

1 Complete Transcript of audiotape of interview between Daniel
2 D. Smith and Lt. Michael Medders and Det. Alan Leiby on
3 April 28, 1994.

4 (Start of tape.)

5 LT. MEDDERS: What's the date today? The
6 29th?

7 DET. LEIBY: It's the 28th right now.

8 LT. MEDDERS: Okay. Is the tape on?

9 DET. LEIBY: Yeah. Go ahead.

10 LT. MEDDERS: Okay. Today's date is
11 4/28/1994. The time now is 10:50 p.m. We're at Elyria
12 Police Station. Present is Det. Al Leiby and Lt. Medders.
13 We're interviewing Mr. Daniel D. Smith in regarding a
14 possible homicide.

15 EXAMINATION OF DANIEL D. SMITH

16 BY LT. MEDDERS:

17 Q Mr. Smith, do you understand your rights?

18 A Yes.

19 Q Okay. In front of you you have a rights card; is that
20 correct?

21 A Yes.

22 Q Okay. What I'm gonna do is I'm going to read to you
23 these rights. You have the right to remain silent. Anything
24 you say may be used against you in a Court of Law. You have
25 the right to talk to a lawyer and have him present with you

SUPREME COURT OF OHIO
CASE NO. 98-912
DATE REC'D 6/1/98

SUPREME COURT OF OHIO
CASE NO. 98-1074
DATE REC'D 6/12/98



1 while being questioned.

2 If you cannot afford to hire a lawyer, one will be
3 appointed to represent you before any questioning if you
4 wish. You can decide at any time to exercise these rights
5 and not answer any questions or make any statements.

6 Mr. Smith, do you understand your rights?

7 A Yeah.

8 Q Okay. Do you want to talk to us at this time?

9 A Yeah.

10 Q Okay. This is voluntary? Nobody is making you do this?

11 A Right.

12 Q Okay. Mr. Smith, we'll get started if you don't mind.

13 Basically --

14 DET. LEIBY: Is -- (inaudible) a signature on
15 that?

16 Q Yeah. You want to sign this for us.

17 DET. LEIBY: You need to put yes here, yes
18 here and sign there.

19 DET. LEIBY: Didn't get no sleep today, ha?

20 Q Working late?

21 A No. You know it's make me nervous.

22 Q Okay. Not that you didn't get enough sleep?

23 A Oh, yeah.

24 Q Okay.

25 A I'm just tired.

1 Q Okay. You started mentioning facts about -- what's his
2 name -- Ron Lally?

3 A Yeah.

4 Q Well, why don't you tell me what you know about this
5 thing, all right?

6 A (No response.)

7 Q (Inaudible) just tell me what you heard and what you
8 think's going on.

9 A Well, from what I heard, that he was, um, dead.

10 Q Okay?

11 A Heard he was in a --

12 Q Do you -- do you know this person?

13 A Ron Lally?

14 Q Yeah.

15 A Yeah.

16 Q How do you know him?

17 A Through a -- friends.

18 Q Okay.

19 A And ah --

20 Q Go ahead.

21 A So I heard that, ah, he came up dead in Woodland, and,
22 for one, I don't know where Woodland is. Alls I know it's in
23 Cleveland. I heard that Woodland was in Cleveland. That's
24 all I know.

25 I don't know where Woodland is in Cleveland.

1 Q Okay.

2 DET. LEIBY: What is Woodland?

3 A From what I heard, it was a cemetery. Now, if that's
4 true, I don't know. I -- I never heard of Woodland. Okay?

5 So -- um, I had heard through my friends, they --
6 they're the one that told me -- and the first person I had
7 heard it from was, um -- it was a -- this white dude named
8 Duane That's -- alls I know is his first name is Duane.

9 Q White dude named Duane?

10 A Yeah.

11 Q Go ahead.

12 A And he came up to my house one day and he said, ah, he
13 asked me -- he said, did you know that dude, Ron Lally, is
14 dead.

15 And I said no. I said -- and then I thought he was
16 playing with me. I said, stop lying.

17 He said, no, I'm serious, he's dead.

18 So then I told him -- I said -- when did you hear this.

19 He said that he -- I guess he lived next door to him.

20 And he said that -- he said that they had red tape. They had
21 red tape across his door and then he said that they, um,
22 whoever killed him, that -- he said Mafia style. They
23 told -- they said he -- they told him get on his knees; and
24 they shot him in his head and then, um, left him there to
25 die.

1 So then -- I really -- I -- I believed him; but I didn't
2 believe him because it -- it was -- it was weird.

3 So then --

4 DET. LEIBY: Do you know about what day it was
5 on that he told you this?

6 Can you remember?

7 A No, I don't -- I don't carry around --

8 Q A white dude named --

9 A Dwyane?

10 Q Dwyane?

11 A Yeah.

12 Q What'd he look like? Describe him to me.

13 A Ah, about your -- your size.

14 Q Okay. For -- for the tape, I'm about 6'2".

15 My weight?

16 A Yeah.

17 Q For the tape, I'm about 250 pounds.

18 A Yeah.

19 Q What color's his hair?

20 A Ah, black.

21 Q Black hair?

22 A Yeah.

23 Q About how -- about how old is this guy?

24 A Um, about 24.

25 Q Do you know where he lives at?

1 A Right next door to -- where Ron used to live, I guess,
2 over there by ah --

3 Q Next door to who?

4 A Ron Lally.

5 Q Okay.

6 A They said he lived next door to Ron Lally. That's all I
7 know about him.

8 DET. LEIBY: Does that mean in the same
9 building?

10 A Um, either the same building or next door, the other
11 house there.

12 DET. LEIBY: Okay.

13 Q All right. Go ahead. I'm sorry. Continue.

14 A Okay. So then a -- so then I heard a couple of my
15 friends, they said, um, that they spoke with you.

16 So then they -- they had told me, they said, yeah, he's
17 dead. So, as far as him being dead, I didn't know about it.
18 But they told me he was dead.

19 So, basically, that's all I know.

20 Q Okay. Do you know when, what day he died, about?
21 Approximately?

22 This is April. Okay. This is April the 28th. How long
23 ago was it this conversation took place with Duane?

24 A About -- about a month ago.

25 Q Okay. If we give you a date, can you give us -- tell

1 us, basically, this is close to it? Would that help your
2 memory a little bit if we did that?

3 A (No response.)

4 Q Why don't you tell me what date this is as far as what
5 we know here?

6 DET. LEIBY: Okay. The date that the incident
7 occurred was 11/18 of '94.

8 Q (Inaudible) 18th of November. Okay. The 18th was right
9 before Christmas -- before Thanksgiving.

10 Does that sound about the same -- same time this
11 conversation took place?

12 A Yeah.

13 Q Is that -- about how close to it was that you remember?

14 A Um, I can't remember if it was after my birthday or
15 before Christmas. I can't remember exactly. I -- I --
16 (inaudible.)

17 Q (Inaudible). All right. Let's go back to Mr. Lally
18 here. How long have you known him? What kind of relation
19 did you guys have?

20 A Um, I known him for about -- I'd say about, um, 2, 3
21 years I known him.

22 Q Well, are you good friends, associates or what would you
23 call it?

24 A We just associates. He -- he came over to my apartment
25 a few times. Um, his girlfriend used to live in the

1 condominiums next door to the apartments I lived in. He used
2 to come over there; and I first met him down there on -- on
3 a -- on a -- around Bell, through one of my friends.

4 And, ah, so then he told -- he had told me that he knew
5 my brother.

6 Q And your brother's name?

7 A Mike Smith; he told me that he knew him. So, you know,
8 I was like, yeah, then -- come to find out I -- I seen him
9 one day riding with one of my good friends that I grew up
10 with since I was a kid down the street from my mother's
11 house. His name is Duane. So, you know --

12 DET. LEIBY: What's Duane's last name?

13 A Ah, Duane Moore.

14 DET. LEIBY: Okay.

15 Q This is another Duane, right?

16 A Yeah, nah, this a different Duane. I've known him since
17 I was a kid and -- well, really, he grow up with my brother.
18 I just, you know, hang --

19 DET. LEIBY: When you talk about brothers, do
20 you only have one brother? Is Mike your only brother?

21 A Mike's -- Mike's my only full brother; but I got another
22 brother with the same father.

23 DET. LEIBY: Okay.

24 Q What's his name?

25 A Raymond Smith, same as my dad. I got 2 -- 2 sisters.

1 Q Well, how'd you get along with this guy, Ron Lally?

2 A I got along with him all right. We -- I never had no
3 problem with him.

4 Q You had no problems with him whatsoever?

5 A No.

6 Q Are you sure? Think back now. This is a very serious
7 question here.

8 A Oh, problems, as far as -- as him -- I heard the tape of
9 him, um, try to bust me selling drugs to him.

10 Q You heard his tape? Who -- who did you hear this tape
11 from?

12 A Ah, my lawyer.

13 Q Who's that?

14 A Ah, Michael Ross.

15 Q So, Michael Ross let you hear this tape where,
16 allegedly, Mr. Lally was busting you or something --

17 A Yeah.

18 Q -- on a drug case?

19 A Yeah.

20 Q Was Mr. Lilly involved in drugs as far as you know -- or
21 Lally, I'm sorry.

22 A Yeah.

23 Q Now, was you involved in drugs with him? Let's -- like
24 I say, we're here for a murder investigation. Let's be
25 straight up. All right? I mean, let's face it, the man, if

1 he was -- if he was involved with you in drugs -- he's --
2 he's dead at this point in time, is that correct?

3 A Yeah.

4 Q So, he can't testify against you, is that also correct?

5 So, I'm going to ask you this question one more time:
6 was you involved with drugs with this man?

7 A No, not that -- I don't want to answer that.

8 Q You don't have to answer but -- all right. For the sake
9 of argument here, if -- you heard his voice on a tape busting
10 you, is that correct?

11 A Correct.

12 Q What'd you think about that? Did that make you mad?

13 A Well, it start like this. First, I busted it; and he
14 came to my house. Ah, I didn't know who it was. I didn't
15 know nothing about it. Alls I know is I got busted.

16 I know somebody came to my house. So I had went -- I
17 asked a couple people -- I was like, um, you know, I got
18 busted; and they was like, you did?

19 I said, yeah, I said, I was, like, did you -- I said,
20 did you know -- did you bust me?

21 I asked them like that.

22 Q You asked Mr. Lally; is that correct?

23 A No, I didn't. I asked -- I asked several people. I
24 said -- said, did you try to bust me?

25 They said no. So they -- I said, yes -- I said -- I

1 said, well, I heard it was you, you know, try to see if it
2 was them, which I didn't know at the time.

3 So then, ah, um, there's a guy live across the street
4 from me. His name was Mike; and he was real good friends
5 with Ron Lally. I guess Ron went over there all the time,
6 almost every day; and then I -- I went over to his house, I
7 asked him, I said, you know, I got busted. I says -- I said,
8 wasn't you, was it?

9 He was, like, no.

10 I said, well, I think -- you know, I said, I -- I think
11 it was Ron. And then he was like I don't think it was Ron
12 because he never said nothing to us about it, or, you know,
13 he never acted like it or they never knew he call attention
14 to something like that.

15 So, I guess -- so then, one day Ron's girlfriend was
16 outside, and then she said that -- she said she had heard
17 that I heard that Ron had busted me. And so she told Mike to
18 come -- for me to come down there and talk to her.

19 So, I went down there; and I was talking to her. And I
20 said, yeah, well, I said, well, I heard that your boyfriend's
21 busted me so --

22 Q What did she say?

23 A She -- she say, as far as she knows, that he didn't bust
24 me. She said 'cause he had never said nothing to her about
25 it.

1 So I was like, fine, we had a -- a little dispute there,
2 you know. And --

3 DET. LEIBY: So, you did argue with her on
4 that day?

5 A Yeah, we argued. You know (inaudible).

6 DET. LEIBY: Did you -- did you make any
7 threats that day?

8 A No, the only thing I said to him, I said -- well, I
9 said -- I said, if I -- if it's him, me and him gonna have to
10 fight over it, you know.

11 I said, well, if I see him, me and him's gonna fight, I
12 said, stuff like that. I said, I'll go and do the time.
13 There no problem.

14 So, then, when I heard he was dead, just like I told my
15 lawyer, I said, doing -- doing a little, 2 years, 3 years on
16 a drug case ain't nothing, I said.

17 Taking a man's life, that's something. That's something
18 else.

19 Q Let me ask you this, Danny, straight up. Now, it's
20 obvious that you was mad at this individual if he was going
21 to bust you; is that correct?

22 A Yeah.

23 Q Now, this is a very critical question here 'cause
24 your -- did anybody explain to you the laws of murder?
25 There's different degrees of murder.

1 A Yeah --

2 Q You understand that?

3 A -- he did, yeah.

4 Q Okay. You understand, I'm -- I'm not going to play any
5 games with you here. It does not look good for you
6 whatsoever.

7 Do you understand that?

8 A Um-hum.

9 Q What's the odds of this man dying on the day of the
10 trial?

11 A What's the odds of him dying?

12 Q Yeah.

13 DET. LEIBY: On the night before your trial?

14 Q You're not stupid by no means. Okay. I'm trying --
15 I -- I don't play any games. I'm usually straight with
16 people.

