 riding in?

3 A I believe it was an Oldsmobile.

4 Q Do you remember the color?

5 A It was green and brown.

6 Q Which part was green and which part was brown?

7 A The body was green. The top was brown.

8 Q Where did you go after you rode around?

9 A We went to Kathy Bartak's.

10 Q Who was there? Was anyone there?

11 A Her and Jim Dean.

12 Q All right. Do you remember where Kathy Bartak's was
13 located?

14 A I don't know the address right off.

15 Q Do you remember any street names?

16 A I believe it's Ella.

17 Q Now, you've indicated that you went to their place. What
18 type of place was that?

19 A It was an apartment.

20 Q Do you remember which apartment they were in?

21 A Not right offhand, no, sir.

22 Q What did you do when you arrived there?

23 A We sat and talked -- Well, at first, it was Joseph and
24 I that went over. Tom took us over.

25 Q Tom took you over; is that correct?

A Yes, sir.

Q Did Tom get out when you've indicated you went in; is
that correct?

1 A. Yes, sir.

2 Q. Did Mr. White go in with you?

3 A. Yes, sir.

4 Q. And then who was there?

5 A. Kathy Bartak and James Dean.

6 Q. So who were the four that were in the apartment then?

7 A. Joseph White, myself, Kathy Bartak and James Dean.

8 Q. Did Tom Winslow come up?

9 A. Not at that time, no.

10 Q. Did Tom Winslow ever return?

11 A. Yes, sir.

12 Q. Was there anyone with him when he returned?

13 A. When he returned, Debra Shelden was with him.

14 Q. Did they come in then?

15 A. Yes, sir.

16 Q. What went on at the apartment prior to Thomas Winslow
17 and Debra Shelden coming?

18 A. Not much of anything. The guys talked. They worked
19 together.

20 Q. Who worked together?

21 A. Mr. White and Mr. Dean.

22 Q. After Thomas Winslow arrived with Debra Shelden, what
23 happened? What happened next?

24 A. Thomas Winslow and Joseph White and I had a discussion in
25 the restroom.

Q. Can you describe this apartment, the rooms in the
apartment?

A. I don't remember it very well. It's been quite a while

1 since I've been there, and I'd only been there once.

2 Q Was it in -- You've indicated you had a discussion,
3 conversation in the bathroom; is that correct?

4 A Yes, sir.

5 Q Did the defendant speak in this conversation?

6 A Yes, sir.

7 Q Did you speak in the conversation?

8 A Yes, sir.

9 Q What did you say?

10 A That I wasn't going for it. That I didn't want any
11 part of it.

12 Q Any part of what?

13 A He had plans to borrow some money or get some money is
14 how he put it, and I was to go along with it or else.

15 Q Or else what?

16 A There would be bodily harm to me or my daughter.

17 Q You had a daughter at that time?

18 A Yes, sir.

19 Q Was she in the area of Beatrice?

20 A As far as I know, yes, sir.

21 Q How long did that conversation take?

22 A Not very long.

23 Q What happened after the conversation?

24 A I walked out of the restroom, and they continued to
25 talk in there, the guys.

Q What was the next thing that happened?

A Jim Dean, they talked to Jim Dean, and he went in the
restroom, and I don't know what was said in the conversation.

1 Q What's the next thing that happened?

2 A Well, Darren had showed up while I was in the rest-
3 room having the conversation with the guys.

4 Q Who is Darren?

5 A Darren Munsterman. He was my boyfriend at the time.

6 Q What was the next thing that happened?

7 A Well, Kathy and Debby and I had mentioned that we'd like
8 some sodas, and Kathy didn't have any. So Darren left and
9 went to get some sodas for us.

10 Q Did you ever see Darren Munsterman after that on
11 February 5, 1985?

12 A No, sir.

13 Q Did you ever see him in the early-morning hours of
14 February 6, 1985?

15 A No, sir.

16 Q What's the next thing that happened?

17 A We all left.

18 Q All right. You've indicated we. Who left?

19 A Myself, Mr. White, Mr. Winslow, Debra, and James Dean.

20 Q How did you leave?

21 A In Tom Winslow's car.

22 Q The same car you've previously testified to?

23 A Yes, sir.

24 Q Where did you go?

25 A We went riding around at first.

Q How long?

A Oh, approximately about an hour and a half, two hours.

Q And where did you ride around?

1 A. The main circuit in Beatrice which is Court and Sixth.

2 Q. Do you remember where people were sitting in the car
3 when you were on the strip?

4 A. Vaguely.

5 Q. All right. To the best of your memory, where were they?

6 A. Debra Sheldon and Mr. Dean were in the back seat, and I,
7 myself, White and Winslow were in the front seat.

8 Q. Who was driving?

9 A. Winslow.

10 Q. Now, you've indicated you drove around. For how long?

11 A. About an hour and a half to two hours.

12 Q. Then what happened?

13 A. We went riding. We were going up Ella and we were coming
14 to a stoplight and Mr. Dean spotted Kathy Gonzalez waiving
15 at the car.

16 MR. REDMAN: Your Honor, I'm going to object to that
17 as to what somebody else did or saw.

18 THE COURT: Overruled.

19 Q. (By Mr. Smith) Did you see anyone at that time?

20 A. Yes, sir.

21 Q. And where was this person?

22 A. Out back of the apartment.

23 MR. SMITH: May I approach the exhibits, Your Honor?

24 THE COURT: Yes.

25 Q. (By Mr. Smith) I'm handing you what is Exhibit No. 3.
Can you tell me what that is, if you know?

A. Yes, sir. That's a picture of the apartment building that
Mrs. Wilson and Miss Gonzalez lived in.

1 Q Okay. Now, would that be the view that you just
2 described when you were slowing down and you saw someone? Is
3 that the view of the building?

4 A Yes, sir.

5 Q Now, you've indicated -- Where was the person that was --
6 that you saw?

7 A She was in the back of the building.

8 Q What part of the exhibit would that be?

9 A The right-hand side.

10 Q And what was the person doing?

11 A She was waiving.

12 Q What was the next thing that happened?

13 A We stopped for the stoplight and continued. We made a
14 right-hand turn and went to the alley there besides the
15 building and pulled into into the alley. And we parked next
16 to the building.

17 Q All right. Referring back to Exhibit No. 3, please. If
18 you would pick it up, is the alley visible that you've
19 described in that exhibit?

20 A Yes, sir.

21 Q All right. You've indicated that the car was parked;
22 is that correct?

23 A Yes, sir.

24 MR. REDMAN: Can we approach, Judge?

25 (At this point, counsel
for the parties
approached the bench
and an off-the-record
discussion was had, in
low tones, between
Court and counsel.)

1 Q (By Mr. Smith) Ms. Taylor, do you believe that you
2 could put an X on Exhibit No. 3 where the car was parked?

3 A Yes, sir.

4 Q All right. I would ask you to do so, please.

5 A It was parked right here beside this wall.

6 Q Ms. Taylor, what happened next?

7 A We -- Well, after the car was parked, we all got out.

8 Q Which side did you get out?

9 A Passenger side.

10 Q Was this a two-door or four-door car?

11 A It was a two-door.

12 Q What was the next thing that happened?

13 A Well, after we all got out of the car, I didn't know
14 where we were going. So I told Tom and Joe to lead,
15 because I didn't know where we were going. So we followed the
16 guys.

17 Q All right. You've indicated Joe. Who is Joe?

18 A Mr. White.

19 Q Where did you go?

20 A Into the apartment building and up to Mrs. Wilson's
21 apartment.

22 Q All right. You've indicated up to Mrs. Wilson's
23 apartment. Did you have to go up?

24 A Yes, sir. We went up a flight of stairs.

25 MR. SMITH: May I approach the exhibits?

THE COURT: Yes.

24 Q (By Mr. Smith) Ms. Taylor, handing you Exhibit No. 4.
25 Can you tell me what that is, if you know?

1 A. Yes, sir. That's a photograph of the door to
2 Mrs. Wilson's apartment.

3 Q. You've indicated you went up the stairwell. What
4 happened next?

5 A. We all went up to Mrs. Wilson's door.

6 Q. The very same door as found in Exhibit No. --

7 A. Seven.

8 Q. -- No. 7?

9 A. Yes, sir.

10 Q. What happened next?

11 A. I -- Well, when we got to the way we were all standing,
12 I kind of got stuck in front of the door, and I knocked on
13 the door.

14 Q. Was there a response from the inside?

15 A. Yes, sir.

16 Q. What type of response did you receive?

17 A. She -- Mrs. Wilson came to the door.

18 MR. SMITH: May I approach the exhibits, again,
19 Your Honor?

20 THE COURT: Yes.

21 Q. (By Mr. Smith) Handing you Exhibit No. 1. Can you
22 tell me what that is, if you know?

23 A. Yes, sir. That's a picture of Mrs. Wilson.

24 Q. Is that the same individual that answered the door?

25 A. Yes, sir.

Q. What happened next?

A. She said "Hello" to Mrs. Sheldon, Deb Sheldon. And
Debby said "Hi" after that. I get vague because I don't

1 remember very well.

2 Q All right. How long are you vague about what happened?

3 A Just a few minutes, because I don't remember us going
4 in the door.

5 Q All right. What's the next thing that happened?

6 A That I remember? We were inside the door and Debby had
7 shut the door.

8 Q Where were you?

9 A Standing kind of away from Debby, kind of close to the
10 couch.

11 Q All right. You've indicated there was a couch. What
12 room are you in?

13 A The living room.

14 MR. SMITH: May I approach the exhibits again?

15 THE COURT: Yes.

16 Q (By Mr. Smith) Handing you Exhibit No. 11. Can you
17 tell me what that is, if you know?

18 A Yes, sir. That's a picture of the partial living room.

19 Q What's in that picture?

20 A The couch.

21 Q Is that the couch you've just testified to?

22 A Yes, sir.

23 Q All right. You've indicated where you were and where
24 Debby was. Who went in the apartment?

25 A Myself, Debra Shelden, James Dean, Thomas Winslow, and
Mr. White.

Q Where was Mr. White?

A He was having words with Mrs. Wilson.

1 Q What was he saying?

2 A He was demanding money, that she knew why or she knew
3 why he was there. Excuse me.

4 Q What was she saying?

5 A To leave her alone and go away.

6 Q Did he make any response to that when she said that?

7 A He slapped her.

8 Q Where was Mr. Winslow?

9 A Standing not too far from Mr. White.

10 Q In relationship to Mrs. Wilson, where was Mr. Winslow?

11 A A little bit farther than Mr. White was to her.

12 Q Where was Mr. Dean?

13 A Kind of closer to Debby, and I -- he was just kind of
14 standing in between the kitchen or excuse me, the living
15 room and the doorway.

16 Q What happened next?

17 A They continued to argue, and Mr. White took her by her
18 arms and him and Mr. Winslow took her toward the bedroom, and
19 I followed.

20 Q What happened next?

21 A They -- Mr. White and her continued to argue. They got
22 her down on the floor in the bedroom.

23 Q What was the argument about?

24 A Money.

25 Q What was Mr. White saying?

A Just asking for money.

26 Q What was Mrs. Wilson saying?

A That she was not giving it and for him to go away.

1 Q. You've indicated now she's down on the floor?

2 A. Yes, sir.

3 Q. What room is she in?

4 A. Bedroom.

5 MR. SMITH: May I approach the exhibits, Your Honor?

6 THE COURT: You may.

7 Q. (By Mr. Smith) Handing you Exhibit No. 13. Can you
8 tell me what that is, if you know?

9 A. Yes. It's a picture of the bedroom.

10 Q. Which bedroom?

11 A. Mrs. Wilson's bedroom.

12 Q. What happened after she was on the floor?

13 A. They were arguing with her and Ms. Gonzalez had come in
14 while the guys were -- had Mrs. Wilson on the floor, and
15 Ms. Gonzalez got kicked in the nose.

16 Q. What happened after Ms. Gonzalez got kicked in the nose?

17 A. She went out of the room and Debby Shelden came in and
18 tried to help Mrs. Wilson, trying to get the guys to leave
19 her alone.

20 Q. What happened then?

21 A. Debra got elbowed backwards.

22 Q. By whom?

23 A. Mr. White.

24 Q. Where did she go backwards to?

25 A. She hit the wall, I believe.

Q. Handing you Exhibit No. 14. Can you tell me what that
is, if you know?

A. Yes, sir. It's a picture of the wall.

1 Q What happened next?

2 A Mrs. Sheldon was knocked -- I -- We -- The guys got
3 Mrs. Wilson up off the floor in the bedroom and took her
4 towards the living room, and I followed them back out.

5 Q Where was James Dean?

6 A In the living room at this time.

7 Q Where was Kathy Gonzalez?

8 A She was nowhere to be seen. I believe she was in the
bathroom though, because I could still hear her voice.

9 Q Where was Debra Shelden?

10 A Well, this time she was in the bedroom, kind of
11 knocked -- I don't remember if she was knocked out, but I know
12 she was woozy.

13 Q Did she ever get up again?

14 A Yes, sir.

15 Q How long did it take to the best of your knowledge?

16 A 15, 20 minutes.

17 Q Did she remain in the bedroom during that period of
time?

18 A Yes, sir.

19 Q All right. Then what did she do after that?

20 A When she came back out of the bedroom, she came back over
by the doorway.

21 Q You've indicated Mrs. Wilson was taken from the bedroom;
22 is that correct?

23 A Yes, sir.

24 Q What was the next thing that happened?

25 A Mr. White continued to argue with her.

1 Q What was Mrs. Wilson doing?

2 A Still telling him to leave, telling him to go away, to
3 leave her alone. At this time I had also told him to leave
4 her alone. That he needed to respect his elders, and I ended
5 up getting hit for it.