17 A I -- I don't understand what you're saying. He died
18 before my trial?

19 Q That's correct.

20 DET. LEIBY: You had a trial scheduled for the
21 morning of 11/19 of '94. He died on the evening of 11/18/
22 94.

23 Q Now, you see what I'm saying? It doesn't look good for
24 you whatsoever.

25 A See, now, I didn't know I had a trial until the 28th.

1 DET. LEIBY: It was postponed. I have a copy
2 of the docket in here. I can show you. I've documented that
3 already.

4 Q Danny, let's go right back over this again now. I was
5 trying to tell you before there's different degrees. One's
6 called premeditated, serious business. You understand that
7 concept?

8 One is if you get into heat of passion, and you start
9 fighting, and things happening --

10 You understand that?

11 A Um-hum.

12 Q And, sometimes, if -- if -- if he gets down to the point
13 where he hits you, and you hit him back; and then things get
14 carried away. You -- you understand there's different
15 degrees on this thing?

16 Now, what I'm trying to get across to you is that the
17 only way that you're going to get this truth of this thing is
18 you're gonna have to be straight with us and with yourself.
19 Don't put yourself in a situation where you box yourself in
20 and you can't get out.

21 The only person that can help you -- help at this point
22 in time is for you to be honest and to be straight with
23 everybody. If you start lying, you start trying to cover
24 things up, it's going to get a lot worse for you.

25 Do you understand? I mean, he and I have nothing

1 invested in this thing. This is between you and Mr. Lally on
2 this drug case. We -- you understand?

3 All we can do is we just do our job on it. So, if
4 something happened on this -- in this given situation, be
5 straight about it. Don't make yourself look worse than what
6 it is.

7 I'm -- I'm just trying to be as honest with you as I
8 can. You know, I think you was there that night. I think
9 there's -- that you had some involvement in it, but you're
10 gonna have to be straight with me. You want to come forward
11 on this thing 'cause, like I said, the reason I'm here is,
12 you know, we know what happened. Okay?

13 We're not stupid by no means.

14 A (Inaudible). You think I was there?

15 Q I'd put it this way. I -- I know you know more than
16 what you're telling me right now. Okay? And I'm not
17 (inaudible) -- lay this case in front of you. This case
18 hasn't been worked for a long time since it only happened
19 Friday.

20 You know that?

21 A Um-hum.

22 Q Be straight with me at this point in time and tell me
23 what you know. Don't be dancing on this thing --

24 A No.

25 Q -- and jam yourself up.

1 A Well, as far as I know, is I heard that it was somebody
2 had broke into his house.

3 Q Okay. You heard that -- that somebody broke into his
4 house?

5 A Yeah. Which, the lady that told me, I don't know who
6 she -- I -- I did not know who she was. Alls I know is she
7 works at Mr. Hero's; and she said he used to come in there a
8 couple times with some black lady. Her name I don't know
9 because we was sitting up there on -- I was getting my car
10 worked at Paige's.

11 DET. LEIBY: Do you know the Carter girl at
12 Mr. Hero's? Is it her?

13 A Excuse me?

14 DET. LEIBY: Carter? The one black girl that
15 runs -- that's Carter, kind of a pretty girl?

16 A Na, she wasn't -- not -- not to me, no.

17 DET. LEIBY: Okay.

18 A I mean -- we was just sitting there; and I was reading
19 the newspaper. Then I happened to see him in the -- his name
20 in the paper.

21 Q How'd you feel about that?

22 A To me, it made me feel -- it made me feel kind of sad
23 because I ain't gonna take nobody's life over a little
24 sentence, 2 years, 3 years, might not even been that.

25 I could have been -- as far as my lawyer was talking, it

1 was probation, you know.

2 Q Have you ever been in jail before for anything?

3 A Yeah.

4 Q For what?

5 A Ah, corruption of a minor.

6 Q Did you do any time on that?

7 A Yeah, I did 4 months down in Lancaster; so, you know, I
8 figured to myself, I said, well, my lawyer -- the way he was
9 talking, I had more than -- more than 100 percent chance of
10 probation; so I thought I was going to get probation the
11 whole time.

12 Q On your drug cases?

13 A Yeah. Now, as far as my dad and stuff like that, I
14 don't know.

15 My dad said he was looking at some time; but I don't
16 know about that. So, you know --

17 DET. LEIBY: Which brings us to another
18 prospect. Is there somebody else you might suspect was
19 involved in this and might be in your family or something?

20 A I really doubt my dad would do it.

21 Q Danny, you know who did it. Let's -- let's be honest
22 with each other here.

23 DET. LEIBY: I got a hospital report on
24 Michael, too.

25 A On Mike?

1 DET. LEIBY: Yeah.

2 A From what?

3 DET. LEIBY: From when he tried to hurt
4 himself a little while back here.

5 A Yeah, that was -- he was doing drugs; and he was doing
6 drugs, well, how it's happening was, this girl he lives with,
7 he was doing drugs; and he had to pay a car note; and he
8 winded up spending all of his money; so, if you found out
9 from -- from -- from Mike's background, he's suicidal anyway.

10 That ain't the first time he did this. It's like 3rd,
11 4th time. You know, they cut his wrists.

12 DET. LEIBY: But you -- but you know that he
13 called me and told me -- when I arrested you, you know that
14 Michael called me and told me that I arrested the wrong guy,
15 that it wasn't you that sold us the dope, that it was Dan --
16 it was Michael?

17 A Um-hum.

18 Q We know that. Why do you think he did that?

19 DET. LEIBY: He was angry that I didn't
20 believe him and he implied that he might do something.

21 A I --

22 DET. LEIBY: Do you think he'd do it to keep
23 your dad out of jail?

24 A Um, I don't -- I -- I can't see Mike doing something
25 like that. I -- I don't know. He -- as far as I know, he's

1 not like that.

2 I mean I can't see him killing nobody, not me.

3 DET. LEIBY: What about somebody else that's
4 around you? What about your right-hand man, Stan?

5 A I mean, you don't think Stan would kill anybody?

6 Q What do you think? You know him better than I do.

7 A I don't -- Stan, I don't think so. I -- I -- I don't --
8 no, I knew Stan since I was, what, ah, like 14. I don't
9 think Stan was -- he still ain't got no kind of heart to do
10 something like that.

11 Q You got heart to kill someone?

12 A No, not at all.

13 Q Somebody that pissed you off that bad?

14 A Not at all.

15 Q You had nothing to do with Danny Smith -- I mean with
16 Lally's death?

17 A Not that I know.

18 Q You just made these idle threats to people, and you
19 really didn't follow through on it?

20 A Correct.

21 Q You didn't threaten to kill him; is that correct?

22 A No.

23 DET. LEIBY: Let's back up a step.

24 Q Back up now.

25 DET. LEIBY: Besides talking to his girlfriend

1 and telling her -- besides talking to Sandy and telling her
2 that you were going to burn his parents' trailer, and that
3 you were going to kill Ron -- let me find out what day it was
4 that you and all your boys went over there to Ron's and
5 threatened him. Okay?

6 Do I need to look that report up or can we just talk
7 about it without me going through this hassle 'cause I got
8 the report here --

9 A (Inaudible.)

10 DET. LEIBY: -- where you guys all went over
11 there and made the threats and Homoki, I think it was,
12 stopped you and talked to you?

13 A Who?

14 DET. LEIBY: Officer Homoki --

15 Q The Police --

16 DET. LEIBY: Police Officer that stopped and
17 talked to you the day that you were over at Lally's, by
18 Mr. Hero, and made threats against him that day.

19 And he called us because you were over there saying you
20 were going to kill him that day and there were threats --

21 A Well --

22 Q See, Danny, for the sake of argument, if you did -- if
23 you tell him you was gonna kill him, why are you telling me
24 this? What's your motive?

25 What are you trying to do?

1 A Okay. Well, I never told him I was gonna kill him.

2 Q (Inaudible) next to him --

3 A No, as -- threat -- a threat as in fighting. That's it.

4 Q (Inaudible) kill him.

5 A Kill him -- kill him, no, and his -- his parents'
6 trailer -- I don't know where his parents live.

7 I didn't know they lived in a trailer. I tell --

8 Q So, you said you were going to beat his ass in, is
9 that -- is that -- is that --

10 A Yeah.

11 Q Tell me exactly what you said.

12 A I said I -- I said if I see him, me and him gonna fight.
13 Now, as far as killing, no, never said that.

14 And if the Police, if the -- if the Police would have --
15 whoever wrote the report on -- on that day I was over there,
16 ask him when they seen me walk out.

17 Q So, you did have contact with Mr. Lally prior to his
18 death, and you were gonna -- heading for a fight? Is that
19 correct? Is that what really went down?

20 A No. It happened like this. Stan had told me he lived
21 by Mr. Hero's. So, fine, fine and dandy. I knew he lived by
22 Mr. Hero's for the longest.

23 I never -- I never did nothing after I -- after I done
24 'cause when I first caught the case -- I was nervous. I
25 didn't know what was going on 'cause it all hit me at once.

1 I don't know nothing about, you know what I'm saying, as far
2 as me going to jail.

3 So, I was nervous. So, then, I got talking to my
4 lawyer, you know, as the months goes by. I -- I didn't think
5 nothing of it. He told me I was going to get probation.

6 So, then, I went to Mr. Hero's. They had told me he
7 lived by Mr. Hero's 'cause he seen him walking over there.
8 He didn't -- he wasn't even sure if he lived over there.
9 Alls he know is that he seen him over by Mr. Hero's a -- a
10 whole bunch of times, walking down the street.

11 So, I went to Mr. Hero's one day; and I guess Stan was
12 outside; and I had a couple of -- couple of my friends with
13 me.

14 DET. LEIBY: Who was with you?

15 A Ah, it was me, um, Vernard, um, me and Vernard, Stan.

16 DET. LEIBY: Had Stan ever been to Ron's room?

17 A I -- I know he went over there. I don't know if he been
18 to his room.

19 DET. LEIBY: You mean he went over to the
20 building?

21 A That's -- I guess. He said he -- he stay -- he told me
22 he talked to Ron. Him and Ron was friends. If they're
23 friends, that's -- that's on him. He ain't gonna be friends
24 with me; but I ain't going to get mad at him just 'cause he's
25 friends with him.

1 That's like if I got a problem with you and he's friends
2 with you, and I'm friends with him, I'm not going down on
3 him.

4 That -- I can't. If I -- just like if I'm your friend,
5 I don't want him to be mad at me 'cause I -- I can't live --
6 so what I'm your friend.

7 Between you 2 is between you 2, you know.

8 DET. LEIBY: You and Vernard and who else was
9 there that day? Who were the girls?

10 A Girls?

11 DET. LEIBY: Yeah, there's supposed to have
12 been 2 girls there.

13 A Wasn't no girls with me.

14 DET. LEIBY: Okay.

15 A Not that I -- not that I can recall, not no girls with
16 me. But anyways, I'm in --

17 DET. LEIBY: Any other guys?

18 A I -- you know, there was somebody else, and I cannot
19 think of who it was. And we -- I went into Mr. Hero's. Stan
20 standing outside. Stan came to Mr. Hero's; and he told me,
21 he said -- he said, Ron -- Ron over there looking out the
22 window.

23 I was like, so. And (inaudible) where. And he said,
24 right there. So I seen him, and Ronald waved to me. So I,
25 you know, I just shrugged my shoulders like this.

1 And then I'm ordering my food. And like when the Police
2 came, they seen me walk out of Mr. Hero's; and I had some
3 food in my hand. And then I -- I was walking around the
4 corner. Then he called me over there; and I said, what's the
5 problem?

6 He said -- well, he came -- he walked over to me, he
7 said, Ron thinks that you was like -- beat him up or do
8 something to him.

9 Q (Inaudible).

10 DET. LEIBY: Now, when you guys got this food
11 at Mr. Hero's, where did you park the cars at?

12 A On the side, right down the street.

13 DET. LEIBY: Over behind the high school,
14 right?

15 A Yeah -- no, not behind it, on the side of it; and
16 then -- and I said a --

17 DET. LEIBY: But on the other side of the
18 street from Mr. Hero, right?

19 A Yeah; and I told the Officer that -- ah, I -- I told the
20 Officer in his face; and I told Ron Lally in his face, I
21 said, Ron, I said, I ain't going to touch you. I said, if
22 you asked -- still didn't know if he -- I still didn't know
23 if he busted me 'cause I never heard the tape.

24 I said, if you -- I said, I don't know if you busted me,
25 I said, but I heard --

1 DET. LEIBY: You said you never heard the
2 tape?

3 A No, I didn't hear the tape at that time.

4 DET. LEIBY: Okay.

5 A When I was him. See, this whole time --

6 Q So, you got busted. Now you're trying to find out who
7 did bust you?

8 A Right. That's what I was doing. I'm trying to
9 figure -- I'm trying to eliminate people to see who busted
10 me; and I come down to see who busted me and so then --

11 Q This -- how many people -- can bust you? Put it that
12 way. A lot? Couldn't be that many?

13 A No, I mean --

14 Q You're not that big?

15 A I mean it could be you. It could have been you 2. If
16 you're my friends, I'm gonna -- to try to see which one of
17 you it was. I'm gonna -- gonna have to say something to you;
18 I'm gonna to say something to you.

19 So then, I had went over there and, um, we was leaving;
20 and then the cops asked -- he -- ah, dude told me -- I can't
21 remember who the Officer was -- he told me, come in. So I
22 went over there. He said, well, Ron thinks that you was, ah,
23 gonna beat him up or something like that 'cause you had a
24 whole bunch of friends with you.

25 And I told him, I said, you seen where I came out of. I

1 came out of Mr. Hero's. I didn't have no intention to say
2 nothing to him.

3 Then I walked over to Ron. I said, Ron, I ain't got no
4 problem with you. I said, I don't know if you even busted
5 me. I said, did you bust me in front of the Police?

6 He said -- he said, I don't know what you're talking
7 about. He said, I did not bust you.

8 I said, fine. I walked away and left it at that.

9 Q Did you believe him?

10 A I didn't -- I didn't --(inaudible).

11 Q Straight up, did you believe him?

12 A I ain't gonna say I believed him, but I ain't going to
13 say, you know, I didn't believe him 'cause I still didn't
14 know.

15 I didn't know who did it.

16 Q All right. So then you went to your attorney's office;
17 and you heard Mr. Lally's golden voice; is that correct?

18 A Yeah, that was --

19 Q What's your first thought when you heard that?

20 A I said, well, I'm just -- like I told him, I said, well,
21 I kind of figured it was him this whole time. I kind of
22 figured it was him.

23 Q So, after you knew he -- that he was the one that busted
24 you, what -- what are you thinking then?

25 A Doing on what now?

1 Q Aren't you mad after you found out it was him, straight
2 up? Okay?

3 A I was mad. I was mad, but I wasn't mad to where I -- I
4 was like, I'm gonna kill him, I'm gonna kill him.

5 I wasn't mad like that.

6 Q (Inaudible) whipping his ass. were you that mad?

7 A Mad enough to fight him, yeah; but not -- not mad enough
8 to kill him.

9 Q Okay. You're mad enough to fight him; so, you -- you
10 haven't -- so you, later on, after this date, did you -- did
11 you ever come in contact with Mr. Lally?

12 A No.

13 Q (Inaudible).

14 A (No response.)

15 Q Now, think hard on this.

16 A No.

17 Q You never went out there --

18 A After I -- I heard the tape?

19 Q Right.

20 A I have never seen Ron Lally, never. After I heard that
21 tape, I've never seen him.

22 Q Did you go looking for him?

23 A Didn't even go look -- I didn't have to.

24 (Inaudible).

25 DET. LEIBY: Had Stan seen him?

1 A Stan -- Stan told me he talked to him. He was there, I
2 talked to Ron.

3 I said you -- I said -- I asked him, I said, you ever
4 asked him about the -- him busting me.

5 He said no. He said, I didn't even talk to him about
6 it; and I left it at that.

7 DET. LEIBY: Stan and Ron drink together, did
8 they?

9 A I don't know.

10 DET. LEIBY: Do you know how tight Stan and
11 Ron were?

12 A I don't know if they was --

13 DET. LEIBY: (Inaudible.)

14 A -- getting high buddies or drinking buddies or what.

15 Q So you don't know what kind of relationship they had?

16 A I don't know. Just like I said, after -- after I heard
17 that tape, I did not never see Ron Lally again.

18 Q You didn't kill Ron Lally?

19 A I did not kill Ron Lally.

20 Q You can look me straight in the eye right now and tell
21 me you did not kill Ron Lally?

22 A I never killed Ron Lally.

23 Q Do you know -- you don't know who did kill Ron Lally?
24 Are you sure about that?

25 DET. LEIBY: You weren't present when he died?

1 A I was not present, was not there, did not know nothing
2 about it.

3 Q So, if somebody had told us that you was there, they're
4 lying to us; is that correct?

5 A Yeah.

6 Q (Inaudible.)

7 A (Inaudible) -- if somebody sat here and told you I was
8 there, they straight out liars.

9 Q Okay. Let's back up a little bit. If somebody should
10 tell us this, why would they do that?

11 A Beats me.

12 Q Let's face it. You know, these -- these ain't my
13 friends. Why would one of your friends tell us that?

14 A Why would -- would --

15 Q Why would one of your friends tell us that you're
16 involved in this murder?

17 A I don't know. Maybe they -- maybe they think I am.
18 They don't know.

19 If they knew, then why'd they tell him?

20 Q That's what I'm trying to -- I'm trying to find out if
21 anybody had a motive to lie on you. That's what I'm trying
22 to find out.

23 A I don't -- I don't know.

24 Q Let's face it. You know what motive is, the reason to
25 kill somebody? Do you think you got a reason to kill him?

1 A My -- not no reason to kill him, not to take his life.

2 Q You had a reason to beat his ass?

3 A Well, I got a reason to fight him.

4 Q Okay. So, you're --

5 DET. LEIBY: Didn't bother you that he was
6 gonna put your father in prison for a long time, maybe
7 forever?

8 A Well, let's face it. My dad been locked up before. I
9 wasn't -- my dad was only around until I was like, ah --

10 DET. LEIBY: But he was staying with you when
11 you got busted?

12 A Yeah. Me and my dad -- me -- me and my dad is close,
13 but I -- you do what you got to do. When you go -- you get
14 locked up, you get locked up, ain't nothing you can do about
15 it then.

16 DET. LEIBY: So, you said -- you're saying it
17 would be easy for you to do the 2 years and it didn't bother
18 you that Ron Lally was going to put you away for 2 years?

19 A (Inaudible.)

20 DET. LEIBY: How much did it bother you that
21 he might put your father in prison for a long, long time
22 because your father is a -- record was enough to -- to get
23 him put in for a long, long time, years?

24 That doesn't give you a little more reason, little more
25 motive?

1 A To kill him?

2 DET. LEIBY: Yeah.

3 A No, not to kill him.

4 Q Mr. Smith, you know, you make very much a light of this
5 thing that you're a very nice guy here. You get busted, put
6 you in jail for 2 years, and it doesn't bother you that much.
7 You know, I'll be honest with you. If I was in your business
8 and somebody snitched on me, it would make me very, very
9 angry.

10 You know, if I get angry sometimes, I might lose
11 control; and I think that happens to a lot of people
12 sometimes. I've seen people get killed out there for \$50,
13 \$10, for pack of cigarettes. Do you understand what I'm
14 saying.

15 Now, you're getting to a point here somebody's gonna put
16 you in jail for a period of time, you might be out of jail --
17 you know, you get to the point I'm gonna be highly irritated.

18 You know, I -- if I get in a fight with somebody, who
19 knows what might happen. I might go there with the intention
20 of just scaring somebody, and it gets out of hand. Maybe the
21 guy gets a little aggressive. And then he gets beat up, a
22 little bigger fight.

23 Do you understand what I'm saying? If I was fighting
24 you, all of a sudden, and it was -- my intention might be
25 just to hurt you a little bit or scare you; and then it

1 gets -- then it progresses from there to -- to something more
2 than what it is. Those things could happen.

3 Do you agree with that? Do you understand what I'm
4 saying?

5 A Um-hum.

6 Q Now, what I'm trying to get across to you is that if
7 there is a possibility that happened, be straight about it.

8 A What? That I got that mad?

9 Q Yeah.

10 A No, I don't get -- (inaudible) what that got to do with
11 (inaudible)? He knows what he's doing.

12 Q Did your dad -- what did your dad say after you found
13 out Mr. Lally was dead?

14 A Nothing. He was just like, you know, hey, should have
15 been (inaudible.) That was his words.

16 Q Well, how many people you think he told on?

17 A I -- I done heard he told on a whole bunch of people,
18 just like, uh, oh, Vernard as you know Vernard He used to
19 hang around -- you know Julius and Mark and Mike Bodiford and
20 them; and they -- I guess he was supposed to -- tried to get
21 them busted before, like they were -- he was supposed to rent
22 out his car for some dope and then he goes and turn around
23 and call the Police and say that he was fiending and renting
24 out his car and try to get them busted. And then I had heard
25 he told on some other people; but, as true as I know -- I

1 don't know 'cause -- 'cause I don't know who he talking
2 about.

3 Q For a fact, you know he's -- he's involved with your
4 case and -- plus with your dad's case; is that -- is that
5 true?

6 A Yeah.

7 Q So -- so, you heard this before, before you went to
8 trial, and you know that you were gonna go to trial on the
9 19th, don't you?

10 I'm sure your attorney told you.

11 A No, my --

12 Q Those are usually on Court records?

13 A My attorney said that I was going to go to trial the
14 19th; and then I asked him, could I get it postponed 'cause I
15 want some more time off.

16 So, he was like, he see what he could do there. Then,
17 he told me it was postponed. In fact, he told me I went to
18 Court the 19th. My dad told me he went the 28th.

19 I asked him, why do I have to go to Court the 19th; then
20 he -- I -- I told him, I said, my dad ain't going 'til the
21 28th; so he said he get it postponed to the 28th.

22 Q When did he tell you this? What -- what day was that?

23 A It was probably -- maybe a week, a weekend -- maybe
24 between a week and week and a half before the 19th because my
25 dad had told me he wasn't going to Court 'til the 28th; and

1 then, when I called my lawyer, he said I was going the 19th.
2 I said, well, I'm not going -- I said, well, I'm not going
3 the 19th, and my father's going the 29th. I said, can I get
4 mine postponed to the 28th.

5 He said he see what he can do. He said he didn't know
6 my dad was going 'til the 28th.

7 Q Okay. So you had your Court case on the 19th. What did
8 you do prior to your Court day, the day before?

9 Do you recall what you did? Let's kind of go step by
10 step.

11 DET. LEIBY: Should -- should make it easy for
12 you to remember that day now that you know that it was the
13 day that you were supposed to go to Court.

14 A The day -- the day (inaudible) to go to Court.

15 Was on a -- it was on the 18th he said?

16 Q You was going to go to the Court on the 19th. What did
17 you do the night before?

18 DET. LEIBY: Go to Court on the 19th, we're
19 curious what you did on the 18th?

20 A On the 18th?

21 DET. LEIBY: That evening?

22 A The night before I went to Court, I had went out
23 downtown.

24 Q Okay. Where in downtown? It's a pretty big area?

25 A I was in Power Slam. In fact, I stayed at Power Slam.

1 Q Okay. What time did you go to Power Slam?

2 A About, um, -- like around 9:00, 9:30.

3 Q 9:00, 9:30 at night, p.m.?

4 A Yeah.

5 Q Okay. Prior to going to power -- this place called
6 Power Slam, where did you go prior? Where was you at before
7 you went -- went downtown?

8 A At home.

9 Q Okay. And where's that at?

10 A At 129 David Drive.

11 Q 129 David Drive. So you left 129 David Drive. What
12 time -- were you there all day? Half a day? What?

13 A I was -- I was there pretty much the whole day; and
14 then, later on that night, I got dressed; and I went to Power
15 Slam.

16 Q Okay. How did you get down from your house to Power
17 Slam?

18 A I drove.

19 Q You drove. What kind of car did you drive?

20 A Um, a Ford Taurus.

21 Q Ford Taurus. What color was it?

22 A Gray.

23 DET. LEIBY: Didn't you have your Grand Prix
24 then?

25 A Yeah, yeah, I was -- I had it -- I had it put up the

1 whole winter, getting worked on.

2 DET. LEIBY: That was a blue one, right?

3 A No, the Grand Prix.

4 DET. LEIBY: Yeah, what kind of car was it I
5 fixed your trunk on?

6 A That was a burgundy, ah, Cutlass, Oldsmobile.

7 Q Okay. Whose car was that? That's your other car?

8 A That's mine.

9 Q So you drove from David Drive down to Power Slam and
10 what kind of car was it?

11 A Um, Taurus LeSabre.

12 Q Taurus LeSabre; and it was a gray color, you said?

13 A Yeah, it was -- yeah it was a (inaudible.)

14 Q Who did you go down there with?

15 A Me -- it was me, my girl.

16 Q Which -- when you say your girl, what's her name?

17 A Tammy.

18 Q Tammy what?

19 A Green.

20 Q Okay. Where did Tammy meet you? Was she at your house?
21 Did you go pick her up or what happened?

22 A She was -- she stay with me.

23 Q She stays at your house?

24 A Yeah, we live together.

25 Q All right. So you and Tammy went. Anybody else?

1 A Um, I think that was it. That was -- it was just me --
2 no, me and her and my brother.
3 Q Which brother?
4 A Mike Smith, yeah.
5 Q Okay. The 3 of you then?
6 A Yeah.
7 Q Anybody else?
8 A Um, no, that -- I think that -- that was it 'cause my
9 brother was gonna go to Court with me in the morning.
10 Q Mike was?
11 A Yeah. So he -- he asked me -- he was like, you want me
12 to stay the night?
13 So I was like, I don't care. So then we went to a -- we
14 went to Power Slam.
15 Q About what time was that, again?
16 A About 9:30.
17 Q Okay. So you're at Power Slam?
18 A Yeah.
19 Q What are you doing there? Did you talk to anybody
20 there? Did you see anybody you knew?
21 A Mike, the owner.
22 Q Mike who? Do you know his last name?
23 A No.
24 Q The owner of Power Slam?
25 A Yeah.