6 Q Where were you hit?

7 A In the jaw.

8 Q What was the next thing that happened?

9 A They got her down on the floor in the living room.

10 Q Who got her down in the living room?

11 A Mr. White and Mr. Winslow.

12 Q In relationship to that couch that you previously
13 testified to?

14 A Yes, sir.

15 Q Where was her head?

16 A Closest to the couch.

17 Q Where were her feet?

18 A Going back towards the other room.

19 Q Which other room?

20 A Well, she would be laying where her feet were pointing
21 towards the bedroom and the kitchen area.

22 Q You've indicated, I believe, that they got her to the
23 floor. How did they do that?

24 A I'm not sure if they pushed her down or if she tripped.

25 Q What happened next?

A They had her hands behind her, underneath her and

Mr. White had his hand up on her chest or up in this area,

and he was undoing his trousers with his other hand.

1 MR. SMITH: Let the record reflect the witness
2 put her right hand up on the upper part of the center part
3 of her chest.

4 THE COURT: All right. The record will so reflect.

5 Q (By Mr. Smith) You've indicated he had one hand in
6 that location; is that correct?

7 A Yes, sir.

8 Q What was he doing with the other hand?

9 A Undoing his belt and his pants.

10 Q What was Mrs. Wilson doing?

11 A Struggling, arguing.

12 Q Where were you?

13 A By her head.

14 Q What were you doing?

15 A Standing there.

16 Q Was there anything near you at that time?

17 A There was a smaller green footstool at the time.

18 MR. SMITH: May I approach the exhibits, Your Honor?

19 THE COURT: Yes.

20 Q (By Mr. Smith) Handing you Exhibit No. 2. Can you tell
21 me what that is, if you know?

22 A It's a picture of Mrs. Wilson's body.

23 Q You've indicated there was a small green footstool. Is
24 that in that exhibit?

25 A Yes, sir.

Q Is that the footstool as you remember it?

A Yes, sir.

Q I see it's upside down; is that correct?

1 A. Yes, sir.

2 Q Do you know how it got there?

3 A. I shifted my foot and kicked it over.

4 Q What happened after Mr. White unbuckled his belt?

5 A. Mr. Winslow was holding onto Mrs. Wilson's legs.

6 Q How was he holding onto her legs?

7 A. He spread them.

8 Q Then what happened?

9 A. Mr. White raped her.

10 Q Did you see him rape her?

11 A. Yes, sir.

12 Q Was he saying anything when he was raping her?

13 A. That she deserved it and that she was tight.

14 Q What were you doing?

15 A. I had placed a pillow over her face, because I didn't

16 want her to see the face that would haunt her.

17 Q Why would the face haunt her?

18 A. I know from previous experience that when you're raped,

19 the face can haunt you.

20 Q What happened next?

21 A. When Mr. White got finished, him and Mr. Winslow switched

22 places.

23 Q What was Mr. White doing then?

24 A. After he pulled his trousers back up and redone his

25 belt and everything, he was holding Mrs. Wilson's legs.

Q What did Mr. Winslow do?

A. He raped Mrs. Wilson also, but he had anal intercourse with her.

1 Q Where was Mr. Dean during this time?

2 A Standing pretty much where he was earlier back over by
3 the vicinity of the bedroom and kitchen doorway area.

4 Q What was Mrs. Wilson doing when they switched places?

5 A Struggling.

6 Q What were you doing?

7 A Still -- I still had the pillow over her face.

8 Q Do you know how hard you were placing that pillow over
9 her face?

10 A I beleive I had no pressure on the pillow to my
11 knowledge.

12 Q Could you have had pressure on the pillow?

13 A Yes, sir.

14 Q After Mr. Winslow was done, what happened next?

15 A I was tossed a pink towel, because I had -- I was -- I
16 removed the pillow.

17 Q Was Mrs. Wilson moving anymore?

18 A No, sir.

19 MR. SMITH: May I approach the exhibits?

20 Q (By Mr. Smith) Handing you, again, Exhibit No. 2, Do
21 you see the pink towel that you were handed in that exhibit?

22 A Yes, sir.

23 Q Where?

24 A It's laying across the scarf that's on her face.

25 Q After Mrs. Wilson wasn't moving anymore, what happened
next?

A We all started looking around the apartment for money.

Q Where did you look?

1 A. The bedroom.

2 MR. SMITH: May I approach the exhibits, Your Honor?

3 THE COURT: Yes.

4 Q. (By Mr. Smith) Handing you what is Exhibit No. 12.
5 Can you tell me what that is?

6 A. Yes, sir. It's a picture of the dresser, one of the
7 dressers in the bedroom.

8 Q. Tell the jury what you did in that bedroom when you
9 were looking?

10 A. I walked around and mainly looked around for money.
11 There was money laying on top of her dresser. I picked that
12 one \$20 bill off the dresser and placed it in my pocket.

13 MR. SMITH: May I approach the exhibits, Your
14 Honor?

15 THE COURT: Yes.

16 Q. (By Mr. Smith) Handing you Exhibit No. 17. Can you
17 tell me what that is, if you know?

18 A. Yes, sir. That's part of the kitchen area.

19 Q. Did you go in that area?

20 A. Yes, sir.

21 Q. Why?

22 A. After -- Well, while everyone else was looking for
23 money after I found the 20 --

24 Q. Handing you Exhibit No. 16. Can you tell me what that
25 is, if you know?

A. Yes, sir. That's the other part of the kitchen where
the coffeepot and everything is.

Q. Is that where you made coffee?

1 A. Yes, sir.

2 Q. Who drank the coffee?

3 A. I believe Mr. White and Mr. Winslow.

4 Q. Did you?

5 A. No, sir.

6 Q. Why did you make it?

7 A. I don't know to be totally honest with you.

8 Q. What happened after you found the \$20 bill.

9 A. I said, "I had it. Let's go."

10 Q. Then what happened?

11 A. The guys continued to look around.

12 Q. Did you go into the kitchen area after that?

13 A. No, sir.

14 Q. Did you look into the kitchen area after that?

15 A. No, sir.

16 Q. What happened next?

17 A. Somebody had said something about Ms. Gonzalez's nose.

18 So I told her to put ice on it.

19 Q. What happened next?

20 A. We were -- The guys were still looking around for money,

21 because Mr. Dean was naming places to look.

22 Q. Was any other money found?

23 A. Not to my knowledge.

24 Q. Ms. Taylor, you have indicated from Exhibit No. 2 that

25 there was a pink towel given to you; is that correct?

A. It was tossed to me, yes, sir.

Q. Who tossed it to you?

A. Mr. White. He said I knew what to do with it.

1 Q. Why would you know what to do with it?

2 MR. REDMAN: Your Honor, at this point I'm going
3 to object. It's speculation plus it gets into an area that
4 we've discussed in camera.

5 THE COURT: Counsel approach the bench.

6 (At this point, counsel for the
7 parties approached the bench and
an off-the-record discussion was
had, in low tones, between Court
and counsel.)

8 THE COURT: We're going to take a recess at this
9 time, ladies and gentlemen.

10 (Whereupon, a recess was taken
from 10 to 10:18 a.m.)

11 (At 10:00 a.m. with counsel for the parties present
12 and the defendant and jury NOT present, the following
13 proceedings were had in chambers.)

14 THE COURT: Let the record reflect we are proceed-
15 ing in chambers out of the presence of the jury. At the
16 conclusion of the testimony in open court, the witness test-
17 ified she was tossed a towel and that the defendant said she
18 knew what to do with it, and it was then asked by the State to
19 the effect why that was. The Court indicates that at this
20 point a hearing outside of the presence of the jury is
21 necessary to determine what this evidence may be and if it is
admissible. What showing would you like to make, Mr. Smith?

22 MR. SMITH: If it please the Court: We would
23 advise the Court we believe the witness has told the State
24 that prior to coming to Beatrice with the defendant, she had
25 an apartment and the defendant was allowed to be there.

1 THE COURT: Where?

2 MR. SMITH: In California. She one day came home
3 not knowing anyone was there, walked in and found the
4 defendant having sexual intercourse with a young lady at
5 that time. The young lady's head was covered with a pillow
6 case. The witness would say she left, returned later, had
7 a conversation with the defendant regarding that, and she
8 indicated to the defendant that she felt the female was a
9 little wierd doing that, and the defendant said to her, "No,
10 that's what I wanted her to do." It was at his insistance
that the individual have something over her head.

11 MR. REDMAN: The problem with that is that what
12 we're talking about now is not the same as, apparently, what
13 JoAnn supposedly witnessed in California. The pillow case
14 was over her head during the act of intercourse and this is,
15 obviously after the act of intercourse is complete, in fact,
16 after the defendant, apparently, is dead, from what she's
17 testified. The victim was dead. So they are not similar and
18 I don't know that a towel over the head is the same as a
19 pillow case over the head. And I think it's still speculation
20 on a lot of this on JoAnn's part anyway, and I don't know
when this California thing happened. I don't know how remote
it is.

21 THE COURT: Well, we have testimony she's only known
22 him six or eight months, and I think that's in the record.

23 MR. REDMAN: It seems to me, again, that the
24 prejudicial value highly outweighs the probative value of
25 this.

1 THE COURT: Mr. Smith, any response you want to
2 make?

3 MR. SMITH: No, Your Honor.

4 THE COURT: Well, the rule appears to be as
5 announced in the case State vs. Koka, 216 Neb. 76 that
6 evidence of other crimes is admissible where there are
7 unique element signature similarities between them and the
8 offense charged where the evidence is otherwise so related
9 in time and place and circumstance. As to have a substantial
10 probative value in determining the guilt of the accused, I'm
11 not sure that the rule is limited to other crimes. The
12 statute speaks of crimes or other acts but nonetheless, the
13 question is whether or not the proffered evidence has a
14 signature-like similarity. The Court has a problem with the
15 fact that what is taking place here is after any alleged
16 intercourse by the defendant and some evidence to indicate
17 that at this point Mrs. Wilson was dead. If there is some
18 relevancy, if the prejudice outweighs it, it ought not be
19 received.

20 I have considerable difficulty, Mr. Smith, in finding a
21 signature-like quality to this given the sequence of events,
22 because this didn't happen during any act of alleged inter-
23 course but comes afterwards and, apparently, the time when
24 the victim was dead. At least the possibility is there but
25 even if that were true, the other of it causes me concern.
~~I think that the discretion of the Court in this case has got~~
to be exercised in the defendant's favor. I don't believe
the circumstance is sufficiently similar to come within

1 the signature similarity rule. Therefore, I'm going to treat
2 what you have said as an offer of proof that the defendants
3 have observed thereto. Objection is sustained. I think it
4 could be reversible error to permit this testimony in these
circumstances.

5 (At 10:18 a.m. with counsel for the parties present
6 and the defendant present and the jury IN the jury box, the
7 following proceedings were had:)

8 THE COURT: Will you have Ms. Taylor brought back
9 in the courtroom.

10 JOANN TAYLOR RESUMED THE WITNESS STAND AND TESTIFIED
FURTHER AS FOLLOWS:

11 (DIRECT EXAMINATION
12 BY MR. SMITH:)

13 Q Handing you what's been marked or is Exhibit No. 18.
14 Can you tell me what that is, Ms. Taylor?

15 A Yes, sir. It's a photograph of the part of the kitchen
area.

16 Q All right. What is in that photograph?

17 A The doorway mainly and you got your kitchen chairs and
18 everything.

19 Q All right. Handing you Exhibit No. 19. Excuse me.
20 Have you seen that before?

21 A Yes, sir.

22 Q When was that?

23 A When I was in Mrs. Wilson's apartment.

24 Q In the sequence of events, when did you see that?

25 A Before -- Well, when I went into make coffee later on.

Q Later on. When later on?

1 A. When we were leaving.

2 Q. Handing you what is Exhibit No. 19. Can you tell me
3 what that is, if you know?

4 A. Yes, sir. It's a part of the \$5 bill.

5 Q. Have you ever seen that before?

6 A. Yes, sir.

7 Q. Where?

8 A. Not in Mrs. Wilson's apartment, but I've seen it done
9 before.

10 Q. All right. You've indicated you saw that done before.
11 Saw what done before?

12 A. A \$5 bill being torn.

13 Q. After you'd found the \$20 bill, you indicated you said
14 it was time to leave?

15 A. Uh-huh.

16 Q. What did you do then?

17 A. I was ready to leave.

18 Q. What happened next?

19 A. Well, we waited around for the guys to decide they were
20 ready to go.

21 Q. How long was that?

22 A. Well, not long.

23 Q. Do you know who left first?

24 A. Yes, sir.

25 Q. Who?

26 A. ~~It was myself, Debra Sheldon and James Dean.~~

27 Q. Where did you go?

28 A. We were going back out to the car.

1 Q Did you go back out to the car?

2 A We started to. We got out in the hallway, and we got
3 as far as the staircase, and the lights went out on it.

4 Q All right. Then what happened?

5 A Well, we -- After Jim -- I tripped and Jim Dean caught
6 me before I fell. We made our way to the back door before
7 the lights came back on.