1 Q So you talked to him that day?

2 A Yeah, I talked to him.

3 Q Do you recall what you talked about?

4 A No, we just --

5 Q Did you talk about your Court case?

6 A No, I never brought up my Court case. I just talked to
7 him about -- probably -- probably about getting a job because
8 he was gonna hire me as a bouncer. And he was gonna hire
9 me --

10 Q Did -- you're talking about a job. Is this before you
11 go into Court?

12 A Yeah.

13 Q Were you planning on going to jail the next day or
14 getting probation?

15 A No, 'cause my lawyer said that he probably get it
16 postponed 'til the 28th. So I asked him, I said -- I think I
17 told him -- I said, um, that -- that I need a job 'cause I
18 probably get on probation for this thing that I got in
19 trouble for.

20 So, he was like, well, talk to him later about it.

21 Then I shot pool the rest of the night. Then I left --
22 then I never brought it back up to him and went to -- right
23 after that, when that -- when that closed, I went to mom's
24 kitchen.

25 Q How can you be -- let's back up a little. What happens

1 at Power Slam? Anything out of the ordinary that night?

2 A Um, nothing.

3 Q Any fights in there?

4 A Not that I can recall.

5 Q Anybody yelling or screaming that you heard or anything?

6 A No.

7 Q Okay. So --

8 A When I go in there -- when I go in there, I go in there
9 to shoot pool and --

10 Q (Inaudible.) Do you remember?

11 A Um, just different people that came there. I don't
12 really know names.

13 Q Do you remember anybody specific?

14 A Um, usually when I go in there, I play with this guy
15 named --

16 Q Well, on this night, who'd you play with?

17 A I might have played -- I walked in with my girl, but --

18 Q (Inaudible) she played. You played with her?

19 A Yeah.

20 Q What's Mike doing?

21 A Drinking. Mike was drinking and, um, dancing, and then
22 I think I might have played pool with this guy named Ernie
23 'cause that's who I usually play pool with.

24 Q Are you drinking also?

25 A Yeah, but I wasn't -- I'm not a heavy drinker. I

1 only -- I only had like 2, 3 drinks.

2 Q Okay. So you're -- you're playing pool; and you're
3 drinking. And where do you go from there then?

4 You say you leave Power Slam?

5 A Yeah.

6 Q About what time?

7 A We left when it closed.

8 Q What time did it close? Do you recall?

9 A Um, like 2:30, bar time; so I left there and went to
10 mom's kitchen.

11 Q Mom's kitchen, downtown Elyria somewhere?

12 A Yeah, I -- I went in mom's kitchen, had me something to
13 eat; and then, after that, we left and went straight home.

14 Q So, you're talking about 2:30 you left Power Slam, went
15 to Mom's Open Kitchen, got something to eat?

16 Do you remember what you ate, just out of curiosity?

17 A No -- um, pancakes, fries and a cheeseburger.

18 Q Do you remember the waitress there who waited on you, by
19 any chance?

20 A No, I cannot remember the waitress. And then me -- and
21 then, when I left there, I had got paged, and I had to use
22 the phone right when I was pulling up; and I used -- I
23 knocked on Becky's door. She know I was home at 2:30.

24 Q Becky who?

25 DET. LEIBY: Leshner?

1 A Lesher, the Police's daughter.

2 Q Okay.

3 A I used her phone. I had to call one of my friends, and,
4 um, went back upstairs; and she knew I was there 'cause I had
5 woke her up. I didn't know she was sleeping.

6 Q So, you're back home about 2:30?

7 A Yeah.

8 Q Where's Mike? Is he with you still?

9 A Yes.

10 Q And Tammy's still with you?

11 A Yeah.

12 Q So you went to bed?

13 A Yeah.

14 Q What time did you get up the next morning?

15 A Ah-ah.

16 Q What was it, you got home at 2:30?

17 A Yeah -- no, no, I didn't get home at 2:30. I got home
18 after I got done eating, which was like about, like
19 quarter -- quarter after 3:00, might have been like quarter
20 after 3:00 'cause the bars close about 2:30, just 'til
21 about -- about time we got there and ate and everything else,
22 about a good half hour, 40 minutes.

23 So, it was about quarter after 3:00. Then I went to
24 Becky's house. And she was home, and I knock on her door --

25 DET. LEIBY: Did she have anybody there with

1. her?

2 A No, she was living by herself, and I'm gonna use the
3 phone real quick.

4 I can't remember who I called that day -- that night. I
5 called somebody; and then I sat up -- I sat -- I sat down
6 there for like 5 minutes talking to her; and then I went back
7 upstairs.

8 Q Where's Tammy and Mike at that --

9 A They was upstairs.

10 Q They already went upstairs?

11 A Yeah.

12 Q So you stayed at your house the rest of the night then?

13 A Yeah.

14 Q Do you remember -- do you recall what time you got up in
15 the morning?

16 A Um, I think my lawyer told me to be at Court at 8:30.

17 Q Where at? Be where?

18 A Um, at the big Courthouse.

19 Q Downtown Elyria?

20 A Yeah.

21 Q When you say the big Court, you talking about the County
22 Courthouse, where the trials are held? (inaudible.)

23 A Yeah.

24 Q Were you there?

25 A Yeah. I was there. I -- I can't remember exactly what.

1 time I got up; but I was there.

2 Q And your attorney is Mr. Ross?

3 A Yeah; and then I -- I think -- I looked around for him
4 'cause I was upstairs and downstairs looking around for him,
5 did not see him .

6 If I recall, he didn't even come to Court. And I -- I
7 called him from Court. I think he had paged me; and I called
8 him from Court -- he did. He paged me. He had paged my
9 brother 'cause my brother was like, what's this number;
10 'cause I had looked at it. It was my lawyer's number; and
11 then I called my lawyer. He said that it was postponed 'til
12 the 28th; so then we left from there.

13 Q You say we. Who -- who came to Court with you? Mike?

14 A Me, Mike and my girlfriend.

15 Q Okay. So then that's on the morning of the 19th then;
16 is that correct?

17 A Um-hum.

18 Q Okay. Now, from that point on, you said you had this
19 talk with a guy named Duane You don't recall what day that
20 was?

21 Work from the 19th. This is the 19th when you went to
22 the Court. It was before the 19th or after the 19th when he
23 told you -- that he told you.

24 A It was before the 19th.

25 Q Well, he couldn't tell you before the 19th. He told you

1 before the 19th that Ron Lally was dead?

2 A Duane -- Duane?

3 Q Yeah, the -- the Duane you described to us.

4 A Okay.

5 Q Who lived in the -- closest -- who lives by --

6 A Well, he told me -- he came over my house -- let me
7 think when this was.

8 The 19th of what?

9 DET. LEIBY: November 19th.

10 Q November --

11 DET. LEIBY: Before your birthday, right?

12 A Right.

13 DET. LEIBY: Yeah, just before your birthday.

14 Your birthday's 5 days later.

15 A Okay. Sometime about -- it was about -- I'm not sure,
16 about 5 weeks. He had came over to my house after that.

17 Q 5 weeks after that point?

18 A It might have been -- I can't -- I can't really tell.

19 Q The first time you heard about his death is 5 weeks
20 later?

21 A Um, no. Let me see. I don't know if it was 5 weeks.
22 First -- I know I heard it from him first.

23 I can't remember exactly when he came over.

24 Q You mean it was (inaudible.)

25 A (Inaudible.)

1 Q What happened on the 28th?

2 A 28th?

3 Q Yeah?

4 DET. LEIBY: Yeah, yeah, your Court day, what
5 happened then?

6 Q You had to go to Court the 28th, and that's Friday.

7 That's your birthday, say 2 weeks after on the 19th.

8 Well, I'm sorry. It's only like the 19th.

9 A Wait a minute.

10 Q You had your first Court date the 19th. Your second
11 Court date is the 28th, is that correct?

12 A April 28th.

13 DET. LEIBY: When did they -- they moved it
14 all the way to April?

15 A I -- I got my -- I got my months -- I got my months
16 confused.

17 Q Okay. November is your first Court date?

18 A Okay. Goes October, November.

19 Q November --

20 A December.

21 DET. LEIBY: January -- we're in March, April.

22 Q When was your second Court date?

23 A After the 19th. It was -- I think it was December 28th.

24 Q Now you said December 28th you went to Court. What
25 happened then?

1 A Let me think. Um, I can't recall. I can't recall the
2 month. See --

3 DET. LEIBY: All right. So you --

4 A I'm kind of -- I'm kind of slow in my mind.

5 Q That's okay. (inaudible.)

6 A -- less than a month. Regardless, when I -- I can't --
7 I can't a -- I didn't go -- I didn't -- I talked to my lawyer
8 like, maybe like my last -- the last trial that I was
9 supposed to go to, after -- after they found out he was dead,
10 the last trial I was supposed to go to, I called my lawyer;
11 and I had asked him, did he hear about it. I said, 'cause I
12 keep hearing about it.

13 Then he told me that he did not hear nothing about it.
14 So then I called him like a week later to 2 weeks -- after
15 you picked up a couple of my friends, I had called him like a
16 week after that; and I said, well -- I said, I think he's
17 dead because Leiby is picking up a couple of my friends and
18 asking -- he was questioning them. He said --

19 DET. LEIBY: No, when I start picking up your
20 friends, how much before that had you been told by Duane that
21 he was dead?

22 A How many days or weeks you mean?

23 DET. LEIBY: Yeah. How much before that?

24 A Like about a week.

25 DET. LEIBY: I mean, you know --

1 A Not even -- I don't even think it was a week.

2 DET. LEIBY: You remember when I picked up
3 Hopkins? How long before that was it that he told you he was
4 dead? How long before I picked up --

5 A About --

6 DET. LEIBY: -- Hopkins did you know he was
7 dead?

8 A I don't -- I don't even think -- I don't know if it was
9 a week for sure. I -- I don't even think it was a week. I'm
10 not sure.

11 DET. LEIBY: Um-hum, that's the date we're
12 talking about there.

13 Q Let me ask you this. If you was a Policeman and this
14 situation happened, what would you think?

15 A If I was a Policeman?

16 Q Um-hum. Straight up?

17 A Well, if I was a Policeman --

18 Q You're a Policeman, I'm Danny Smith, I'm involved in the
19 (Inaudible.)

20 A I think you did it for simple fact you was -- you was
21 supposed to sell drugs to him. He was supposed to wire it up
22 on you; and I think he did it.

23 If you didn't do it, then you know who did it. If you
24 don't, then I'm -- I'm going to suspect you all -- at all
25 time.

1 DET. LEIBY: We've -- we've finally
2 established a motive. You'll agree to that?

3 A Um-hum.

4 DET. LEIBY: And do we have opportunity here?
5 Your best friend, Stanley Jalowiec --

6 A Uh-hum.

7 DET. LEIBY: -- has a rather close, personal
8 relationship.

9 A Um-hum.

10 DET. LEIBY: -- with Ronald Lally and --
11 and -- and would have no difficulty at all encouraging Ronald
12 to go somewhere with him. Even to go somewhere with him; and
13 you -- if he told Ronald was everything -- everything was
14 okay.

15 Do you concede to that?

16 A Wait? I don't understand what you're --

17 Q You understand --

18 DET. LEIBY: What I'm saying is that he and
19 Ron were tight enough, Stan, he would do anything you told
20 him to do; and, correct me if I'm wrong there, Stan pretty
21 well followed you like a puppy?

22 A Yeah, but --

23 DET. LEIBY: And would do anything that you
24 told him to do. Tell me that's wrong if it is -- but that's
25 what I've been told by all your friends.

1 Stan would do whatever you told him to do.

2 A Yeah, I set some limits now. He wouldn't do everything.

3 DET. LEIBY: You're saying he wouldn't kill
4 somebody, but he'd do anything shy of that just about?

5 A No, not shy of that. No, I wouldn't say all that.

6 DET. LEIBY: Okay. But backing back up to
7 opportunity -- we've established motive -- the opportunity,
8 Stan and Ron have a close personal relationship. They're
9 friends. They've been friends for a while; and Ron will
10 pretty much do what Stan asks of him because of that
11 relationship.

12 Q Do you agree with that?

13 A I -- I -- I don't -- you all got me confused.

14 Q We don't want to confuse you. We're just trying to --

15 A No --

16 DET. LEIBY: And I will repeat it as many
17 times as --

18 A Can you turn it off?

19 DET. LEIBY: Yeah, I can turn it off.

20 Q Okay. (Inaudible.) Let's turn the tape off. The time
21 now is 11:37 p.m.

22 A Yeah, I got --

23 (Short pause on tape.)

24 DET. LEIBY: Restating the tape. Go ahead.
25 It's your watch. You started it.

1 LT. MEDDERS: Okay. The time is -- we already
2 set the tape -- is 11:45.

3 Q Mr. Smith, do you (inaudible) take it --

4 A Yeah.

5 Q You -- you asked to have the tape turned back on? Is
6 that correct?

7 A Yeah.

8 Q Okay. Just for the record, we are back on tape, and you
9 are still advised of your rights; is that correct?

10 A Yeah.

11 Q Okay. During the conversation -- let me ask you this,
12 do you want what's up on the record as far as you do some
13 information here on this case?

14 What are you looking for? Just what do you want on tape
15 here. He said you might have some information on this case;
16 is that correct?

17 A No, I said I can get some, probably.

18 Q Okay.

19 A I'm not saying I can. I'm not saying I can't.

20 Q So, there's a possibility you can get some information
21 in this case, is that -- is that correct?

22 A If I ever get back on the streets.

23 Q Now, who you going to get this information from? Who do
24 you think you can get it from?

25 A Ah, to ask around --

1 Q Let me ask you this: Who you going to ask to get
2 information in this case?

3 A Well, I'll probably say -- talk to -- I really don't
4 know. I -- I won't answer that.

5 DET. LEIBY: You don't think Stan did this?

6 A No, not that I know of. But, maybe -- I don't know.

7 Q Do you own any handguns?

8 A No, never have.

9 Q You never have. Does any of your friends own a handgun?

10 A (Inaudible.) No.

11 Q Let me ask you this. Being a very top drug dealer or
12 mid level drug dealer or street drug dealer -- what -- what
13 area would you put yourself?

14 A You mean top to bottom?

15 Q Yeah, top to bottom?

16 A Bottom.

17 Q I mean, are you getting rich off this business?

18 DET. LEIBY: Were you before somebody went to
19 jail a couple weeks ago?

20 A No. Who you referring to?

21 DET. LEIBY: Who do you think I'm referring
22 to?

23 A I don't know. You tell me.

24 DET. LEIBY: The man who was driving
25 (inaudible) for you on a regular basis.

1 A (Inaudible) off of me -- off of me on a regular basis.

2 DET. LEIBY: The man who was driving that blue
3 pickup truck.

4 A I don't know.

5 Q A ballpark, what kind of money you make on things a
6 year, counting everything?

7 A I don't know 'cause I really don't do it.

8 DET. LEIBY: Do you work anywhere else?

9 A I was working for Erie Temps in Cleveland; but I just
10 started there. I was supposed to go and start on Tuesday for
11 construction.

12 Q Danny, the bottom line is you're making enough money to
13 live on, is that correct, and you're not getting it from --
14 from a regular job? So, you got to be getting that money
15 somewhere; so I assume you're dabbling a little bit into
16 drugs?

17 A No, kind of -- well --

18 Q -- income.

19 A Well, I got -- I got my girl. She works.

20 Q She gives you all her money? How much money does she
21 make?

22 A Um --

23 Q Let's -- let's cut --

24 DET. LEIBY: Where does Tammy work at? What
25 does she do?

1 A Dance.

2 DET. LEIBY: Where she dance at?

3 A In Cleveland.

4 DET. LEIBY: What's the name of the club?

5 A Sam's.

6 DET. LEIBY: Sam's? She work as a waitress
7 anywhere or anything or just dance?

8 A Dance.

9 DET. LEIBY: What's her name again?

10 A Tammy.

11 DET. LEIBY: Last name?

12 A Green -- Green.

13 DET. LEIBY: Did her name used to be Cruz?

14 Somebody told me her name was Tammy Cruz?

15 A No, it's not Cruz.

16 DET. LEIBY: Okay. Where's Sam's at?

17 A On W. 25th.

18 DET. LEIBY: Did you ever go up there and
19 drink?

20 A Ah, yeah, I know the owner. He's pretty cool.

21 DET. LEIBY: What's the owner's name?

22 A His name's Nick.

23 DET. LEIBY: Nick?

24 A Yeah.

25 DET. LEIBY: Do you know Nick's last name?

1 A Un-huh.

2 DET. LEIBY: You ever taken Stan up there?

3 A No, um.

4 DET. LEIBY: Keep it in mind I'm going to get
5 ahold of Nick and talk to Nick and ask if he's ever met Stan.

6 A No, Stan -- Stan came up there once, but he wasn't with
7 me. He was already out there. Stan --

8 DET. LEIBY: Stan has been up to Nick's or up
9 to Sam's?

10 A Yeah, once he -- I was up there. Then he came up there,
11 like later on that night, and talked to me. Then he had
12 left, but, ah, if he -- if he went up there any other time, I
13 don't know.

14 DET. LEIBY: Do you know what night that was
15 that you and him were up there together?

16 A No, I can't even recall it and then I don't know.

17 DET. LEIBY: Do you know what month it was?

18 A It was, ah, last month.

19 DET. LEIBY: It wasn't before Christmas then?

20 A No.

21 DET. LEIBY: Last year -- you never had no --

22 A No --

23 DET. LEIBY: Up there last year?

24 A She wasn't even working there.

25 DET. LEIBY: Where was she working at? Where

1 was she? Where was Tammy working in November?

2 A Um, she was working at a -- what's the name of that
3 club -- Teasers. That's down the street.

4 DET. LEIBY: Teasers. So, in November she was
5 working at Teasers?

6 A I think. I -- I don't know if she just started at Sam's
7 or just quit Teasers or what. I don't --

8 DET. LEIBY: (Inaudible) you know it was
9 either Teasers or Sam's?

10 A Yeah.

11 DET. LEIBY: Do you know who owns Teasers? Do
12 you know that guy?

13 A I know -- um, his name's a -- she told me his name. I
14 just know his name from her. I -- I -- him I don't know.

15 DET. LEIBY: Had Stan ever been up to Teasers
16 with you?

17 A (No response.)

18 DET. LEIBY: Not at all, never been there with
19 you?

20 A No, not -- not that I can --

21 DET. LEIBY: (Inaudible.)

22 A He never been with me, not that I can remember. Oh,
23 wait a minute. Yeah, yes, he went one time. He went one
24 time with me; and I can't remember when. It was a long time
25 ago.

1 DET. LEIBY: But would that have been like
2 October, November that Stanley was up to Teasers with you?

3 A No, it was before that.

4 DET. LEIBY: Okay.

5 A See, I really don't -- I don't -- I don't.

6 DET. LEIBY: I understand.

7 A -- know Cleveland area; and I don't -- that's as far as
8 stuff like that -- I don't know.

9 Q The question is, how'd you feel about going to jail for
10 murdering this guy?

11 A How I feel?

12 Q Yeah.

13 A Ha, fucked up.

14 Q Why?

15 A 'cause I know I didn't do it, so I --

16 DET. LEIBY: How would you feel about taking a
17 polygraph test then?

18 A Say --

19 Q A lie test.

20 DET. LEIBY: Lie detector?

21 A I don't know 'cause I heard those run off -- off of your
22 nerves, and just like somebody told me before, if they pulled
23 them off of a street for a murder case and I don't think a
24 polygraph gonna be able to tell that.

25 DET. LEIBY: They -- they dial it in, okay?

1 They adjust it according to how nervous you are. There's a
2 lot of nervous people take polygraphs. They just dial it
3 down a little bit. You can be totally nervous. That's --
4 that's a fallacy.

5 They will adjust the machine to your state of mind,
6 just like when you hear about people taking Valium and
7 putting a pin under their arm so they can poke themselves
8 when they're not lying and all these other weird things you
9 hear about polygraph, that's bull.

10 The BCI, Bureau of Criminal Investigation, is the state
11 agency in Ohio that does our polygraph examinations. If you
12 took a polygraph, you'd have to go up to Richfield, I believe
13 it is, and he's one of the top polygraph operators in the
14 state; and if you did it, before you left, he would know you
15 did it.

16 If you didn't do it, then, when you left, he would tell
17 me, this guy ain't involved in this, and this guy don't have
18 any knowledge of it.

19 But, understand, that if you go up there, if you didn't
20 do it but you know who did do it, and he asks you, did you do
21 it, and you say no, I don't know nothing about it; then it's
22 going to say you're lying.

23 It's gonna show deceit.

24 A Um-hum.

25 DET. LEIBY: You go in there and tell the

1 truth right down the line, and he'll be able to tell that.

2 Q We're not -- we're not going to question you anything
3 else -- you know what trace evidence is?

4 A (No response.)

5 Q Trace evidence is fibers, hairs, skin, shavings, stuff
6 underneath your fingernails.

7 Would you have any problems with giving us some samples
8 of hair?

9 A Sure wouldn't.

10 Q Now, you understand I'm not doing this 'cause I'm just
11 curious about your hair, but, usually, when people are
12 involved in a violent like death, it's called a transfer of
13 body parts.

14 A Um-hum.

15 Q If you and I get in a fight, you're gonna have some of
16 my hair and your -- vice versa. You understand that? You
17 wouldn't have any problems if we do a little comparison on
18 that?

19 A Yeah.

20 Q It wouldn't bother you one bit? You'd voluntarily do
21 that?

22 A Yeah.

23 Q Okay. I'm not going to say we'll do it now, but when we
24 have the technicians.

25 A Yeah.

1 Q Do you understand that?

2 A Whenever, it don't -- I'll take hair, skin, whatever.

3 DET. LEIBY: What about polygraph?

4 A That I don't know. I heard so much about that. I have
5 to think on that and let you know, you know.

6 Q Danny, let me ask you this: if you did kill this guy,
7 would you -- you tell us?

8 A If I did it?

9 Q Yeah.

10 A If I did it, I probably break down and tell you; but I
11 know I didn't do it.

12 Q There's no doubt in your mind you had nothing to do with
13 this murder?

14 A No, I didn't.

15 DET. LEIBY: And you have no -- as you sit
16 here right now; you absolutely cannot give me any information
17 that might lead to the arrest of the person who did do it?

18 You have absolutely no idea of who may have been
19 involved in this?

20 A Not right offhand. Like I -- like I told you no
21 earlier.

22 DET. LEIBY: You got some suspicions? You got
23 somewhere you want to go when you get -- if -- you keep
24 saying if you get back on the street.

25 If you get back on the street you got somewhere you want

1 to go to check something?

2 A I just want to go and -- and, um, see, it's easier for
3 me to go out there and talk to people and see what's --
4 what's really -- just like that lady come up to me -- well,
5 she didn't come up to me. We were sitting there down at
6 Nay's. She sit up there telling me stuff. I mean, she was
7 like -- she told me -- she was like, well, don't tell nobody
8 but I heard that whoever broke in the -- in the -- his
9 apartment is the one that did it.

10 Then I go like, who told you that? She was, well, I
11 know the -- I guess she knows the manager there, whoever owns
12 them apartments or the managers or whoever runs that place.
13 She must know them real good; and that's -- and he had told
14 her that. Then she came and told me that.

15 DET. LEIBY: And what's this girl's name that
16 you're talking to?

17 A I -- I do not know her. She was sitting up by Nay's
18 getting her car done. And I was sitting up there --

19 DET. LEIBY: Where?

20 A Nay's.

21 DET. LEIBY: Where's Nay's at.

22 A Corner of Bell and Lake Avenue.

23 DET. LEIBY: Oh, that gas station there?

24 A Yeah, right across the street.

25 DET. LEIBY: Well, how did you get to talking

1 to her about it if you don't even know who she is? How'd she
2 know to talk to you about it to start with?

3 A Well, see, because I was -- like I say, I was reading --
4 I can't remember what it was. I was reading the newspaper;
5 and, ah, I had seen something about it said in the paper
6 about him, about all it said, Elyria man found in Cleveland.
7 Then I asked her, I said -- 'cause she said she knew my
8 brother.

9 So I talked to her, I said -- I said -- um, by the way,
10 I say, he -- did you hear about that dude that, um, that got
11 murdered?

12 And she said who; and I said, a white dude named Ron?

13 At first she said no. And then she said, wait a minute,
14 she said, lived over there on Middle Avenue.

15 And I said, yeah; and she said, yeah, I heard about
16 that, 'cause I was like, yeah, they try to pin me for that I
17 heard, ah, because they picked up a couple of my friends
18 'cause he had --

19 DET. LEIBY: Why was Hopkins telling people
20 you did it?

21 A Who?

22 DET. LEIBY: Hopkins.

23 A Telling what?

24 DET. LEIBY: That you did it?

25 A I don't know. I -- I couldn't say why. We're friends

1. but nothing like that.

2 DET. LEIBY: Well, he stayed at your house or
3 used to stay at your house, right? He don't now but --

4 A (Inaudible.)

5 DET. LEIBY: -- for a while he was staying at
6 your house, wasn't he?

7 A No, he -- he only stayed for like a couple weeks 'cause
8 one day he really -- he really wasn't even there 'cause him
9 and his girlfriend was always in places, like rooms.

10 So he was never there and then, um, he went back to his
11 sister's house and was staying there, so he really didn't
12 stay at my apartment. He stayed a couple nights.

13 DET. LEIBY: He indicated to me he stayed
14 there a couple weeks. Okay?

15 A Yeah, he didn't -- he didn't -- he doesn't visit all,
16 but, you know, I have known him from school. You know, we're
17 friends but I ain't going to say we are best of buddies in
18 the world or sidekicks.

19 Q Here, I got another question. If you was on a jury and
20 you heard the evidence against you -- yourself, what would
21 you think?