8 Q What happened next?

9 A We went on out to the car.

10 Q All right. So who's in the car then?

11 A Myself, Debra Sheldon, and James Dean.

12 Q Did anyone else come to the car?

13 A Yes, sir.

14 Q Who?

15 A Mr. White and Mr. Winslow.

16 Q In which order, if you remember?

17 A They came pretty much right together.

18 Q How long did you wait in the car before they came?

19 A Approximately 15 to 20 minutes.

20 Q Was there any conversation in the car, then, yes or no?

21 A Yes, sir.

22 Q Who was talking?

23 A Myself and Mr. White.

24 Q What were you talking about?

25 A I asked what he ripped.

Q Where did you hear a rip?

A In the apartment.

Q When?

1 A. Shortly before we left.

2 Q. Did Mr. White respond to you?

3 A. Yes, sir.

4 Q. What did he say?

5 A. He said just his five.

6 Q. Did you ask him any more questions?

7 A. No, sir.

8 Q. Did he make any more comments about that?

9 A. No, sir.

10 Q. Did you know what he was talking about when he said just
his five?

11 A. Yes, sir.

12 Q. Why would that be?

13 A. He --

14 MR. REDMAN: Judge, I'm going to object at this
point in time on the basis I don't know what it's going to
be. If it's going to be hearsay or --

16 THE COURT: Conversation with the defendant can't
be hearsay. Overruled.

18 Q. (By Mr. Smith) All right. What did you understand it
to be?

19 A. He has a trick -- Well, most people call it a trick that
20 he does with a \$5 bill which is where he rips a \$5 bill.

21 Q. Can you explain to the jury what the trick is?

22 A. I've never really understood it. I know he pulls a

23 \$5 bill out and he does something with it and he ends up with
24 a ripped \$5 bill. And he usually tosses part of it away.

25 Q. What does he do with the other part?

1 A. He usually hangs on to it.

2 Q. When was this conversation in the car?

3 A. Shortly after -- Well, when he and Mr. Winslow came to
4 to the car.

5 Q. All right. What happened next?

6 A. We left.

7 Q. Where did you go?

8 A. Well, we went back the opposite direction, in the alley
9 that we'd come into, and we took a left-hand turn and we
10 dropped Debby off. I believe it was at her mother's or her
step-mother's.

11 Q. Why did you drop Debby off?

12 A. She asked to be drooped off.

13 Q. Then who's in the car then?

14 A. There's myself, James Dean, Mr. White, and Mr. Winslow.

15 Q. And what happened next?

16 A. We went out to Marshall's Truck Stop.

17 Q. What did you do there?

18 A. We had breakfast.

19 Q. Do you remember who paid for breakfast?

20 A. Mr. White did.

21 Q. Do you know where he got the money?

22 MR. REDMAN: I'm going to object at this point in
23 time. Improper foundation.

24 THE COURT: Calls for a yes or no answer. I'll
25 permit that.

26 Q. (By Mr. Smith) Do you know where he got the money?

27 A. No, sir.

JoAnn Taylor - Direct

1 Q Do you know whether or not he had any money when you
2 went to the apartment?

3 A Yes, sir.

4 Q And did he?

5 A No, sir.

6 MR. REDMAN: Judge, again, I'm going to object on
7 the basis of foundation.

8 THE COURT: I'll sustain that. You'll have to
9 lay foundation.

10 Q (By Mr. Smith) How do you know?

11 MR. REDMAN: I'll object. He's testifying to facts
12 that are not in evidence. It's never been said he didn't
13 have money.

14 THE COURT: Well, the answer's in.

15 MR. REDMAN: All right.

16 MR. SMITH: Do you want me to proceed, Judge?

17 THE COURT: Yes.

18 Q (By Mr. Smith) Do you know an individual by the name
19 Lisa Podendorf-Brown?

20 A Yes, sir.

21 Q And how do you know that individual?

22 A I used to hang with her and another girl.

23 Q And when was that?

24 A Back in '83 and '84.

25 Q Did you ever see her after the Helen Wilson homicide in
February of '85?

A Yes, sir.

Q Where did you see her?

1 A. In Charles Park.

2 Q. When?

3 A. I believe it was the -- after -- Well, early hours of
4 the 6th.

5 Q. So that would have been the morning after; is that
6 correct?

7 A. Yes, sir.

8 Q. And Charles Park -- Where is Charles Park?

9 A. It's the park right next door to the Beatrice Library.

10 Q. Why did you go there?

11 A. I used to be a library volunteer.

12 Q. And you saw this Lisa Podendorf-Brown there?

13 A. Yes, sir.

14 Q. Did you and she engage in conversation?

15 A. Yes, sir.

16 Q. What was the topic of the conversation?

17 A. Why all the cops were hanging around.

18 Q. Could --

19 MR. SMITH: May I approach the exhibits, Your Honor?

20 THE COURT: You may.

21 Q. (By Mr. Smith) Handing you Exhibit No. 6. Can you tell
22 me what that is, if you know?

23 A. Yes, sir. It's the apartment building in which
24 Mrs. Wilson lived. It's also the view of it you have from
25 Charles Park.

Q. And that is the apartment building that Mrs. Wilson was
killed in on February 5, 1985?

A. Yes, sir.

1 Q So you had a conversation regarding what again?

2 A Why all the cops were out so heavy and what was going
3 on.

4 Q Did you tell her why you thought they were there?

5 A Yes, sir.

6 Q What did you tell her?

7 A MR. REDMAN: I'm going to object on the basis of
8 relevancy and hearsay.

9 THE COURT: Sustained.

10 MR. SMITH: May we make an offer of proof?

11 THE COURT: Let the record reflect that we are
12 proceeding out of the hearing of the jury. Mr. Smith?

13 MR. SMITH: At this time the witness would answer
14 that she advised Mrs. Podendorf that she knew why the police
15 were there. They were there because there had been a killing.
16 That she knew about the apartment. She was there and that the
17 defendant was there. That the woman was suffocated and there
18 was a green footstool found near the victim in the apartment.
19 Mrs. Podendorf didn't believe her, and she showed her some
20 marks on the neck from the victim.

21 MR. REDMAN: I would object at this point in time
22 on the basis of relevancy and hearsay of the conversation.

23 THE COURT: There's no showing the defendant was
24 present. The objection is sustained.

(The following proceedings were
had in normal tones.)

(DIRECT EXAMINATION
BY MR. SMITH:)

25 Q Ms. Taylor, did you happen to show anything to

JoAnn Taylor - Direct

1 Ms. Podendorf when you had your discussion with her at that
2 time?

3 A. I don't believe I showed her anything.

4 Q. Did she make any comment about anything on your body?

5 A. Yes, sir. She stated I had some scratches.

6 MR. REDMAN: I'm going to object on the basis of
7 hearsay --

8 THE COURT: Sustained.

9 MR. REDMAN: -- from whatever was said.

10 THE COURT: Well, nothing was said about whatever
11 was said.

12 Q. (By Mr. Smith) Ms. Taylor, when were you arrested?

13 A. March 15.

14 Q. Of what year?

15 A. 1989.

16 Q. Where?

17 A. North Carolina.

18 Q. Who arrested you?

19 A. The sheriff's department.

20 Q. Did you talk to them that evening?

21 A. Yes, sir.

22 Q. Did you talk to them about the defendant, Joseph White,
23 that evening?

24 A. Yes, sir.

25 Q. Did you talk to them about the Helen Wilson homicide that
evening?

A. Yes, sir.

Q. Ms. Taylor, were you having problems with your memory

1 at that time?

2 A. Somewhat, yes.

3 Q. Do you suffer -- Have you been diagnosed as suffering
4 from some type of a mental condition?

5 A. Yes, sir.

6 Q. And what is that, if you know?

7 A. I have what is known as a personality disorder.

8 Q. Ms. Taylor, the incidents that you have just relayed to
9 the jury regarding Apartment No. 4 and what occurred in that
10 apartment, did the North Carolina police tell you about those
11 incidents?

12 A. No, sir.

13 Q. Did the Gage County Sheriff's Office tell you about those
14 incidents?

15 A. No, sir.

16 Q. Did you dream about those incidents?

17 A. No, sir.

18 Q. Ms. Taylor, how quickly were you returned to the state
19 of Nebraska after your arrest?

20 A. Two days.

21 Q. Were you appointed an attorney then?

22 A. Shortly after, yes, sir.

23 Q. Did you speak with law enforcement -- Do you remember
24 the date that your attorney was appointed?

25 A. No, sir. I don't remember the date.

Q. How -- Can you give me an estimate how long after you
were arrested?

A. Probably -- Approximately about a week.

1 Q. Did you speak with law enforcement officials after
2 that up until the time of your plea?

3 A. I had spoken to them after that, yes, sir.

4 Q. All right. Was your attorney present when you spoke to
5 them?

6 A. Not the first couple of times, no, sir.

7 Q. All right. Was that after your arrest that you spoke to
8 them without an attorney?

9 A. Yes, sir.

10 Q. But after your attorney was appointed, did you speak to
11 them?

12 A. No, sir.

13 Q. And when was the next time that you spoke to law
14 enforcement regarding the homicide?

15 A. When I made my plea agreement.

16 Q. Ms. Taylor, on February 5, 1985, had you taken any drugs?

17 A. Yes, sir.

18 Q. What had you taken?

19 A. I had taken a couple yellow jackets and I had smoked
20 some pot.

21 Q. What is -- What are yellow jackets, if you know?

22 A. They are downers.

23 Q. And what time of the day did you do that?

24 A. Oh, I'd say approximately 3:30, 4 o'clock.

25 Q. In the afternoon?

A. Yes, sir.

Q. Now, did they create for you a high or a low?

A. I was pretty mellow.

1 Q When you entered Helen Wilson's apartment on February 5,
2 did you feel you were under the influence of those drugs?

3 A I was coming down.

4 Q Do you have memory loss from those drugs?

5 A Not from the drugs, no, sir.

6 Q Didn't you once indicate to police officers that the
7 walls appeared to be bleeding?

8 Q Melting, yes, sir.

9 Q Is that the truth?

10 A No, sir.

11 Q Why did you say that?

12 A Trying to cover my rear end.

13 Q When you spoke with the police prior to your plea
14 agreement, had you told them some lies?

15 A Yes, sir.

16 Q Why did you do that?

17 A Covering -- Trying to cover myself.

18 Q Have you told the truth today?

19 A Yes, sir.

20 Q Are you sure?

21 A Yes, sir.

22 Q Ms. Taylor, are you clairvoyant?

23 A No, sir.

24 Q Do you know what that means?

25 A Yes, sir.

~~26 Q Do you know anyone who is?~~

27 A My fiance.

28 Q Ms. Taylor, have any of your recollections of what you've

1 related to the jury come from your fiancée?

2 A. No, sir.

3 Q. It's come from whom?

4 A. Myself.

5 MR. SMITH: May I have just a second, Your Honor?
6 Your Honor, at this time the State is done with direct. We'd
7 request that Exhibit No. 37 be allowed to circulate to the
8 jurors.

9 THE COURT: Let's defer that until the examination
10 is done. We can renew your request at that time. Have you
11 finished your direct?

12 MR. SMITH: Yes, Your Honor.

13 THE COURT: All right. Mr. Redman?

14 CROSS-EXAMINATION

15 BY MR. REDMAN:

16 Q. Ms. Taylor, you told us you had some psychiatric
17 problems; is that correct?

18 A. Yes, sir.

19 Q. Why don't we talk about those first. How many
20 psychiatrists or psychologists have you seen or been treated
21 by?

22 A. All together? Approximately five.

23 Q. All right. Could you name some of their names for me,
24 please and when you might have seen them, if you recall?

25 A. I've seen Dr. Price which I saw him in '82 and '83. I've
seen Dr. Logan and Dr. Gutnik which was this year.

Q. Do you remember any other names?

A. I was seen by someone in Rochester Psychiatric Center,

1 but I don't remember the name.

2 Q Dr. Hachiya at one point in time?

3 A I believe so, yes, sir.

4 Q And do you know, Ms. Taylor, how those doctors all
5 diagnosed you?

6 A As having a personality disorder.

7 Q Do you remember if you were ever diagnosed as having
8 a personality disorder with sociopathic features?

9 A Not that I remember, no, sir.

10 Q Is it possible the Dr. Hachiya might have diagnosed you
11 as that?

12 A It's possible, yes.

13 Q All right. And isn't it true, Ms. Taylor, that you, in
14 fact, were under Dr. Price's, a psychologist, care at the
15 time of this murder?

16 A Yes, sir.

17 Q Did any of these doctors that -- Well, are you aware as
18 to whether or not all of these doctors diagnosed you as a
19 person having a borderline personality disorder?

20 A Pretty much, yes, sir.

21 Q Okay. Do you know what they ever said of you that
22 typified that sort of disorder?

23 MR. SMITH: Objection, Your Honor, that's hearsay
24 and speculation.

25 THE COURT: Sustained.

26 Q (By Mr. Redman) All right. Ms. Taylor, you've talked
27 about clairvoyance here today. Did you ever recall talking
28 with any of your doctors about clairvoyance?

1 A. Yes, sir.

2 Q. Why don't you tell me, first of all, tell me what
3 clairvoyance is?

4 A. Seeing into the future.

5 Q. Okay. Did you ever talk about mental telepathy?

6 A. Yes, sir.

7 Q. And can you tell me what mental telepathy is?

8 A. Reading of the thoughts from a distance.

9 Q. Now, you say you don't believe that you're clairvoyant.
10 Do you feel you have mental telepathy capabilities?

11 A. Slightly, yes, sir.

12 Q. And, in fact, what's your boyfriend's name?

13 A. Clint Wanker.

14 Q. Do you remember telling me that you and Clint communicate
15 while you're in jail telepathically?

16 A. Yes, sir, we do.

17 Q. Can you tell me a little bit about that, what you
18 communicate about?

19 MR. SMITH: Objection, Your Honor, relevancy.

20 THE COURT: Sustained.

21 Q. (By Mr. Redman) How long have you and Clint been
22 communicating? Where does he live?

23 A. He lives in Missouri.

24 Q. How long have you been -- Tell me how long have you
25 been communicating telepathically?

A. Since June of '89.

Q. Have you seen any visions in your cell since you've
been arrested?

1 MR. SMITH: Objection, Your Honor, relevancy.

2 THE COURT: Overruled.

3 Q (By Mr. Redman) Have you seen any visions in your
4 cell since you've been arrested?

5 A Yes, sir.

6 Q Would you tell us about the visions that you've seen,
7 please.

8 A I've only had one, and it's of a female which is
9 dressed in victorian-style clothing.

10 Q Tell me more specifically has that vision communicated
11 to you, Ms. Taylor?

12 A No, sir.

13 MR. SMITH: Objection, again, Your Honor,
14 relevancy, Your Honor.

15 THE COURT: I think the question is unclear.
16 Sustained.

17 Q (By Mr. Redman) Tell me what the vision is you've
18 described. You've told me what you see, but tell me
19 what it is, if you could.

20 A It's a spirit that's earthbound.

21 Q And can you elaborate more? Can you explain for me?

22 A A person that commits suicide, is earthbound. They
23 cannot enter heaven or hell.

24 Q So this is a spirit that you have seen that committed
25 suicide and therefore, is earthbound that you see in your
26 cell; is that correct?

27 A Yes, sir. I've seen her once.

28 Q And given your telepathic capabilities, have you been

1 able to communicate with that spirit?

2 A. Yes, sir.

3 Q. And how much did you communicate with that spirit,
4 Ms. Taylor?

5 A. I've only seen it and communicated with it once.

6 Q. But this is not the first time you have communicated
7 with spirits, is it?

8 A. No, sir.

9 Q. When else have you communicated with spirits, Ms. Taylor?

10 MR. SMITH: Objection, Your Honor, relevancy.

11 MR. REDMAN: Well, I'm trying to lay the foundation
12 for it, Judge.

13 THE COURT: I'm going to permit the question.
14 Overruled.

15 Q. (By Mr. Redman) When else have you communicated with
16 spirits, Ms. Taylor?

17 A. When I was younger.

18 Q. How much younger?

19 A. Five, six years.

20 Q. You haven't communicated with spirits since that time
21 up until the once that you talked to one in jail?

22 A. Right.

23 Q. Do you remember talking to me in a deposition, Ms. Taylor,
24 about the past lives that you've lead?

25 A. Yes, sir.

26 Q. Do you remember what you told me with regard to those
27 past lives?

28 A. Vaguely, yes.

1 Q Why don't you relate for the ladies and gentlemen
2 who you have been in the past and what you have done in the
3 past, Ms. Taylor?

4 MR. SMITH: Objection, Your Honor, relevancy.

5 THE COURT: I'm going to sustain the objection
6 in the way the question was put.

7 Q (By Mr. Redman) Would you relate for me what your
8 past, what you indicated to me were your past lives?

9 A Well, I think I've lived five prior lives. What I did
10 or who I was, I don't know.

11 Q How is it you know about these past lives if you could
12 kind of tell me what we're talking about.

13 A Well, my fiance and I both realized I have past lives,
14 because there are memories that are not mine from this life.

15 Q Okay.. Okay. Go ahead.

16 A And in '87 my fiance that I have now and I were engaged
17 then. We had gone to by my wedding dress. While I was
18 trying the dress on, in the mirror I was a blonde and I had
19 victorian hairstyle, because the dress I had on had a
20 victorian color. And when I came out of the dressing room,
21 my fiance and a friend of mine both -- Well, my fiance
22 noticed I was blonde. He's seen the vision before. But my
23 friend asked what am I doing with blond hair, and I said, "I
24 have brown hair." That's the only vision I've had in a
25 past life.

26 Q So you saw -- Whenever this occurred what you are
27 telling us about, you saw a vision that nobody besides
28 yourself and your fiance saw?

1 A. My fiance and myself, yes, sir.

2 Q. Now, you say your fiance is clairvoyant and you have
3 communicated with him telepathically. Has he provided you
4 with any tools since your stay in jail to help you out?

5 MR. SMITH: Objection, Your Honor, relevancy.

6 THE COURT: Counsel, approach the bench.

7 (At this point, counsel for
8 the parties approached the
9 bench and an off-the-
10 record discussion was had,
11 in low tones, between
12 Court and counsel.)

13 Q. (By Mr. Redman) What has your fiance provided you
14 while you've been in jail with any diagrams or I don't know
15 what to call it, clairvoyant paraphernalia to help you out
16 through this process?

17 MR. SMITH: Objection, Your Honor. "To help her
18 out", are we talking about memory or what?

19 THE COURT: Clarify your question.

20 Q. (By Mr. Redman) I'll put it this way. Do you carry
21 a shield with you, Ms. Taylor?

22 MR. SMITH: Objection, Your Honor, relevancy. If
23 he asks her if it has to do with her memory --

24 THE COURT: Let's tie it together. Restate your
25 question.

26 Q. (By Mr. Redman) Now, you're kind of smirking,
27 Ms. Taylor, maybe you know what I'm talking about then.

28 THE COURT: Counselor, put your question properly.

29 Q. (By Mr. Redman) Do you carry a pentagram of some kind
30 that your boyfriend sent you to protect you?

31

1 MR. SMITH: Objection, Your Honor, on the question:
2 of memory.

3 MR. REDMAN: It has to do with the credibility.

4 THE COURT: You're going to have to tie it to the
5 memory factor. I'm going to sustain the objection to the
6 pending question.

7 MR. REDMAN: May we approach once more?

8 THE COURT: Yes.

9 (At this point, counsel
10 for the parties
11 approached the bench and
12 an off-the-record dis-
13 cussion was had, in low
14 tones, between Court and
15 counsel.)

16 Q. (By Mr. Redman) Well, let's talk about your memory,
17 Ms. Taylor. You have had some memory difficulties in the
18 past, haven't you?

19 A. Yes.

20 Q. That's been no secret to you or law enforcement or
21 anyone else, has it?

22 A. No, sir.

23 Q. In fact, you've had memory problems for years. It goes
24 along with your personality disorder, doesn't it?

25 A. Yes, sir.

Q. Let's talk about your memory, Ms. Taylor. Do you
remember when you were first arrested on the 15th of March of
1989 in North Carolina?

A. Yes, sir.

Q. Do you remember talking with an officer at the time and

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1 telling him about the Helen Wilson murder?

2 A. Yes, sir.

3 Q. Do you remember what you originally told him when he
4 asked you about where the murder was?

5 A. Somewhat, yes, sir.

6 Q. Why don't you relate to me what you told him where the
murder occurred?

7 A. That it was a house.

8 Q. Okay.

9 A. Instead of an apartment.

10 Q. All right. And did you tell him why you were at the
11 house?

12 A. That I believed that Mr. White had done, was going to
do yardwork there or had done it prior.

13 Q. Okay. Do you remember that someone had asked for a glass
14 of tea at the house? That's how the lady came to the door.

15 A. I believe so, yes.

16 Q. Do you remember how you told them the lady was killed?

17 A. I believe so, yes, sir.

18 Q. How did you tell them the lady was killed?

19 A. That she was stabbed.

20 Q. Do you remember anything -- going into detail about the
blood that you saw when she was stabbed?

21 A. A little, yes, sir.

22 Q. Do you remember how you described the car that you
23 arrived to the house in?

24 A. I think so, yes, sir.

25 Q. How did you describe the car?

1 A. I believe it was different than the one we were
2 actually in.

3 Q. Well, in fact, you said that it was a smaller car, baby
4 blue in color, didn't you?

5 A. Yes, sir. I believe so.

6 Q. Do you remember what time you said this occurred?

7 A. No, sir, I don't.

8 Q. Do you remember saying that it occurred 5:30 or 6 o'clock
9 in the afternoon?

10 A. I believe so, yes, sir.

11 Q. Do you remember what threats were supposedly made to you
12 to get you to go along?

13 A. Yes, sir.

14 Q. What did you tell them those threats were?

15 A. That I went along or that bodily harm would come to me
16 and my daughter.

17 Q. Okay. So the first time that you were interviewed, then,
18 Ms. Taylor, would you agree with me that you told them that
19 the murder occurred in a house, that it occurred while some-
20 one was there to do yardwork? The way you got in was to ask
21 for a glass of tea? That once you got inside, Lobo stabbed
22 the lady numerous times with a knife and you got there in a
23 baby blue car? Do you remember that?

24 A. Yes, sir.

25 Q. None of that was true, was it?

A. No, sir.

Q. Were you lying at that time or just didn't remember?

A. I was having trouble with my memory at the time.

1 Q All right. And isn't it true that the police helped you
2 with your memory?

3 A No, sir. They didn't help me with my memory.

4 Q Are you telling me that at no time police officers fed
5 information to you to testify to what you have testified to
6 today?

6 A I wouldn't say they fed it to me, no, sir.

7 Q But they gave you information, didn't they? They helped
8 you remember? They told you the facts; is that correct?

9 A Possibly, yes, sir.

10 Q I'm sorry?

11 A Possibly, yes, sir.

12 Q Well, I guess -- A few moments ago when Mr. Smith was
13 talking to -- Neither the North Carolina police or the Gage
14 County Sheriff's Office give you any facts that you just
15 related to us?

15 A They didn't.

16 Q Do you remember talking to me, Ms. Taylor in a deposition
17 I took of you on the 28th of September, 1989, while you were
18 in jail?

19 A Yes, sir.

20 Q And do you remember making comments different from that
21 to me about the police helping you?

21 A It's possible, yes, sir.

22 Q Do you remember what those comments were?

23 A No, sir.

24 Q Well, let me start out this way. Do you remember telling
25 the police that Beth Johnson was with you that night?

1 A. Yes, sir.

2 Q. Do you remember me asking you the question:
3 "How come you mentioned Beth Johnson, and are you certain
4 that she was involved?

5 A. Because she -- they kept telling me that there was
6 another female. There was another girl. The only one I
7 remember was Tom and Beth, but I couldn't remember Tom's
8 name.

9 Q. I take it information that they gave you was pretty
10 influential in helping you remember?

11 A. Yeah. It helped me sort things out a lot.

12 Q. Had they not helped you with information, do you think
13 you would be able to remember anything?

14 A. No.

15 Q. Who helped you with most of the information?

16 A. ~~That's hard to say, because they has been different~~
17 ~~people mention different bits and pieces that's slowly putting~~
18 ~~the puzzle together.~~

19 Q. Who all has helped you with putting this information
20 together?

21 A. Officer Searcey, Sam Stevens has helped and bits and
22 pieces that my attorney has been able to add has helped.

23 Q. Okay. And have these people actually suggested to you
24 that so and so was there or that this happened or that
25 happened to help you?

26 A. Somewhat, but it was -- It wasn't actually put as a
27 suggestion. It was more or less phrased that they -- How
28 was it?

1 Q Well, I guess is what I'm getting at is when they
2 suggested an apartment complex and not a house. That's a
3 suggestion. That's what I'm meaning.

4 A Yeah. Is that what you're talking about; yeah.

5 Q So let me ask you the question. Have they actually
6 suggested to you some of the facts in the case to help you
7 remember?

8 A Yes.

9 Q And that was done by law enforcement and your attorney?

10 A Uh-huh.

11 Q Is law enforcement still helping you by making
12 suggestions to you?

13 A I don't speak to any of them.

14 Q Okay. On the other hand, if they hadn't started talking
15 to you and made suggestions, would you be able to remember
16 much at this date and time?

17 A No.

18 Q Did you have a lot of the facts wrong at first, JoAnn?

19 A Quite a few of them, yes.

20 Q Over how long a period of time, do you think law
21 enforcement worked with you on suggestions to help you
22 remember?

23 A Oh --"

24 MR. SMITH: I'm going to object. He's gone beyond
25 the scope of questioning.

26 THE COURT: Well, he's posing the testimony he's
27 going to ask about. Objection is overruled. You may
28 continue.

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1 Q (By Mr. Redman) If I may ask the question over.

2 "How long a period of time do you think law enforcement
3 worked with you on suggestions to help you remember?

4 A Oh, it was quite a while.

5 Q Okay. At least until your attorney was appointed?

6 A It took me a while to piece together. I still have
7 trouble putting these in order.

8 Q Can you separate today what you actually remember you
9 know you said to try to block all this stuff out?

10 A Uh-huh.

11 Q Can you actually separate today what you remember from
12 the night this happened and what was suggested to you to
13 help you remember what happened that night?