22 A If I heard what?

23 Q If you heard this story about this -- this case, Ron
24 Lally and yourself, what would you think.

25 Do you think you would be guilty?

1 A If I was on the jury trial?

2 Q Yeah.

3 A I wouldn't think -- I wouldn't think so. If the man had
4 been -- didn't know nothing about it, hey.

5 Q Like I told you before, you know the odds of things
6 happening. This man dies the day before your trial.

7 A Um-hum.

8 Q We think the odds (inaudible) --

9 DET. LEIBY: He snitched on you.

10 Q Even if he's holding back, he snitched, and we all know
11 that. You know that?

12 A Yeah, but see, like I said, I didn't know, I was even
13 going --

14 DET. LEIBY: He didn't just snitch on you. He
15 snitched on your dad, too?

16 A Yeah.

17 DET. LEIBY: That was gonna put you and your
18 father in jail. It was going to do your family pretty good;
19 and you knew you were going on the 19th 'cause the night
20 before the 19th you guys went out drinking and then that
21 following morning you and your brother went to the Court. So
22 you knew you were going to Court on the 19th. You were there
23 that next morning, or at least you've indicated to us on tape
24 that you were there that -- in Court on the morning of the
25 19th?

1 A Yeah, yeah, I called my lawyer from Court 'cause I asked
2 a couple people around there, who worked there, I asked them,
3 ah, was Michael Ross in yet, if they seen him around.

4 Q Okay, Daniel, let's lay this thing out over here. Now,
5 if you're going to go to Court the next day and you know
6 you're going to be doing some time, and all you're gonna do
7 is scare this guy off, back him off, wouldn't you do
8 something like that?

9 A Would I do something like that? You know if it was
10 me --

11 Q Think about this now. We're talking about you're out
12 there, aren't you?

13 A Yeah.

14 Q You already told everybody you're gonna whip his ass? I
15 mean that's on the street. You know that; and I know that.

16 A Um-hum.

17 Q You're going to whip his ass. The reason you're gonna
18 whip his ass is why?

19 A Well --

20 Q How you gonna whip his ass? Let's -- let's break that
21 down a little bit here --

22 A For the fact that he snitched on me.

23 Q Okay. Well, what are you gonna gain by whipping his
24 ass?

25 A Nothing really. Like -- say, like I said, at the time I

1 was there.

2 Q I understand.

3 A But after that, then I realized, hey, fuck it, you know.
4 I didn't do nothing to him and then never seen him again
5 after that.

6 Q All right. For the sake of argument, say you did see
7 this guy and you're pissed off 'cause he snitched on you, and
8 you guys get in some kind of fight.

9 Do you think it's a possibility that fight got out of --
10 out of control?

11 A Un-huh, you mean, out of control is --

12 Q If you and I are getting in a fight, say I snitched on
13 you. I'm Mr. Ron Lally.

14 A Um-hum.

15 Q You and I fight. You don't think that fight could get
16 out of hand? Did you ever lose control when you're fighting?

17 You never got to the point you just want to really kill
18 somebody?

19 A Un-huh.

20 Q You never been that mad?

21 A Never.

22 Q How mad did you get when you --

23 A I'm not -- I'm not an easy person to get mad.

24 Q How often do you fight with -- have you ever been in a
25 fight before?

1 A 2 times.

2 Q What happened during those fights?

3 A Not -- just couple -- a couple of punches was thrown and
4 that was it. It was not no -- not no long-term fight.

5 DET. LEIBY: How about when you was in the
6 joint? Did you do any fighting (inaudible) in that?

7 A No. Some dude sucker-punched me and didn't do nothing
8 to him then. It just -- I gotta get -- I got -- I don't get
9 mad easy; and I'm not -- I'm not the type of person -- it
10 takes a long time to piss me off.

11 (End of first side of tape.)

12 (Start of second side of tape.)

13 Q And Ron Lally's snitching this time; is that correct?

14 A Excuse me?

15 Q You got 6 cases. I -- just so you understand, I know
16 nothing about your cases.

17 A Um, hum.

18 Q All right. So don't take anything I say like I know
19 about it. I don't get involved in that drug aspect.

20 Do you understand that?

21 A Um, hum.

22 Q I know actually nothing about your drug cases. Let's
23 face it. Do you know how you got busted this time?

24 A Ah-ah.

25 Q You have no idea? Somebody had -- somebody had --

1 something had to happen for you to get caught.

2 You understand that? You had to sell drugs to somebody.
3 You're charged with trafficking.

4 Do you understand that?

5 A Um-hum.

6 Q You have no idea how that happened?

7 A (No response.)

8 Q You don't know who, what or anything.

9 Are you gonna try to find out if you get out?

10 A No, I don't (inaudible.) I can't even start thinking of
11 that.

12 Q You had -- have no idea who -- who busted you this time?
13 We know it's not Ron Lally, is that true?

14 A Um-hum.

15 Q Let's face it. He's not around to be the snitch, is
16 that correct?

17 A Um-hum.

18 Q Well, the question I'm trying to get at is, if you get
19 out again is there a possibility (inaudible) this thing?

20 Is somebody like Mr. Danny Smith allowed to go out and
21 kill somebody so they don't testify again? You see what I'm
22 saying now?

23 This is what it looks like to me.

24 A Well, um, well, like I said, um, I heard something about
25 him being in the KKK.

1 Q And who's in the KKK?

2 DET. LEIBY: Lally.

3 A Lally.

4 DET. LEIBY: That was a rumor (inaudible)
5 circulated after he died.

6 A Oh, see and I heard something about he was going to
7 Lodi; and on his way back, that's when it was supposed to
8 happen. Now, that's what I heard. You see what I'm saying?

9 That's just what I heard.

10 Q Now, who told you that?

11 A (No response.)

12 Q (Inaudible) just kind of checking and going out?

13 A Yeah, yeah, basically.

14 Q How many friends do you think Mr. Lally has?

15 A (No response.)

16 DET. LEIBY: Lally was a fiend? Is it safe to
17 say that? Could he get to fiending on a regular basis? For
18 crack?

19 A Um-hum.

20 DET. LEIBY: So, he got to fiending on a
21 regular basis. I mean he'd lose all common sense pretty
22 regular for cocaine?

23 Q Is that true or not? You tell me.

24 A You mean -- I -- I don't understand what you're -- I
25 mean --

1 DET. LEIBY: Ron Lally had a really bad drug
2 habit.

3 Q Is that true?

4 A Oh, not that I -- I ain't never seen him fiend out. I
5 know -- as far as you say fiend. I never seen --

6 DET. LEIBY: Didn't -- didn't he carry a
7 microwave oven over to your house and trade it to you? I'm
8 not saying trading to you for what, but did he -- didn't he
9 trade a microwave oven to you?

10 A He asked me did I want to buy one.

11 DET. LEIBY: And if he stole that out of his
12 girlfriend's house that'd be a pretty good indication he was
13 fiending, wasn't it?

14 A See, I didn't know if he did that.

15 DET. LEIBY: I'm not saying he did. I'm just
16 saying --

17 A Yeah, he -- he said we came over -- asked me.

18 Yes, he did, did I want a microwave.

19 I told him, I said, ah, I said, yeah.

20 He said, well, he has one. He asked me if I wanted it.

21 He asked me how much would I give him.

22 I said I'll give him \$50. So he brung it over.

23 Q Okay. Mr. Smith, if we check out what -- on your
24 whereabouts, are we gonna find out you was telling us the
25 truth on this?

1 A Yeah.

2 Q No doubt in your mind about it?

3 A No.

4 Q There's no doubt in your mind you didn't kill Mr. Lally?

5 A No doubt.

6 Q You didn't tell (inaudible.) You don't know nothing
7 about it?

8 A No.

9 Q So help you God, you had nothing to do with this thing?

10 A Right.

11 Q Are you a religious person?

12 A Um, what you mean as --

13 Q You go to church?

14 A No, I don't go to church.

15 Q So, you have no -- you have no fear that we're gonna
16 find out you're lying to us; is that correct?

17 A Right.

18 Q So, if anybody tells us you killed this man, you're
19 lying to us?

20 A Yeah.

21 Q And you're being honest with me right now?

22 A Yeah, and if they say --

23 DET. LEIBY: You really didn't say about the
24 polygraph.

25 Would you -- would you take the polygraph to back up

1 what you're telling us here that you are telling us the
2 truth?

3 A I -- I have to think about that one.

4 Q So, basically, you're telling me, yes, you do sell
5 drugs. This guy did snitch on you; but I wouldn't kill him,
6 that he snitched on me?

7 A Right.

8 Q You're a (inaudible) time drug dealer. You know, I
9 been -- I been doing this job a long time. Most drug dealers
10 I know, they'll kill you the minute you snitch on them.
11 Isn't that a true statement? Isn't that usually what's going
12 on on the street?

13 A True, real true.

14 DET. LEIBY: Or get some fiend to do it.
15 Here, here's \$50 worth of rock, go take care of my problem
16 for me.

17 Q Just a minute. Off the record, what kind of drug dealer
18 are you? I mean, you don't -- you don't even fit the mold
19 here.

20 A I'm not --

21 Q You're telling us you're a nice guy.

22 A I know -- I told you I'm not -- I'm not like, ah, no big
23 time top seller or nothing like that.

24 Q You -- you understand, drug dealers, people that sell
25 drugs usually are very -- let's say they get violent if

1 people snitch on them. That's how they try to stay in
2 business.

3 Is that true? And you're saying you're a nice type drug
4 dealer. Are you like your local business store owner or
5 something? I don't understand. You know, you don't fit the
6 mold for a drug dealer here? Is what you're tell me --

7 A Right, you're right.

8 Q So, anybody can snitch on you, and you're not gonna
9 get -- you're not going to do anything about it?

10 A Basically, nah, some -- if he knew that I -- I went
11 through a lot and I ain't never did -- just didn't do
12 something about it.

13 Q So, (inaudible.)

14 A (Inaudible) if, you know, somebody steals your car, you
15 know who did it, you gonna do something about it?

16 Q Who? Me?

17 A Yeah.

18 Q Yeah, probably.

19 A Okay. See --

20 Q (Inaudible.)

21 A I know nothing. I know somebody stole my car, took
22 everything I had out of it.

23 DET. LEIBY: Who stole your car?

24 A Na, I don't want -- I -- I'll just let him go. He -- if
25 he want a -- if he want a radio system that bad, he can go

1 ahead and have it.

2 DET. LEIBY: Mr. Smith, the odds are these --

3 Q Well, what I'm getting from this thing, you make most of
4 your money from selling a little bit of drugs on the street;
5 is that correct? You don't work to make your money; but
6 you're saying that if someone cuts off your -- off your
7 income, you're not gonna get pissed about it?

8 A No, except we don't do it that much -- I -- I told you
9 my girl has a job. That's how the rent gets paid. I really
10 don't even do nothing.

11 DET. LEIBY: You doing the (inaudible) at all
12 yourself? You using it?

13 A No.

14 DET. LEIBY: Your girlfriend using it at all?

15 A Not -- not -- she don't even smoke weed. She don't.
16 She barely even drinks.

17 Q I mean, you probably heard me for a minute. I've been
18 on the street for a long time. And I've arrested a lot of
19 drug dealers.

20 A Yeah, (inaudible.)

21 Q I have never heard of a guy with your attitude in drugs.
22 Now, why is that?

23 A I'm telling you.

24 Q Are you unique?

25 A Probably. I don't know. I'm just saying -- I'm just

1 saying like everybody else.

2 Q And you didn't kill this guy?

3 A No.

4 Q You didn't get in a fight with him even?

5 A No.

6 Q But, you told everybody you was going to whip his ass,
7 but you didn't get in a fight with him?

8 A Right.

9 LT. MEDDERS: Okay. Do you have anything else
10 on him?

11 DET. LEIBY: No.

12 Q' Do you have any questions you want to ask us about this
13 case?

14 A No.

15 Q You're not going to be (inaudible.) this. We've been
16 asking you a lot.

17 A (No response.)

18 Q Are you curious about anything?

19 A No.

20 Q Do you think you're gonna be charged with aggravated
21 murder?

22 A No. if I do, it shock the shit out of me, like to know
23 how. Just charge anybody with murder, I guess.

24 Q I'm just asking. You told -- I wonder what your frame
25 of mind is at this point in time?

1 A No.

2 Q All right. Just -- have we treated you fairly here?

3 A Yeah.

4 Q We make you tell us anything you didn't want to tell us?

5 A No.

6 Q Okay.

7 DET. LEIBY: You -- you got the opportunity to
8 use the bathroom and get a drink -- drinks from the fountain
9 there if you wanted to?

10 A Yeah.

11 Q This is a voluntary statement?

12 A Right.

13 Q All right. Want to -- want to give your name again, Mr.
14 Smith.

15 A Excuse me?

16 Q Just say your name again for the tape.

17 A Danny Smith.

18 Q And the time now is 12:10 a.m. on the 29th.

19 You want to take a look at my watch?

20 Is that correct?

21 A Yeah. What time?

22 Q 12:10 I said. Is that correct?

23 A Ah.

24 Q Can you see my watch?

25 A Yeah.

1 Q Is that the right time?

2 A Yeah, about 9, 10.

3 LT. MEDDERS: Okay. we're gonna turn the tape
4 off at this time. Go ahead, A1.

5 (End of tape.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

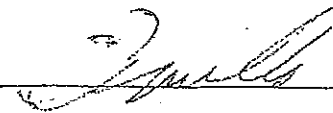
24

25

C E R T I F I C A T E

The State of Ohio,)
County of Lorain.) SS:

I hereby certify that the foregoing is a true,
correct and complete transcript of the audiotape in this
matter taken by me from my stenographic notes, and that
said complete transcript has been compared to my
stenographic notes.