14 A No. It would almost be impossible to separate.

15 Q So whatever statements you have made recently, I take it,
16 are not from your memory but from suggestions that have

17 helped you remember?

18 A There has been parts from my memory as well as the
19 suggestions.

20 Q Tell me what parts you actually remember that you
21 don't have that you didn't have suggested to you.

22 A Oh, God.

23 Q Is there anything?

24 A Not that I can remember right offhand. I think there
25 is somewhere along the line, but I can't remember."

26 Q Do you remember that testimony, Ms. Taylor?

27 A Yes, sir.

28 Q Is that testimony untrue?

1 A. No, sir.

2 Q. So, in fact, Ms. Taylor, the police did suggest to you a
3 number of facts in this case?

4 A. Somewhat, yes.

5 Q. Well, do you disagree that according to your deposition
6 they gave you all of the information?

7 A. They didn't give me all of the information, no, sir.

8 Q. Okay. When did Lobo's name first come up after you were
9 arrested?

10 A. The night I was arrested.

11 Q. And did you remember being told by law enforcement that
12 Lobo implicated you in this matter?

13 A. Yes, sir.

14 Q. And when they -- when law enforcement told you that Lobo
15 had been arrested, you said did this murder -- You told them
16 Lobo was involved, didn't you?

17 A. Yes, sir.

18 Q. But you hadn't said Lobo was involved until Lobo said
19 you were involved, did you?

20 A. No, sir.

21 Q. So law enforcement first suggested Lobo or Joseph White's
22 name to you; is that correct?

23 A. Yes, sir.

24 Q. And that would have been the 15th of March of '89; is
25 that correct?

26 A. Yes, sir.

27 THE COURT: Excuse me just a minute.

28 Q. (By Mr. Redman) Now, isn't it correct, Ms. Taylor, th

JoAnn Taylor - Cross

1 it was the police, someone in law enforcement, who got you
2 to change your mind that this murder again occurred in a
3 one-story house?

4 A. Yes, sir.

5 Q. Do you remember how they got you to change your mind?

6 A. Not right offhand, no, sir.

7 Q. Well, do you remember originally telling them that the
8 building, you could see it. This is a discussion you had with
9 Officer Searcey in your second statement while you were still
10 in North Carolina. Do you remember telling Officer Searcey
11 that the building, that you could see it? It was a light-
12 colored home. Like it was a one-story house?

13 A. Yes, sir.

14 Q. And do you remember telling Searcey that you could see
15 the house as plain as day?

16 A. Yes, sir.

17 Q. And do you remember telling Searcey that Officer Callaway
18 from the North Carolina law enforcement tried to help you
19 through some of the facts?

20 A. Yes, sir.

21 Q. And do you remember Officer Searcey saying, "Now, is it
22 possible since you're having a rough time bringing this to
23 your mind, that you could be confused as to maybe the
24 location of the residence? Is that possible?" and your
25 answer, "Yes, with my personality disorder it's hard -- My
psychologist even in Beatrice said I would have trouble." Do
you remember that?

A. Yes, sir.

1 Q Do you remember Officer Searcey saying in that statement,
2 "Now, okay. Is it possible that the residence may have been
3 a large type of complex?"
4 A Yes. sir.
5 Q But that's not what you thought it was at that time, was
6 it?
7 A No, sir.
8 Q In fact, do you remember still referring to the place
9 where the murder happened after he said that as a house?
10 A Yes, sir.
11 Q And do you remember Officer Searcey conintuing to refer
12 the place where the murder occurred as a building?
13 A Yes, sir.
14 Q Would you agree with me that Officer Searcey was trying
15 to get you to change your mind about whether it was a house
16 or a building?
17 A Yes, sir.
18 Q And after you talked to Officer Searcey, you finally had
19 agreed that it occurred in a building; is that correct?
20 A Yes, sir.
21 Q It was Officer Searcey that planted that in your mind,
22 wasn't it?
23 A I don't think he actually planted it. I think he
24 helped me remember it.
25 Q Okay. He helped you remember by telling you it was an
apartment and not a house; is that correct?
A Yes, sir.
Q Do you remember telling Officer Searcey in that same

statement that you -- this was after Lobo's name had been first mentioned, now -- that you went there with Lobo to do yardwork or Lobo went there to do yardwork?

A. Yes, sir.

Q. Do you remember what Officer Searcey said in response to your saying that you were there for yardwork?

A. Not right offhand, I don't, no, sir.

Q. Well, he told you that it was February, didn't he?

A. Yes, sir.

Q. And I'm sorry. I said Officer Searcey. It should be Officer Stevens. Do you remember him saying, "Now, Lobo wouldn't be doing yardwork in February, would he?" Do you remember that?

A. Yes, I remember that.

Q. And that made you change your mind that you didn't go there to do yardwork?

A. I remember it couldn't have been yardwork, yes, sir.

Q. Now, when you first interviewed, you were told by law enforcement that they could prove that you were there, weren't you?

A. Yes, sir.

Q. And at the same time you were told by law enforcement that Joe White had already made a statement against you, weren't you?

A. Yes, sir.

Q. And as a result you made a statement against Joe White?

A. I told the truth, yes, sir.

Q. Well, you implicated Joe White, didn't you?

1 A. Yes, sir.

2 Q. And from that point in time onward, your facts weren't
3 correct. Law enforcement helped you remember, didn't they?

4 A. Yes, sir.

5 Q. In fact, they told you what the facts were when you were
6 remembering the facts incorrectly; is that correct?

7 MR. SMITH: Objection, Your Honor. Which facts
8 are we talking about?

9 THE COURT: Sustained.

10 Q. (By Mr. Redman) They told you a number of facts?

11 MR. SMITH: Which facts, again, Your Honor?

12 THE COURT: Are you making an objection.

13 MR. SMITH: Yes, I am. Sorry, Your Honor.

14 THE COURT: Sustained.

15 Q. (By Mr. Redman) Now, Ms. Taylor, so that I understand,
16 you made a statement to law enforcement when you were first
17 arrested, the night you were arrested in North Carolina; is
18 that correct?

19 A. Yes, sir.

20 Q. That would have been on the 15th of March?

21 A. Yes, sir.

22 Q. On the 16th of March you made another statement in
23 North Carolina, didn't you?

24 A. Yes, sir.

25 Q. And that was to law enforcement?

A. Yes, sir.

Q. Okay. Then you were brought back to Lincoln and made a
third statement to law enforcement on or about the 17th of

1 March, didn't you?

2 A. Yes, sir, in Beatrice.

3 Q. Yes. And then you made a fourth statement to a law
4 enforcement officer on or about the 30th of August, did you
5 not, in Beatrice?

6 A. Yes, sir.

7 Q. And the facts were not all consistent throughout these
8 statements. In other words, you didn't say the same thing
9 all the time, did you?

10 MR. SMITH: Objection, Your Honor, as to what facts
11 and what is inconsistent.

12 THE COURT: Sustained.

13 Q. (By Mr. Redman) Well, the statements that you talked
14 about weren't identical as to what occurred, were they?

15 MR. SMITH: Same objection, Your Honor.

16 THE COURT: You're going to have to be more
17 specific. Sustained.

18 Q. (By Mr. Redman) Do you remember saying something
19 different in each of those statements?

20 A. Yes, sir. There were some differences.

21 Q. And in fact, you've testified to some things here today
22 that you've never testified to before, haven't you?

23 A. Not to my knowledge, no, sir.

24 Q. In some of your original statements, do you remember
25 mentioning a person by the name of Goodson?

A. Yes, sir.

Q. Who's Goodson?

A. A friend of mine.

1 Q Do you remember telling the police that Mark Goodson
2 might have been with you the night of the murder?

3 A I said it was possible, yes.

4 Q Do you remember them asking you about a phone that was
5 ringing in the apartment the night of the murder?

6 A Yes, sir.

7 Q You told them Mark Goodson answered the phone, didn't
8 you?

9 A I believe so.

10 Q So that's more than possible you said he was there and
11 answered the phone; isn't that true?

12 A Yes, sir.

13 Q But I take it, now, Mark Goodson wasn't there?

14 A Yes, sir.

15 Q Do you remember talking with the police about whether
16 Cliff Shelden was there?

17 A Yes, sir.

18 Q Do you remember what you said about Cliff Shelden as far
19 as whether he was there or not?

20 A No, sir.

21 Q Do you remember talking to the police about Beth
22 Johnson?

23 A Yes, sir.

24 Q You told police Beth Johnson was there too, didn't you?

25 A Yes, sir.

Q In fact, you told the police on numerous occasions Beth
Johnson was there, didn't you?

A Yes, sir.

JoAnn Taylor - Cross

1 Q In fact, you told the police that Beth Johnson was there
2 all the way up until your August 30 statement, didn't you?

3 A I don't believe it was that long, no, sir.

4 Q Well, let me put it this way. Your statement prior
5 to August 30 was March 17. You still had Beth Johnson there
6 on March 17, didn't you?

7 A Yes, sir.

8 Q In fact, the police thought Beth Johnson was there.

9 MR. SMITH: Objection, Your Honor. Calls for
10 speculation.

11 THE COURT: Sustained.

12 Q (By Mr. Redman) Did the police ever get you to change
13 your testimony about Beth Johnson prior to March 17?

14 A No, sir.

15 Q They did try to get you to change your testimony about
16 Mark Goodson and Cliff Shelden?

17 A I believe so, yes, sir.

18 Q Describe Mark Goodson for me, would you please?

19 A He -- The last time I saw him, he was tall, slender,
20 blonde and wears glasses.

21 Q How tall is he, do you remember?

22 A A little bit taller than I am.

23 Q Do you remember what you told the police about Beth
24 Johnson?

25 A No, sir.

26 Q Do you remember in your second statement that Officer
27 Searcey asked you, "Was a Beth Johnson there?" and you
28 answered, "Yeah" and then you went on to describe her?

1 A. I believe so.

2 Q. Do you remember telling Officer Searcey that you called
3 her Bethy?

4 A. Yeah.

5 Q. Do you remember Officer Searcey telling you at that time
6 he knew that there was another female in the apartment, but
7 he didn't know who it was?

8 A. Yes, sir.

9 Q. And you were furnished the name of Beth Johnson; is that
10 right?

11 A. Yes, sir.

12 Q. And you made reference -- Do you agree with me that you
13 made references in several of your statements on numerous
14 occasions to Beth Johnson and the fact that she was there
15 with you?

16 A. Yes, sir.

17 Q. When did you change your mind that Beth Johnson wasn't
18 there?

19 A. I remembered she wasn't there after I was brought up here.

20 Q. Who helped you remember that?

21 A. Myself.

22 Q. Nobody else?

23 A. No, sir.

24 Q. Do you remember in your second interview with Officers,
25 Stevens and Searcey saying that you didn't remember being
there?

26 A. Yes, sir.

27 Q. Why did you say that?

1 A. Because I was having trouble with my memory at the time.

2 Q. Do you remember telling Officer Stevens that you weren't
3 sure if Lobo was there --

4 A. I believe so, yes, sir.

5 Q. -- in your second statement?

6 A. I believe so.

7 Q. Do you remember as far back as the 17th of March being
8 shown some sort of photographs of the crime scene by law
9 enforcement or by your attorney?

10 A. I wasn't shown them back in March, no, sir.

11 Q. You say you weren't shown them back in March?

12 A. No, sir.

13 THE COURT: Counsel, approach the bench.

14 (At this point, counsel for the
15 parties approached the bench and
16 off-the-record discussion was
17 had, in low tones, between Court
18 and counsel.)

19 THE COURT: We're going to take a recess at this
20 time, if you'd retire to the jury room, ladies and gentlemen

21 (Whereupon, a recess was taken
22 from 11 to 11:10 a.m.)

23 (At 11:00 a.m. with counsel present and defendant and the
24 jury IN the jury box, the following proceedings were had:)

25 JOANN TAYLOR RESUMED THE WITNESS STAND AND TESTIFIED FURTHER
AS FOLLOWS:

(CROSS EXAMINATION
BY MR. REDMAN:)

Q. We've just come from a recess. Have you talked with
your attorney regarding the facts of this case during the
recess?

A. No, sir.

1 Q Okay. I think where we left off I asked you whether or
2 not prior to or on the 17th of March you had been shown any
3 pictures of the crime scene or of the case and your answer
4 was "No"; is that correct?

5 A Yes, sir.

6 Q Do you remember in your third statement on the 17th of
7 March, Officer Stevens asking you:

8 "Q Did you ever make a determination as to what that
9 subject's name was at any later time?

10 A Not until March 17 when I was shown the picture. That
11 helped jog my memory."

12 Q Do you remember saying that?

13 A Yes, sir.

14 Q So you were shown pictures on or before March 16?

15 A I was shown pictures, but they were not the crime scene.

16 Q Okay. Do you remember being shown video tapes at some
17 point in time as to a number of pictures of the crime scene to
18 help you jog your memory?

19 A It was after my plea bargain was made.

20 Q What date would that have been?

21 A My plea bargain was made on the 30th of August.

22 Q And did that help jog your memory?

23 A I pretty well knew it all before I got showed the
24 pictures.

25 Q Well, do you remember telling one of the doctors you saw,
~~Dr. Logan, and I think it was on the 1st of September that you~~
admitted at this point that you received copies of the various
witness's statements from your attorney to help your memory?

1 A. Yes, sir, I remember that.

2 Q. And do you remember when you saw the video of the crime
3 scene?

4 A. After my plea agreement.

5 Q. And that date was what?

6 A. The 30th of August.

7 Q. And you saw the entire video; is that correct?

8 A. Yes, sir.

9 Q. And that helped you for your testimony today, is that
10 correct, for your memory?

11 A. Yes, sir.

12 Q. Do you remember that law enforcement, Officer Stevens,
13 asking you whether or not you remembered the victim's body
14 being draped over a piece of furniture?

15 A. Yes, sir.

16 Q. Do you remember if he asked you if you could identify
17 it?

18 A. I believe so.

19 Q. Could you?

20 A. I don't remember.

21 Q. You weren't able to identify it until after he told you
22 what it was, were you?

23 A. I don't believe so.

24 Q. I'm not sure I understand your answer. Is that correct
25 what I said?

26 A. I believe so, yes, sir.

27 MR. SMITH: Objection, Your Honor. I think that is
28 asking a question with facts not in evidence. He said some

1 piece of furniture which he brings back in his question which
2 was a footstool which was not what the previous question
3 was about.

4 THE COURT: Maybe you better restate your question,
5 Mr. Redman.

6 Q (By Mr. Redman) The word footstool originally came from
7 Officer Stevens, didn't it?

8 A I believe so.

9 Q Do you remember telling Officer Stevens that when you
10 left the apartment -- Do you remember telling him who you
11 left with?

12 A Yes, sir.

13 Q It's not the same thing that you testified to today, was
14 it?

15 A I'm not sure.

16 Q Do you remember telling Officer Stevens that you left
17 with Beth and Lobo?

18 A I'm not sure what I said.

19 Q Well, do you remember Officer Stevens saying:

20 " And you all left together?

21 A Well, Beth and I left and Lobo went his way and told me
22 and Beth that if we were smart, we would stay away from Tom."

23 Q Do you remember that?

24 A I believe so.

25 Q So you and Beth and Lobo left at the same time when you
26 were first interviewed in your third statement by Officer
27 Stevens?

28 A I believe so.

1 Q And that's not what you've told us today; correct?

2 A Correct.

3 Q Now, you talked to us on direct examination quite a
4 bit about the -- or a little bit anyway about the \$5 bill.
5 Do you remember talking about that today?

6 A Yes, sir.

7 Q Do you remember when you were first asked about money
8 and how it may have played a role in the murder?

9 A No, sir, I don't.

10 Q Well, do you remember when you were interviewed the
11 second time while you were still in North Carolina and you
12 were talking with Officer Stevens from the Gage County Police
13 Department, and there was talk about what somebody had taken
14 out of her purse? Do you remember that?

15 A Yes, sir.

16 Q Do you remember what your answer was?

17 A No, sir, I don't.

18 Q You said her wallet and you said it was scattered. And
19 Stevens went on:

20 " And what certain item was taken out?

21 A Her money.

22 Q What did he do with the money?

23 A Put it in his pocket.

24 Q Do you remember that?

25 A I do now, yes, sir.

Q You haven't testified to that today, have you?

A No, sir.

Q And Stevens asked you if he threw anything on the floor.

1 Do you remember that?

2 A. Yes, sir.

3 Q. Still in the second interview in North Carolina, do you
4 remember what you said?

5 A. No, sir.

6 Q. "He scattered the stuff in her pocketbook." Do you
7 remember that now?

8 A. Vaguely.

9 Q. Do you remember Officer Searcey during that same inter-
10 view asking you if Lobo ever did a trick with money?

11 A. Yes, sir.

12 Q. Did you tell him the same thing you've told us today?

13 A. Pretty much, I believe.

14 Q. Well, let me go over the testimony. Searcey asked this
15 question:

16 " JoAnn, did you ever see Lobo do anything with money that
17 might be a trick or anything that you remember?

18 A. Not right offhand.

19 Q. When you were partying?

20 A. No, because I stayed high worst than the rest of them."

21 Q. Do you remember saying that?

22 A. Yeah.

23 Q. Do you remember Searcey asking:

24 " Did you ever see anybody play games or pull a trick on
25 anybody that might have to do with money?" Do you remember
26 your answer?

27 A. No, sir.

28 Q. You answered:

1 " Lobo played lier's poker a lot.

2 Q Did you ever see him do anything else with money?

3 A. He could do hand tricks with it.

4 Q Did you ever see him do anything with destruction of
5 money? What did he do? What did he do?

6 A. He would tear it up.

7 Q And why would he do that?

8 A. He liked doing it. He thought it was funny, cute.

9 Q What would he do in these particualr things?

10 A. He would just tear it in a certain way to make different
11 pictures of --

12 Q What would he do with the money after he tore it?

13 A. He would wad it up.

14 Q And what would he do with it?

15 A. He'd pick it back up.

16 Q Would he throw it away?

17 A. All I know is he kept holding it in his hand."

18 Q Do you remember that?

19 A. I believe so.

20 Q So would it be correct that when Searcey originally asked
21 you about Lobo's money tricks, you had told him Lobo would
22 make different pictures with the money and finally Searcey had
23 to tell you that Lobo would tear the bill up and throw it
24 away? Do you remember that?

25 A. Yes, sir.

26 Q ~~So Searcey is the one telling you about the \$5 bill~~
27 ~~being thrown away?~~

28 A. No, sir.

1 Q Well, you don't think you're telling -- He didn't
2 reveal anything to you in that testimony?

3 A He might have, but he's not the one who originally
4 told me about it.

5 Q Now, about after the murder, he's the one who explained
6 to you about the \$5 bill, was he not?

7 A Yes, sir.

8 Q I'm sorry?

9 A Yes, sir.

10 Q And that you recalled something entirely different with
11 a \$5 bill, hadn't you?

12 A Somewhat, yes.

13 Q Who was Darren Munsterman?

14 A At the time he was my boyfriend.

15 Q And you lived with him at that time?

16 A Yes, sir.

17 Q Could you describe him for me, please.

18 A He's about 6'1, got brown hair, about shoulder length,
19 got a full beard and mustache.

20 Q Looked a lot like Lobo, didn't he?

21 A No, sir, at the time.

22 Q Do you remember in your second statement telling the
23 officers that there was a hunting knife involved in this?

24 A I remember mentioning some kind of knife, but I wasn't
25 sure what it was.

26 Q ~~There was no hunting knife, was there?~~

27 A No.

28 Q In fact, it was a steak knife?

1 A Yes, sir.

2 Q Do you remember going into detail how big and ugly that
3 hunting knife was with other officers?

4 A Yes, sir.

5 Q Do you remember your second statement with the officers
6 that you told them that no one got hurt in the apartment?

7 A I couldn't remember anyone getting hurt.

8 Q Now, you're telling us today that someone was hurt;
9 is that right?

10 A Yes, sir.

11 Q In fact, you told them several times that no one was
12 hurt in the apartment, didn't you?

13 A Yes, sir.

14 Q Do you remember in your second statement telling law
15 enforcement officers that you never talked with anyone after
16 the incident?

17 A I believe so.

18 Q Do you remember telling the officers in your second
19 statement that you thought Joe White was your father?

20 A Yes, sir.

21 Q Tell me about that, please, why you thought Joe White
22 was your father?

23 A Just the way he knew things about me, people I knew.

24 Q You'd introduce him as your father, wouldn't you?

25 A Yes, sir.

Q ~~He's only one year older than you. That would be~~
pretty improbable, wouldn't it? But you still believed that?

A No, sir.

1 Q When did you stop believing that?

2 A In '37 when I met my real father.

3 Q And that's what got you to believe Joe White wasn't
4 your father, wasn't it?

5 A Yes, sir.

6 Q Do you remember being interviewed by Dr. Gutnik on
7 the 30th of May, 1989?

8 A Yes, sir. It was the 28th of April, I believe.

9 Q Let me look. You're memory is pretty good, then,
10 Ms. Taylor, isn't it?

11 A With numbers, sometimes, yes, sir.

12 Q Sometimes it's good and sometime's it's bad, isn't it
13 JoAnn?

MR. SMITH: Objection, it's argumentative.

14 Q (By Mr. Redman) In any event, do you recall talking
15 with Dr. Gutnik?

16 A Yes, sir.

17 Q Do you remember what you told Dr. Gutnik about
18 whether or not you were there?

19 A I believe I told him I wasn't there..

20 Q Dr. Gutnik was a psychiatrist, wasn't he?

21 A Yes, sir.

22 Q And he was a psychiatrist that was hired by your own
23 attorney, wasn't he?

24 A Yes, sir.

25 Q ~~Why did you tell Dr. Gutnik that you weren't there?~~

A I don't know right offhand.

Q Do you remember telling Dr. Gutnik that in your

1 head and heart you know you weren't there?

2 A. Yes, sir, I remember that.

3 Q. Do you remember what you told Dr. Gutnik regarding
4 Joe White in that interview?

5 A. Not right offhand, I don't, no, sir.

6 Q. Do you remember telling Dr. Gutnik that Joe White knows
7 nothing of the crime?

8 A. No, sir, I don't remember that.

9 Q. You deny that you could have told him that?

10 A. It's possible I could have told him that.

11 Q. Do you remember telling him why you confessed to the
12 police?

13 A. No.

14 Q. Do you remember telling him that he confessed to the
15 police after they told you Joe White told them that you were
16 there?

17 A. Yes, sir, I remember that.

18 Q. Do you remember also telling them that you were
19 convinced by the police Joe White said that you were there?

20 A. I believe so, yes, sir.

21 Q. And you were convinced by the police that Joe White
22 said you were there, weren't you?

23 A. Well, I have a tendency to believe all officers.

24 Q. And so police officers would furnish you information
25 of the crime and you would believe them, wouldn't you?

A. Somewhat, yes, sir.

Q. Do you remember telling Dr. Gutnik that "If Lobo said
it, I'll go along with the bullshit"?

JoAnn Taylor - Cross

1 A. Yes, sir.

2 Q. In fact, you were quite firm with Dr. Gutnik at
3 that point in time that you weren't there, weren't you?

4 A. I believe so.

5 Q. Do you remember telling Dr. Gutnik, in fact, you had
6 been there? You had tried to prevent the crime?

7 A. Yes, sir.

8 Q. Now, you were -- After Dr. Gutnik -- You were
9 interviewed by another psychiatrist by the name of Dr. Logan,
10 weren't you?

11 A. Yes, sir.

12 Q. Do you remember that and that that psychiatrist was
13 for the State, was he not?

14 A. Yes, sir.

15 Q. Now, today you've told us that the victim was dead when
16 you left the apartment or at least appeared to be; is that
17 correct?

18 A. Yes, sir.

19 Q. Do you remember telling Dr. Logan that you thought the
20 victim was still alive when you left the apartment?

21 A. Yes, sir.

22 Q. Were you lying to Dr. Logan?

23 A. No, sir.

24 Q. Why did you tell him that?

25 A. Because at the time it was possible.

Q. I'm sorry?

A. At the time I was not sure of her death.

Q. What made you sure of it?

JOHN Taylor - Cross

1 A. Just thinking about it and remembering it.

2 Q. Seeing all the evidence in the case and reading all
3 the witnesses' testimony?

4 A. Not as much as thinking about it, no, sir.

5 Q. But it was pretty firmly in your mind that she wasn't
6 dead for quite some time, was it not?

7 A. I believe so.

8 Q. In fact, it was so firmly entrenched in your mind,
9 isn't that one of the reasons that you didn't want a plea
10 bargain?

11 A. I believe so.

12 Q. All right. You've testified, Ms. Taylor, about having
13 taken a couple of yellow jackets the day of the crime; is
14 that right?

15 A. I smoked some pot and I drank some beer.

16 Q. How did that affect what you saw -- Well, let me put
17 it this way. How did that affect your memory of what
18 occurred on the day of the crime or did it affect your
19 memory?

20 A. I really don't think it did affect my memory.

21 Q. Are you saying that it could have affected your
22 memory?

23 A. It's possible.

24 Q. Are you saying that you may not be remembering correct-
25 ly today?

26 A. No. I know I'm remembering pretty correctly.

Q. And you say you took no more than a couple yellow
jackets and smoked some pot; is that right?

1 A. Yes, sir.

2 Q. And drank some alcohol of some kind; is that correct?

3 A. Yes, sir, just beer.

4 Q. Do you remember telling Dr. Logan in your second inter-
5 view with him that when you were in the apartment you could
6 see the walls melting and see different colors?

6 A. Yes, sir.

7 Q. And you described to him your mental state as wasted,
8 moody, and easy to snap?

9 A. Yes, sir.

10 Q. Do you remember telling him that you frequently smoked
11 marijuana laced with PCP or angel dust?

12 A. Yes, sir.

13 Q. What's PCP do to you when you take it?

14 A. When I used to take it, it used to make me pretty wild.

15 Q. It's a animal tranquilizer, isn't it?

16 A. Yes, sir.

17 Q. Do you remember telling Dr. Logan that the walls looked
18 like melting plastic, features were distorted, skin was
19 peeling off slowly and faces continued to look as if the
20 skin had peeled back and the lady appeared like a skeleton?