Orie Camillo, R.P.R.

Camillo Court Reporters

589 W. Broad Street

Elyria, Ohio 44035

(216) 323-3381

1 Complete Transcript of audiotape of interview between Daniel
2 D. Smith and Det. Alan Leiby on January 7, 1995.

3 (Start of Tapes)

4 DET. LEIBY: Today's date is 1/7 of 1995. The
5 time is about, ah, 17 minutes after 8:00 in the evening,
6 location is Elyria Police Department, 601 W. Broad Street.
7 Present for this interview is myself and Dan Smith.

8 EXAMINATION OF DANIEL D. SMITH

9 BY DET. LEIBY:

10 Q Before you say anything else, Dan, I want you to
11 understand that I'm investigating the aggravated murder of
12 Ronald Lally. You are a suspect. You are in custody. And
13 with that in mind, I'm gonna read to you your Miranda
14 Warning.

15 You have the right to remain silent. Anything you say
16 may be used against you in a Court of Law. You have the
17 right to talk to a lawyer and have him present with you while
18 you're being questioned.

19 If you cannot afford to hire a lawyer, one will be
20 appointed to represent you before any questioning if you
21 wish. You can decide at any time to exercise these rights,
22 not answer any questions or make any statements.

23 A What's exercise?

24 Q Use them. I mean, you can -- you can talk for a couple
25 minutes and then say, fuck it, I'm done talking; I -- I want

SUPREME COURT OF OHIO
CASE NO. 98-912
DATE REC'D 6/1/98

SUPREME COURT OF OHIO
CASE NO. 98-1074
DATE REC'D 6/17/98



1 a lawyer now.

2 You know that once you waive these rights doesn't mean
3 you've waived them permanently. It means you can call them
4 back into effect any time you desire.

5 A Um-hum.

6 Q You understand that now? Do you understand each of
7 these rights as I've explained them to you?

8 A Um-hum, yes.

9 Q Having these rights in mind, do you want to talk to me
10 about this incident?

11 A About what happened that night?

12 Q Yeah, about the homicide of Ron Lally.

13 A I told you.

14 Q Having these rights in mind, I need a yes or no answer.

15 A Ah.

16 Q Do you want to talk to me about this incident?

17 A Oh, yeah.

18 Q And you put yes, yes and your signature?

19 A Then, when you don't want me to answer no more
20 questions, I just --

21 Q Yep, yep, if you don't want to answer a specific
22 question or if you don't want to answer no more questions,
23 you can decide at any time to stop answering questions.

24 A Okay.

25 Q That's just what that says.

1 A You said what, now?

2 Q Yes here, yes here and your signature there.

3 I'm gonna stop the tape for just a second.

4 (Short pause on tape.)

5 DET. LEIBY: I'm restarting the tape.

6 Somebody came into the room and left. Scott Sargent came in

7 and got a file and left. It's a -- it's a minute later.

8 Q Okay. Tape's running. You've been advised of your
9 rights. You've signed a Rights Warning.

10 Do you want to tell us just now about what happened with
11 Ron Lally?

12 A I told you.

13 Q Tell me again.

14 A Well, let me see. That night, I was at the bar.

15 Q What bar?

16 A Power Slam and then --

17 Q Were you at any other bar that night?

18 A Um, no, because I can't get in none of the other bars. I
19 might have been (inaudible) with the Razzles, but I'm not for
20 sure if I did. I must have -- I probably just ran in and ran
21 out.

22 Q Razzles?

23 A Yeah.

24 Q Who were you drinking with that night?

25 A Um -- um, dude named Kevin -- I'm not sure of his name,

1 his last name, ah.

2 Who else was there?

3 Was Tammy there?

4 A Who?

5 Q Tammy?

6 A Yeah, she was there. It was Tammy -- me, Tammy, ah --
7 me, Tammy and a couple other people. I'm not really sure of
8 their names. And ah --

9 Q People that are friends of yours?

10 A Yeah, I -- ah --

11 Q Think about it for a minute. Let's -- let's try to get
12 it as clear as we possibly can. Think about it for a minute
13 and see if you can remember who else was with you that night.

14 A I don't know. I know people start coming to the bar.
15 I'm -- I'm not gonna sit here and -- and say peoples' names
16 to jeopardize nobody.

17 You know what I'm saying?

18 Q I understand that. You're not jeopardizing anybody.
19 I'm just trying to --

20 A Yeah, well --

21 Q -- gather who you were with that night because they're,
22 obviously, going to be your alibi.

23 A Well, I -- I use -- I have that later on. I'm gonna --
24 I'm gonna tell you this -- I'm gonna tell you my story, my
25 side.

1 You see what I'm saying?

2 Q Okay.

3 A This has to do with just me; and what I did was, ah, my
4 dad winded up coming in there, in the bar, in Power Slam.

5 And, ah --

6 Q Do you know how your dad got downtown?

7 A Ah, I think he walked. He walked down there.

8 Q Okay. And what time did he show up at the bar?

9 A Um, I not even -- I'm not even sure. I'm not even sure
10 what time he came. It was just at nighttime. It was
11 probably about after --

12 Q Was it close to bar closing?

13 A Shit no, 'cause he was in there for a while drinking.
14 It was about -- I'll say about -- it had to be about 11:00,
15 maybe 10:30. It could have been about 10:00 o'clock when he
16 came in.

17 He came in the bar; we was drinking, shot some pool, and
18 then the bar was closing.

19 Um, I think we stayed little bit after 2:30 because I
20 think I was asking Mike about a job at that time.

21 Q Mike?

22 A The -- the owner.

23 Q Of --

24 A Power Slam.

25 Q Okay.

1 A 'cause he hired me, I think maybe it was a couple days
2 later, or a week later, 'cause he was waiting for business to
3 pick up; and then -- then, ah, I went to mom's kitchen; and I
4 ate. Then, ah -- then, after that -- after that, my dad
5 asked me to drop him off at my aunt's house.

6 I dropped him off at my aunt's house.

7 Q Okay. And -- and do you remember what car you had that
8 night? What were you driving?

9 A I had a -- I had a Ford Taurus.

10 Q What color was it?

11 A I think it was green. I had bought it off of Darren
12 silver or gray, something like that.

13 Q Darren?

14 A Darren Tackett.

15 Q Okay.

16 A Bought it off of him. So, I went home and then, ah --

17 Q So, you took your dad home before you went home, right?

18 A Yeah.

19 Q And who -- who -- or you took your dad to your aunt's?

20 A Yeah.

21 Q And where does she live?

22 A Ah, by Wilkes Villa. I'm not sure of the names over
23 there.

24 Q Okay.

25 A She lives by Wilkes Villa.

1 Q And who all rode out there with you when you went out to
2 your aunt's?

3 A Ah, see, I don't -- I don't want to say nobody else's
4 names. That's what I'm trying to --

5 Q How many people were in the car with you?

6 A Just, ah --

7 Q You and Tammy? Your dad? How many other people were in
8 the car with you?

9 A I think there was 2 more. I think there was 2 more
10 people in the car. I'm pretty sure it was 2 people in the
11 car 'cause then, ah, I dropped him off; and then I went home;
12 and everybody got out of the car and maybe -- and you know
13 what, that night, Tammy went upstairs.

14 I stayed downstairs.

15 Q Why?

16 A I was --

17 Q What is she doing upstairs and you went downstairs. You
18 mean she went up to the apartment and you stayed outside?

19 A Yeah -- no, no, I went -- I went to, ah, Becky's
20 apartment and used the phone; and I called, ah, darn.

21 Who called me? Somebody had called me.

22 I -- I can't remember his name, who it was that called
23 me that night, 'cause I had to use the phone; and, ah -- and
24 then I went back upstairs. Then I went to sleep; and then my
25 dad came over late that night. He came over late that --

1 or -- or was it in the morning?

2 He came over, I think it was towards the morning 'cause
3 I was getting up for -- I was getting up for Court. He did.
4 He came home 'cause I was getting up for Court; and he asked
5 me if I had some, ah -- he asked me if I had some drugs.

6 And I really don't want to say nothing about the drugs.

7 Q Drugs are not the issue here; and I'll say right on the
8 tape, you're not going to be prosecuted for anything you say
9 about drugs.

10 A Oh, well, anyways, he asked me for some drugs; and, ah,
11 I think I only had a couple, I think. I think I gave him
12 like a couple pieces; and then he -- he left.

13 Q Who was he with? How did he get to your house?

14 A Um, I don't know 'cause he came up by himself; and I
15 didn't even think to ask him how he got there. Alls he
16 did -- he asked me -- the only thing he asked me -- he said
17 to me -- he said, are you going to Court 'cause I told him I
18 had to go to trial. Then he was just like -- he didn't -- he
19 really didn't even say nothing. I told him I was going to
20 trial. He didn't say nothing.

21 He just -- I just remember him looking at me; and then
22 he left 'cause I got dressed; and then I called my lawyer.

23 Q And what'd your lawyer say?

24 A He didn't say -- he didn't -- um, he -- well, he wasn't
25 there.

1 Q The lawyer wasn't there?

2 A No, he was -- he was at home when I called. He said to
3 me, he said, stay at home. He said, if I need you come to
4 Court -- he told me he was gonna call me.

5 Then I said all right.

6 Q So, you didn't go to Court that morning?

7 A No, but I never did even go.

8 Q On the morning of the 19th when you were scheduled for
9 trial?

10 A No, he -- he never called me to go. I don't know why.
11 He just, he just -- he -- he just told me. He was like, if I
12 need you to come to Court -- I think he was trying to get
13 it --

14 Q That was Mike Ross, right?

15 A Yeah. I think he was trying to get it a -- get it a --

16 Q Postponed?

17 A Postponed. He said, if I can't get it postponed, he
18 said, come straight down then.

19 I said all right. He never called me. Then -- when did
20 my dad go to trial? You know, when it was that my dad went
21 to trial, don't you?

22 Q I don't have it in front of me, no.

23 A I can't remember if it was a week later he was supposed
24 to go to trial. I can't remember if it was a week later
25 so -- well, whatever it was, I think it was about a week

1 later. He was supposed to go to trial; and he came over my
2 house with a paper saying it was dismissed 'cause I never
3 knew -- I -- I didn't even know it was dismissed.

4 He came over to my house and showed me. He said, look,
5 it's dismissed.

6 Then I said, well, why didn't my lawyer ever tell me?
7 So, then, I called Mike; and then Mike -- that's when Mike
8 told me it was dismissed.

9 Q A week later or a week after?

10 A Um, I'm not sure exactly when it was. I was --

11 Q It might -- it might be kind of important, important
12 down the line if it was one week, 2 weeks.

13 A Ah, man. When did my dad go to Court? Ah, it's hard --
14 I don't know. I -- 'cause I -- whenever he went to Court for
15 his trial, I guess, and then that's when he showed me, and
16 then I had called Mike; and I asked Mike, I said, what's
17 going on?

18 And then that's when he told me he wanted me to come to
19 his office to sign some papers 'cause it was -- it was
20 dismissed; and then, ah --

21 Q And you still didn't know that Ron was dead?

22 A Yeah, when the -- when the paper came -- when my dad got
23 the paper, that's when I knew. I'm trying to think when
24 because that's when that dude, Duane, had said something to
25 me about it.

1 Q And you're telling me that the first you knew of Ron
2 Lally's death was when Duane told you? That's the first you
3 knew about it?

4 A I'm trying to remember if it was before he had told me
5 or I seen the paper from my dad first.

6 Q You want a cup of coffee or glass of water or anything?

7 A Glass of water.

8 Q Go ahead. I'm still listening.

9 A Oh, I can't -- I'm not sure exactly which, which --
10 which one it was first 'cause he told me he had -- he had
11 asked me some about it; and then I asked my dad -- I asked my
12 dad, maybe -- after -- after I seen it was postponed, I had
13 asked him about it; and I -- I tried to talk to him about it
14 one day and then, ah --

15 Q Well, did he say anything to you about killing Ron
16 Lally?

17 A No, not at the time. He said --

18 Q Has he said anything to you since then? Did he tell you
19 yet that he did it, that done -- have you ever been told by
20 your father that he killed Ron Lally?

21 A He really -- he really never said he did. He just --
22 he -- all he told me was like -- he -- he said it's better --
23 he was just like it's best if you don't know nothing, so that
24 that way, you know, you can't never get caught in nothing.
25 And then, that's when, you had -- you had asked me --

1 Q What did you understand that to mean when he told you
2 that?

3 A You could take -- you could take that a bunch of ways.

4 Q I'll -- well, I mean -- I -- but I'm not asking how --
5 what a bunch of ways, I'm asking you, when he told you the
6 less you know about it the better off you are 'cause you
7 can't get jammed up in it, what did you understand -- what
8 did you understand that to mean? Not what anybody else might
9 interpret it as.