21 A. Yes, sir.

22 Q. Do you remember telling him you could see the walls
23 melting and the color was blending in?

24 A. Yes, sir.

25 Q. And you got all that out of PCP, marijuana, booze and
yellow jackets; is that right?

A. Yes, sir.

JoAnn Taylor - Cross

1 MR. SMITH: I believe, Your Honor, we would object.
2 I think it's a misstatement of what she's previously stated.

3 THE COURT: I believe it is not a statement of
4 what she said earlier.

5 Q. (By Mr. Redman) Well, let me ask you this. Are what
6 you are saying is that you did all those things, drug-wise,
7 or didn't?

8 THE COURT: Well, now, let's be specific.

9 Q. (By Mr. Redman) Earlier in the trial you testified
10 that you drank some alcohol, that you smoked some marijuana
11 and you took a couple of yellow jackets; is that right?

12 A. On the day of February 5, yes, sir.

13 Q. Yes. And what I have just read you from the doctor's
14 report indicates that you told him you had also had smoked
15 marijuana laced with PCP or angel dust?

16 A. That's what I told him, yes.

17 Q. How were you covering your rear end by not covering
18 the PCP or the angel dust?

19 A. Because I didn't do it on that date.

20 Q. Do you remember in your third interview with law
21 enforcement telling them that you were also popping purple
22 monsters?

23 A. Purple microdots, yes, sir.

24 Q. Do you remember telling him at that same time that you
25 were snorting cocaine?

A. Yes, sir.

Q. Do you remember telling him at that same time that you
were smoking marijuana laced with angel dust?

1 A. Yes, sir.

2 Q. So you're telling us that's not true today?

3 A. Yes, sir.

4 Q. Do you remember telling law enforcement in that fourth
5 interview that you could see the door, but the walls were
6 melting. "I'm so high. Everything's melting. It's real
7 funny to look at."

8 A. I believe so.

9 Q. Is that not true?

10 A. No, sir.

11 Q. Do you remember telling law enforcement on that same
12 statement: "He had her by her arm arguing with her. I can
13 see his mouth moving but cannot see the words. They're
14 distorted and funny which is an effect because of the
15 drugs. I was so high." Do you remember that?

16 A. Yes, sir.

17 Q. Is that true?

18 A. No, sir.

19 Q. Do you remember saying that the faces were all melting
20 and distorted, that somebody had lost the color in his face?

21 A. I remember saying it.

22 Q. Was that true?

23 A. No, sir.

24 Q. Do you remember saying that morning you got up, you had
25 been high for 24, 36 hours? "Searcey can tell you I used to
be a bad druggy in this town."

A. I remember saying that, yes.

Q. Is that true?

1 A. No, sir.

2 Q. I'm sorry?

3 A. No, sir.

4 Q. So you've lied a lot, haven't you, JoAnn?

5 A. Yes, sir.

6 Q. Are you telling us now you are telling the truth?

7 A. Yes, sir.

8 Q. Well, let's talk about that. Do you remember in that
9 same interview telling police officers that you don't ever
10 remember having a pillow?

11 A. It's possible.

12 Q. Well, Searcey asked you: "JoAnn, do you recall having
13 possibly having ahold of a pillow while you were up about her
14 head?

15 A. It was possible as high as I was. It would be very
16 possible.

17 Q. Do you recall ever being involved physically to assist
18 or control Mrs. Wilson?

19 A. I wouldn't touch her."

20 Q. Do you remember that?

21 A. Yes, sir.

22 Q. That was a lie?

23 A. No, sir.

24 Q. You didn't touch her?

25 A. No, sir.

26 Q. You didn't have a pillow over her face?

27 A. I had the pillow, but I did not touch her body.

28 Q. Do you remember telling Searcey or Stevens in that

JoAnn Taylor - Cross

1 same statement that you never found any money?

2 A. I believe so.

3 Q. Was that true?

4 A. No, sir.

5 Q. Why did you tell -- Why did you lie?

6 A. I was covering my rear end.

7 Q. Are you covering your rear end today, Ms. Taylor?

8 A. No, sir.

9 Q. Do you remember telling Officer Searcey or Stevens

10 at that same time that all of you left at the same time

11 except for Kathy Gonzalez?

12 A. I believe so.

13 Q. And do you remember telling that to your psychiatrist,
14 Dr. Logan?

15 A. I believe so.

16 Q. Well, are you saying that's true or not?

17 A. What part's not true? You've got me confused.

18 Q. Well, I'm not trying to confuse you. That you all left
19 at the same time except for Kathy Gonzalez?

20 A. That's not true.

21 Q. So you lied about that to Officer Searcey and Stevens;
22 is that correct?

23 A. Yes, sir.

24 Q. Today you told us that the car that you were in pulled
25 behind -- Well, let me ask you, what did you tell us how you
26 entered 212 North Sixth Street?

27 A. Through the rear door of the building.

28 Q. Now, do you remember saying something different from

1 that?

2 A. Not right offhand I don't, no, sir.

3 Q. Do you remember telling Dr. Logan and others that you
4 entered through the front hall?

5 A. It's possible.

6 Q. Ms. Taylor, did you ever imagine things that aren't
7 true?

8 A. No, sir.

9 Q. Did you ever imagine at one point in time that you
10 inherited a million dollars?

11 A. No, sir.

12 Q. Did you ever tell police or people that you inherited
13 \$1 million in October of 1984 regarding a court matter you
14 were in?

15 A. I don't believe so, no, sir.

16 Q. Do you remember imagining that you were pregnant in
17 jail?

18 A. We thought I was, yes.

19 Q. How long did you think you were pregnant?

20 A. Well, we wasn't imagining it. I had a hormone
21 deficiency.

22 Q. You were actually talking to the baby when I took your
23 deposition, were you not?

24 A. Yes, sir.

25 Q. You felt the baby kicking?

A. It's possible to feel movement when your not pregnant.

Q. You said when I asked you several of these questions
about the lies that you've told in the past, that you lied to

----- Taylor - Cross

1 to cover your rear end; is that right?

2 A. Yes, sir.

3 Q. Could you explain that more. How was lying going to
4 help you cover your rear end?

5 A. It depended on the situation.

6 Q. Well, in this situation how was lying going to help you
7 cover your rear end.

THE COURT: What situation? Please be specific.

8 Q. (By Mr. Redman) Okay. That you were lying to
9 police officers?

10 A. Like I say, depending on what we were discussing at
11 the time.

12 Q. About whether you entered the front door or back door
13 or whether Mark Goodson was there, whether Beth Johnson was
14 there, whether Cliff Sheldon was there --

15 MR. SMITH: Objection, Your Honor. It's a
16 compound question.

THE COURT: Sustained.

17 Q. (By Mr. Redman) Why did you lie about Mark Goodson?

18 A. Because at the time I was very confused.

19 Q. Why did you lie about where he entered?

20 A. Because I was confused.

21 Q. Why did you lie about the drugs you had taken?

22 A. Because I figured if I was higher, they would be better
23 on me.

24 Q. You entered into a plea agreement; is that correct?

25 A. Yes, sir.

1 Q. And that's been offered as Exhibit No. 37; is that
2 correct?

3 A. Yes, sir.

4 Q. And according to the terms of that agreement, you have
5 to tell the truth; is that right?

6 A. Yes, sir, to the best of my recollection.

7 Q. And according to your testimony, you didn't ever touch
8 Mrs. Wilson or have anything to do with her; is that correct?

9 A. I didn't say nothing to do with her. I said I didn't
10 touch her body.

11 Q. Okay. Do you know whether or not Deb Sheldon and
12 James Dean have a plea agreement?

13 A. I don't know anything about their cases.

14 Q. Do you know that they testified here?

15 A. I heard they did, yes, sir.

16 Q. Do you know that they say differently as to whether you
17 had anything to do with assisting in the murder?

18 MR. SMITH: Objection, Your Honor, I think it's
19 got to be more specific.

20 THE COURT: Sustained.

21 Q. (By Mr. Redman) Do you know that James Dean says that
22 you were holding the pillow -- Let me rephrase that.

23 THE COURT: Counsel, approach the bench.

24 (At this point, counsel for
25 the parties approached the
bench and an off-the-
record discussion was had,
in low tones, between
Court and counsel.)

26 Q. (By Mr. Redman) In a deposition I took of James Dean--

1 THE COURT: Now, just a moment. Step up here.

2 (At this point, counsel for
3 the parties approached the
4 bench and an off-the-
record discussion was had
in low tones, between
Court and counsel.)

5 Q (By Mr. Redman) While Mrs. Wilson was laying on the
6 floor, did you ever hold the pillow over her head forcefully
7 so she couldn't breathe?

8 A I don't believe I placed pressure on it.

9 Q You didn't lean on the pillow?

10 A No, sir.

11 Q And you didn't put your face down on Mrs. Wilson's
12 chest area --

13 A No, sir.

14 Q -- while she was laying on the floor?

15 A No, sir.

16 Q And I take it you didn't do anything to aid in the
17 assault and rape and robbery of Mrs. Wilson?

18 MR. SMITH: Objection, Your Honor. I think
19 that it is too vague of a question. He said "anything".

20 THE COURT: Sustained and be specific.

21 Q (By Mr. Redman) Did you talk to Deb Shelden in jail?

22 A We talk, yes, sir.

23 Q In fact, it's not unusual that the two of you talk in
24 jail, is it?

25 A No, sir.

Q Have you any conversation with Deb Shelden since this
case has been on trial?

JoAnn Taylor - Cross

- 1 A. Some but not about the trial.
- 2 Q. How often do you talk with Deb Sheldon while the two
3 of you are in jail?
- 4 A. Almost daily.
- 5 Q. Are you aware as to whether or not Darren Munsterman
6 had scratches on his neck or anywhere on his body shortly
7 after the murder of Helen Wilson?
- 8 A. Yes, sir.
- 9 Q. He did have scratches, didn't he?
- 10 A. Yes, sir.
- 11 Q. You didn't like Joe White very well prior to the
12 murder, did you?
- 13 A. We were having our disagreements.
- 14 Q. In fact, you had numerous fights, didn't you?
- 15 A. Yes, sir.
- 16 Q. Physical fights, didn't you?
- 17 A. Yes, sir.
- 18 Q. You'd both hit each other, hadn't you?
- 19 A. Yes, sir.
- 20 Q. In fact, on the 5th of February during the day of the
21 murder you and Joe White had a fight down at the R & S bar,
22 didn't you?
- 23 A. I don't remember us fighting at the bar.
- 24 Q. You had a fight on that day in any event?
- 25 A. Yeah.
- Q. Can you tell me what you did on the 5th of February from
the time that you got up that morning. Do you have any idea?
- A. I don't remember right offhand. That's been quite a

1 while.

2 Q Well, that's what the whole trial is about, the 5th --

3 THE COURT: Well, now, counselor, ask proper
4 questions.

5 Q (By Mr. Redman) You have remembered what happened the
6 night of the 5th of February, have you not?

7 A Yes, sir.

8 Q But you don't remember what happened the morning of the
9 5th of February of 1985?

10 A I slept the biggest part of the time.

11 Q We're talking about 1985?

12 A Uh-huh.

13 Q Do you remember what you did when you got up?

14 A Yeah.

15 Q What?

16 A I had done some shopping.

17 Q Where did you go?

18 A Downtown Beatrice.

19 Q What time?

20 A Well, I didn't get up until about 11:30 that day.

21 Q Okay. What store did you go to?

22 A I don't remember, good God.

23 Q Are you -- Now, you testified earlier that the reason you
24 participated in this whole scenario was becuse of threats
25 made to you and your daughter; is that correct?

26 A Yes, sir.

27 Q How long had it been since you had last seen your
28 daughter prior to the 5th of February?

1 THE COURT: Counsel approach the bench.

2 (At this point, counsel for the
3 parties approached the bench and
4 an off-the-record discussion was
had, in low tones, between Court
and counsel.)

5 THE COURT: We're going to take our noon recess at
6 this time to 1:30. Again, I want you to observe the admon-
7 ition that you and each of you are admonished by the Court
8 that it is your duty not to converse with or suffer your-
9 selves to be addressed by any person on the subject of this
10 trial, nor to listen to any conversations on the subject.
11 Nor read or listen to any news accounts thereon, and that it
12 is your duty not to form or express an opinion thereon until
the case is submitted to you. We are in recess until 1:30.

13 (Whereupon, a recess was taken
14 from 12 to 1:30 p.m.)

15 (At 1 p.m. with counsel for the parties present
16 and the defendant and the jury NOT present, the following
proceedings were had in chambers.)

17 THE COURT: Let the record reflect that we are
18 proceeding out of the presence of the jury with both parties
present. Mr. Smith, are you the moving party here?

19 MR. STOLER: I would like to make a motion in
20 limine. Defendant comes in limine to preclude the State from
21 calling as witnesses in the event that the defendant,
22 Joseph White, testifies, either Dr. Beverly Mead, a psychia-
trist from Omaha or Dr. Henry Balters a psychologist from
23 Lincoln Nebraska who both examined Joseph White pursuant to
24 the request of defense counsel. The reason for the motion
25

1 in limine is it's defendant's understanding that each of
2 these individuals had been subpoenaed by the State to test-
3 ify. We would either ask for the quash of subpoena or at
4 least by moving in limine to preclude them from testifying
5 as made to them or pursuant to psychiatric or psychological
6 tests that were requested and conducted on the behalf of the
7 defendant by request of defense counsel. Furthermore, there
8 was not administering of any type of rights such as Miranda
9 or otherwise explaining that anything that was said during
10 the discussions would be used against Mr. White, and further-
11 more, as each of these doctors were requested by defense
12 counsel, in essence, they are arguments of counsel and acting
13 pursuant to that direction and authorization. Finally, the
14 defendant would submit to the Court that there is a privi-
15 lege under 27-510 or 505 of the Neb. Statutes which allows a
16 privilege to exist between physician and patient and the
17 tests conducted were pursuant to that type of examination
18 that was done by each of these respected doctors and should
19 be privileged if the defendant did not waive the privilege
20 for the information used.

19 MR. SMITH: If it please the Court: Your Honor,
20 the State as far as Dr. Beverly Mead, the psychiatrist is
21 concerned, which would have been an interview taken on
22 September 22, 1989, of the defendant by the doctor, I do not
23 have any knowledge as to whether or not he did or did not
24 read Miranda to him. ~~I'm sorry, I cannot provide that to the~~
25 Court. As far as Dr. Balters is concerned, I would read
from the doctor's report:

1 "The defendant was apprised of the nature of the examination.
2 More, specifically, that all of his answers to this worker's
3 questions as well as his responses to psychological
4 instruments would be utilized as a part of basis for
5 constructing a psychological report. This report in turn
6 would be conveyed to his attorney and used during court
7 proceedings. In other words, there would be none of the
8 confidentiality which would exist between someone such as
9 as a client and this worker.

10 After being so informed the client willingly entered
11 into the assessment situation and was cooperative throughout."

12 MR. STOLER: No further argument, Your Honor, other
13 than what I've already made.

14 THE COURT: Read me that again.

15 MR. SMITH: "The defendant was apprised of the
16 nature of the examination. More, specifically, that all of
17 his answers to this worker's questions as well as his
18 responses to psychological instruments would be utilized as
19 a part of basis for constructing a psychological report. This
20 report, in turn, would be conveyed to his attorney and used
21 during court proceedings. In other words, there would be
22 none of the confidentiality which would exist between someone
23 such as a client and this worker.

24 After being so informed, the client willingly entered
25 into the assessment situation and was cooperative throughout."

MR. STOLER: Your Honor, to respond after listening
is the argument I made. The exam was done at our request,
and there's nothing that that said the information could be

1 disclosed to the prosecution.

2 THE COURT: Aren't you under a reciprocal recovery
3 order?

4 MR. STOLER: As you are aware, we did provide those
5 reports to the Court and the Court felt that the information
6 could be disclosed to the prosecution and through the
7 discovery process that information was turned over, but again,
8 the request was made for the examination by counsel for the
9 purpose of a psychological examination of the defendant, not
for any other purpose, Your Honor.

10 THE COURT: Well, I understand what you're saying,
11 but let me stop you. One of the issues does not arise
12 unless the defendant testifies.

13 MR. STOLER: Granted.

14 THE COURT: Secondly, if he does that, whatever the
15 source of the admission, if it is in fact against interest, is
16 appropriate evidence, assuming no privilege is breached. It's
17 the Court's understanding of the cases that if a doctor in
18 making an examination tells the patient that there is no
19 confidentiality involved that that is a waiver of his right
20 to claim the patient-physician privilege. Is there any
response you want to make to that, Mr. Stoler?

21 MR. STOLER: The difficulty I have from what was
22 read in the report does not depict that the client understood
that it was done, anything more than the request of counsel.

23 As the report indicates, he was told that confidentiality
24 does not exist, but that was told by the doctor. That wasn't
25 represented by the attorney or as far as the request was made

1 to begin with.

2 THE COURT: Well, it runs in my mind that there
3 are a number of cases in which the doctor is the one who
4 advised the patient/defendant of that fact and the Courts
5 have held that in that situation the privilege was waived.
6 I'm going to take the motion in limine with respect to
7 Drs. Mead and Balters under advisement with counsel further
8 advising the Court after further investigation if they have
9 any more specific information to give the Court on that
point.

10 (At 1:30 p.m. with counsel for the parties present
11 and the defendant present and the jury IN the jury box, the
12 following proceedings were had:)

13 (CROSS EXAMINATION
BY MR. REDMAN:)

14 Q Ms. Taylor, this morning you told us that you saw
15 Kathy Gonzalez at 212 North Sixth Street waiving at the time
16 you approached; is that correct?

17 A Yes, sir.

18 Q Now, prior to today, you have made at least four or
19 five statements and you've given a deposition; is that right?

20 A Yes, sir.

21 Q Is it correct that you mentioned that you saw Kathy
22 Gonzalez waiving from that apartment building at any of these
times?

23 A I'm not sure.

24 Q Well, if you did, can you tell me when you said it?

25 A I don't know.

Q When did you finally decide that you saw Kathy Gonzalez waiving at that apartment building?

A I'm not sure what time it was.

Q With -- Would it have been within the last week or last month, two months? Can you give me a general idea?

A I believe it was mentioned before my deposition, if I'm not mistaken.

Q Do you remember who it was mentioned to?

A No, sir.

Q Do you know whether you mentioned it in the deposition?

A I'm not sure.

Q If I gave you your deposition, do you think --

THE COURT: Now, counselor, you know what's in the deposition. You have it. You can bring it forward.

Q (By Mr. Redman) How long has Kathy Gonzalez, if you know, been jail with you?

A I'm not sure exactly when she was arrested.

Q She's in the same jail as you are, is she not?

A Yes, sir.

Q Have you talked to Kathy Gonzalez like you talk to Deb Shelden?

A No, sir.

Q I take it you've never talked to Kathy Gonzalez in jail; is that right?

A I spoke to her when my attorney and her attorney was present the day of my deposition, I believe. You know that.

MR. REDMAN: I don't believe I have any other questions.

1 THE COURT: Any redirect?

2 MR. SMITH: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. SMITH:

5 Q Ms. Taylor, Mr. Redman questioned you regarding some
6 scratches that you've indicated were on a Darren Munsterman
at or near February 5 or 6 of '85; is that correct?

7 A Yes, sir.

8 Q And you indicated that you knew he had scratches; is
9 that correct?

10 A Yes, sir.

11 Q How do you know he had scratches?

12 A I placed them there on the night of the 4th of February.

13 Q He also questioned you regarding a possible fight that
14 you were in with the defendant, Joseph White, on February 5;
is that correct?

15 A Yes, sir.

16 Q Where did that fight take place?

17 A I believe he's referring to the disagreement that we
18 had when he first made the threat of my daughter and I.

19 Q When was that?

20 A I believe it was early in the afternoon of the 5th.

21 Q Were you ever in a physical fight with Mr. White on
February 5?

22 A Not on the day of the 5th except for when he hit me when
23 he was at Mrs. Wilson's apartment.

24 Q Now, he's questioned you about Kathy Gonzalez being in
25 the same jail as you; is that correct?

1 A. Yes, sir.

2 Q. She's not in the same jail cell with you, is she?

3 A. No, sir.

4 Q. Can you talk to her in that jail?

5 A. No, sir.

6 Q. You've indicated you talked to Deb Sheldon while you were
7 in jail; is that right?

8 A. Yes, sir.

9 Q. Did you talk anything about the Helen Wilson homicide
10 with her?

11 A. No, sir. We do not discuss the case.

12 Q. Ms. Taylor, counsel questioned you about the first time
13 you were interviewed by the law enforcement people regarding
14 the place where the homicide occurred, and you indicated you
15 told them. . . What was the place the first time?

16 A. A house.

17 Q. Now, were you interviewed the next day by Gage County law
18 enforcement authorities?

19 A. Yes, sir.

20 Q. Do you remember in your deposition Mr. Redman asking you
21 about sheriff or law enforcement individuals trying to get
22 you to change your mind regarding it being an apartment?

23 A. Yes, sir.

24 Q. And do you remember what you responded to him when he
25 posed that question to you?

26 A. ~~Not right offhand, no, sir, I don't.~~

27 Q. All right. Do you remember this question:

28 " But since the sheriff's office --"

1 MR REDMAN: I'm going to object at this point. I'm
2 not sure if he's trying to impeach his own witness or not --

3 THE COURT: If you want to make a specific
4 objection, I'll hear it, Mr. Redman.

5 Q (By Mr. Smith) "But since the sheriff's office or
6 law enforcement has talked to you, they've got you to change
7 your mind and say this is an apartment building and they
8 told you whether it was nighttime or daytime?

9 A I didn't change my mind. I remember it as the facts."

10 Q Do you remember that?

11 A Yes, sir.

12 Q Ms. Taylor, do you remember the question that lead
13 up to you identifying the apartment building that's found in
14 in exhibits that you looked at this morning?

15 A No, sir, I don't remember the question right offhand.

16 Q All right. Do you remember was it discussed when you
17 talked with Deputy Searcey and Sergeant Stevens down in
18 North Carolina?

19 A Yes, sir.

20 Q Do you remember Deputy Searcey saying:

21 " Okay. Let's go way back to the beginning and see if
22 we can't remember a little more about the location where this
23 incident might have taken place. Okay --"

24 MR. REDMAN: Could we have a page and what it's
25 being read from?

26 MR. SMITH: 27. It's the statement of the -- The
27 First statement taken down in North Carolina by law enforce-
28 ment officials from Beatrice.

1 MR. REDMAN: Thank you.

2 MR. SMITH: March 16, I believe.

3 Q (By Mr. Smith) The question further went:

4 " Do you recall where this particular residence, where
5 this building may have been located?

6 A I'm still drawing a blank.

7 Q Do you recall anything around the area in this particular
8 building that might have helped you out?

9 A It wasn't far from the school.

10 Q It wasn't far from the school? In which direction?
11 JoAnn, look at this. Let's say this is the school. Okay.
12 You show me where the --

13 A That's what I'm trying to do is put myself in the middle.
14 I can see the school. I can see the library.

15 Q Okay. Is this the library and the school and this would
16 be the alley; is that correct?

17 A Yes.

18 Q And somewhere over in this area, somewhere there is --

19 A The hole in the wall, because the hole in the wall is
20 right off the alley by the school."

21 Q And then you went on further to say and discussed the
22 matter with him and the Deputy asked you:

23 " Let's see if I can help you out a little bit. Can you
24 recall what this building may have been built out of?" Do
25 you remember your response?

26 A No, not right offhand, I don't.

27 Q You said, "red brick" and the Deputy:

28 " Red what?"

1 A. Brick.

2 Q. Red brick. Do you recall was it a single unit or was
3 there --

4 A. It was an apartment."

5 Q. Do you remember that?

6 A. Yes, sir, I remember that conversation.

7 Q. And the Deputy said,

8 " It was a what?

9 A. An apartment building."

10 Q. That's the first time "apartment building" came up in
11 your discussions, wasn't it?

12 A. Yes, sir.

13 Q. The Deputy didn't tell you it was an apartment building,
14 did he?

15 A. No, sir.

16 MR. SMITH: I have no further questions.

17 THE COURT: Recross?

18 RECROSS-EXAMINATION

19 BY MR. REDMAN:

20 Q. Ms. Taylor, regarding the location of the murder, you
21 first told deputies that it was somewhere outside of town,
22 didn't you?

23 A. I told them I wasn't sure.

24 Q. Did you at the same time -- Did you tell them that you
25 weren't sure, that you thought it was somewhere outside of
town?

26 A. It's possible, yes, sir.

27 Q. And you didn't remember the apartment until they

1 indicated to you that it was a building downtown by the
2 school, did you?

3 MR. SMITH: Objection, Your Honor. I don't think
4 that's the evidence that was shown. She brought that up.

5 THE COURT: Sustained.

6 Q. (By Mr. Redman) They obviously, weren't satisfied with
7 your testimony when you told them it was a house.

8 MR. SMITH: Objection, Your Honor, argumentative.

9 THE COURT: Sustained.

10 Q. (By Mr. Redman) They continued to probe, didn't they,
11 when you told them it was a house?

12 A. Yes, but I also informed them that I was quite confused
13 at the time.

14 Q. And they continued to probe, didn't they, when you told
15 them Mark Goodson and Beth Johnson was there?

16 MR. SMITH: Objection, Your Honor. It's outside
17 of recross.

18 THE COURT: Sustained.

19 Q. (By Mr. Redman) Now, Mr. Smith asked you about the
20 deposition and you indicated or I guess he -- I can't
21 remember if he read it or you said it, but the police didn't
22 get you to change your mind in the deposition. But there
23 were also places in the deposition that you told me that
24 everything that the police told you helped you remember,
25 were they not?

A. Bits and pieces, yes, sir.

MR. REDMAN: I have no other questions.

THE COURT: Any redirect?

1 MR. SMITH: No, Your Honor.

2 THE COURT: You may step down, ma'am.

3 THE WITNESS: Thank you.

4 THE COURT: You're subject to recall, and you are
5 not to discuss your testimony with anyone.

6 THE WITNESS: Yes, sir.

7 MR SMITH: May we approach, Your Honor?

8 (At this point, counsel for
9 the parties approached the
10 bench and an off-the-record
11 discussion was had, in low
12 tones, between Court and
13 counsel.)

14 MR. SMITH: Your Honor, at this time the State would
15 call Lisa Brown.

16 LISA BROWN

17 Called as a witness on behalf of the
18 plaintiff, having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SMITH:

22 Q Would you state your name for the record, please.

23 A Lisa A. Brown.

24 Q What was your maiden name?

25 A Podendorf.

Q When were you married?

A April 16, 1987.

Q Do you have any children?

A Yes.

Q What is your occupation?

25