10 When he told you that, what did you think?

11 A Well, myself -- I thought -- I thought -- I said, well,
12 maybe he did or maybe he had somebody do it for him. I
13 couldn't see him -- I mean, I couldn't see my dad doing it.

14 Q But you thought that he might have either done it or had
15 somebody else do it since, ah --

16 A Yeah, I --

17 Q He said that?

18 A I mean, when he said it, it -- it crossed my mind. I
19 was like -- you know, I was smiling, you know. I said, did
20 you have somebody do that?

21 And he asked me -- that's when he said like, no, he
22 says, I don't -- he tell me don't ask him about it, you know.

23 Q Let me ask you this: right now, as you sit here, do you
24 know that your father killed Ron Lally?

25 A Personally, no. I mean, maybe what I think --

1 Q Okay.

2 A But if I know, no.

3 Q You think your father killed Ron Lally?

4 A I'll tell you, I -- I -- I think he might have the way
5 it's looking.

6 Q But he's never told you that he did it. He only implied
7 to you that he did?

8 A Right.

9 Q Do you have any idea who else was with him when this
10 occurred?

11 A No, 'cause he never -- I never -- you know what, I never
12 really suspected of Stan would do something like that until
13 everything started coming in and people start bringing up his
14 name. I mean I would --

15 Q Who brought up Stan's name to you?

16 A Ah, that was the dude, Duane. I don't know --

17 Q What's Duane's last name?

18 A Ah, man, I wish I'd know it. It's not Duane Moore. I
19 know who you're talking about. That's the kid used to live
20 down the street from my mom, not him. Ah, fuck, he used to
21 live where that driving -- where that driving school is. He
22 used to live right there. Huh?

23 Q On Middle Avenue?

24 A Yeah, he used to live right there. He drove a black
25 car, probably like an '80, like an '84 or '85.

1 Q And he's one that told you about the homicide?

2 A Yeah, what -- see, 'cause he said, I don't know who --
3 there's a lot of stories going around Elyria, I guess. I'm
4 not -- I'm not sure of who -- who said this to him, but he
5 said Stan and some other guy did it.

6 And then, I was like -- I said, na, I said Stan didn't
7 do it 'cause he ain't never said nothing to me about no --
8 nothing like that.

9 Q And this Duane lived right upstairs from the driving
10 school?

11 A No, he live next -- I, there is -- this is all I know,
12 but he live downstairs.

13 Q At the driving school?

14 A Yeah, like -- as soon as you pull up, right there.

15 Q Is he black or white?

16 A He's a white dude.

17 Q Do you know about how old he is?

18 A No, ah -- uh-huh.

19 Q 20s? 30s?

20 A 20s.

21 Q What color was his 5 0?

22 A Black 'cause he had came over to my house and he tell me
23 about it.

24 Q How long after it happened? How long after your Court
25 case did you find out that Ron had been killed?

1 A Um, that day, I -- I don't know if it was -- it was
2 between a week -- a week and 2 weeks, I'm pretty sure.

3 See, I'm not for sure --

4 Q So, you knew before they identified the body that he was
5 dead then?

6 A Before who identified the body?

7 Q Before anybody did?

8 A No, see that's -- that's -- that's the part I'm getting
9 confused between my dad's Court date and him coming over
10 there.

11 Q Okay. But you talked about when it was on the news that
12 they found that body in the cemetery?

13 A When it was on the news?

14 Q Yeah. Didn't you say something about finding out
15 something about it on the news or something?

16 A No.

17 Q Okay.

18 A No.

19 Q I thought -- I thought you did. I'm sorry.

20 A Uh-huh, no, but it was -- that's why it's tearing on
21 me -- between Duane and my dad because I can't put together
22 exactly 'cause I can't remember who said what first.

23 Q Did you ever offer anybody money to kill Ron?

24 A No, I haven't.

25 Q Did you ever even do it in a joking manner?

1 A No, I never even did -- I never even did that in a
2 joking manner. As far as me fighting him, yeah, I said that.

3 Offer money to kill him, no.

4 Q Okay. You were over to his house once on Middle Avenue
5 for a disturbance when Officer Homoki broke up a disturbance?

6 A Um-hum. I wasn't at his house. Is the way it was is,
7 ah, I was riding past; and I seen him.

8 Q Who was with you when you were riding past?

9 A Ah, there was a couple of people in my car. I can't
10 remember.

11 Q Can't remember anybody? Was Stanley with you?

12 A (No response.)

13 Q I mean, we talked about this once before.

14 A Yeah, I --

15 Q -- you gave me the names. As I remember, you told me
16 Stanley, Scarberry -- um, and you talked about a white guy
17 and a black guy, but, apparently, you didn't remember their
18 names, as I remember.

19 How many cars were there? Just yours?

20 A Just mine.

21 Q Where'd you park at?

22 A Um, I park -- I had parked right -- right across the
23 street at, um --

24 Q The high school?

25 A Yeah, and I walked over there into Mr. Hero's because

1 when they -- when they -- he seen -- 'cause he see -- Ron
2 seen me.

3 Q Um-hum.

4 A And I was walking across the street; then I happened to
5 see him. He was looking out a window up there; and then he
6 said --

7 Q So, you weren't up that area looking for him? You just
8 happened to see him?

9 A Yeah, I -- yeah, I just happened to see him; and then
10 he -- he -- he was like (inaudible.)

11 I looked at him. I said, what?

12 He was like, hold on. And at first I thought myself, I
13 said, man, I don't got to hold up 'cause I know he was kind
14 of off in his mind, you know. I was -- I was thinking to
15 myself, hey, this dude finally come out here with a bat,
16 trying to swing on me.

17 You know what I'm saying? And --

18 Q Why would he do that?

19 A Because, ah, when -- when I first got busted, I -- I
20 never knew -- I never knew who busted me. He kind of told on
21 himself, but --

22 Q Didn't you get an audiotape that you listened to?

23 A Um-hum, but that was -- I knew it was before I even
24 heard the tape because he gave himself away one day 'cause --

25 Q Okay. Then, after you found out that he -- he was the

1 one that did it, did you ever talk to his girlfriend shortly
2 thereafter?

3 You know who his girlfriend is?

4 A Yeah, yeah.

5 Q Did you ever talk to her?

6 A Yeah, I talked to her once. Um, Mike introduced me to
7 her.

8 Q Mike?

9 A Oh, ah -- I don't know her name -- I mean, ah, his name.
10 He lives right across -- like if you're in the apartment
11 building, you can see -- if -- if you're in his apartment,
12 you could see -- you could see their house 'cause, sometimes
13 when we was over there, Ron would -- Ron would lean out the
14 balcony and jump over and be right there at the house.

15 Q Go ahead. I'm listening.

16 A And, um, anyways, then, um, I had -- I had asked her --
17 I said, um, I just simply asked her, I said, do you know
18 anything about Ron's supposed to -- supposed to bust me.

19 And she said, oh, no. I said -- I didn't -- na, he
20 didn't do that, not that I know of because he never mentioned
21 it to me; and I (inaudible.)

22 Q How about Mike Tolbert?

23 A Yeah, that's it.

24 Q Mike Tolbert was probably selling to you prescription
25 drugs, too, wasn't he?

1 A Um --

2 Q Is that how you knew him? I mean, you're not going to
3 be in trouble for it?

4 A No, no, no, that's not how I knew him. I met him
5 through -- Vernard knew him first.

6 Q Yeah.

7 A And then I -- I had went over there one day and found
8 out he was moved over there with Vernard; and then, ah, when
9 I moved over there, you know, I had already -- I had already
10 been over to his house. So I just went over there and
11 Tolbert stayed with him, told him I was moving over -- over
12 by the house -- by the apartment; and then he introduced
13 me -- he either -- he was standing right there.

14 He introduced me to that lady; and then I was talking to
15 her; and I asked her about it; and then she said no.

16 Q Did you make any threats?

17 A No. She said I did; but I never made no --

18 Q She said you did; and there's a lady that was with her
19 that's gonna indicate that you did?

20 A No, 'cause there wasn't nobody -- I was talking to her
21 by myself. I -- at first I had --

22 Q What do you mean by yourself? Do you remember what you
23 said? Is there something she may have misunderstood,
24 something you said that she might have misinterpreted as a
25 threat?

1 A No, not -- not that I could think of. I didn't say
2 nothing to her, saying anything that would -- that would make
3 any kind of threats.

4 You know what I'm saying?

5 Q Did you say anything to her about Ron's parents?

6 A No.

7 Q Do you remember when this happened?

8 A When I talked to her?

9 Q Yeah.

10 A When I -- the way I first got busted. When you guys
11 first come over my house, like maybe -- it was probably right
12 after you guys came over there, maybe, like 2 weeks later.
13 This is how I knew it. But that's what I said. I found out
14 he told on me before. He gave himself away one day before I
15 even heard the tape.

16 I asked her about it; and when she told me no, I didn't
17 make no verbal threats to her because I never knew who did
18 it. You know what I'm saying?

19 I was in the dark. I was like, damn, I wonder who --
20 who got me. So then -- so then, um, I was over Mike's house.
21 This exactly what gave it away. I was over Mike's house one
22 day.

23 Q Mike Tolbert's?

24 A Yeah, I was over Mike Tolbert's house. It -- it was me,
25 Mike, his wife and couple other people in the house. I can't

1 remember exactly who was in the house at the time.

2 Q Do you remember what Mike's wife's name was?

3 A No, ah-ah, shit, no, I can't -- shit.

4 Q Okay. No big deal. Move on.

5 A Um, and then he was -- I -- I was standing right -- I
6 was standing right next to his TV. You know, we was all
7 sitting around there bullshitting. We was talking; and then
8 that's when he said, ah -- well, he didn't say nothing.

9 I had turned around; and I seen Ron. And Ron -- I seen
10 Ron. He just ran. So, I was like, did you see that?

11 Then Mike was like, yeah.

12 I said, why'd he run?

13 He said -- Mike was like, I don't know.

14 I said, man, I think he got me, man. I was like -- I
15 know this fool ain't getting me 'cause I know him for -- I
16 know Ron for a while, you know.

17 And they was laughing, oh, like, I know this fool didn't
18 get me. I said, well, ain't this a lot of trip and then --
19 and then he, he -- 'cause he ran. Then I went outside.

20 I didn't even see him nowhere around. See, I was
21 like -- I said, where the hell did he go 'cause he -- see, he
22 knew he busted me. So he already had a guilty conscience
23 when he seen me.

24 I didn't know he busted me. So I didn't have no guilty
25 conscience when I seen him. You know what I'm saying?

1 Like, damn, there he is. I'm going to whoop his ass or
2 nothing like that 'cause I didn't even know he even got me.
3 He gave himself away that day. Ever -- ever since that day
4 he ran there, I said to myself, I said, damn, he must have
5 got me 'cause why is he -- and it -- and it took me -- it
6 took me about a week to even figure out because I kept asking
7 'cause I was like --

8 Q Okay. Once you figured it out, did it, at least in your
9 mind, that you were going to have to do something to him to
10 make him not testify?

11 A No, 'cause to my -- my -- my -- to my knowledge, ah, to
12 my knowledge was, ah, as long as you got the tape and drugs,
13 you didn't -- the snitch didn't have to be there. And then I
14 kept hearing different things -- you know what I'm saying --
15 different ways you can get out of it or you can't get out of
16 it.

17 You know, some people say, well, they don't need a
18 snitch there. They had a tape and the drugs, they got you
19 right there, you know.

20 And then I heard they need the snitch. They don't need
21 no tape. Then I heard they need both. Then I heard --

22 Q Well, you're were paying pretty good money for an
23 attorney, right?

24 A No, he didn't charge no -- he really didn't charge me
25 that much.

1 Q Okay. Well, you had an attorney?

2 A Yeah.

3 Q And you were paying him? He wasn't Court appointed, was
4 he?

5 A No.

6 Q So, you were paying him? Did you ask him what --
7 what -- what we, being they, needed to prosecute you?

8 A He told me, he said -- he said -- 'cause I -- I -- I
9 asked him, I said, how does -- I said, how does it go, you
10 know, as far as, as they, well, once you're busted, you're
11 just busted 'cause, you know, it was new to me.

12 And he even told me himself, he said, it's not always
13 you beat the case if they don't have the tape or you don't
14 have the snitch or you don't have the drugs -- the drugs --
15 and I said, so you trying tell me -- I said -- first I asked
16 him, I said, they don't have no tape. I said, I could still
17 go down?

18 He said, you couldn't, but you can. He said, I'm not
19 telling you can't, 'cause you can. He said, oh, you can go
20 down without a tape.

21 Then I said, well, if he didn't show up, could I go
22 down.

23 They said -- he said, they got the tape and the drugs.
24 It's a possibility you could still go down.

25 Then I said well -- I said, what is it?

1 They -- they just -- if they ain't got none of them,
2 then you won't go down?

3 He said, now, if they ain't got none of them, then you
4 won't, but you can beat the case. He said that -- they'll
5 throw that out.

6 Then, I said, damn -- you know, I talking to myself. I
7 was like, damn, and then that's when -- then that's when
8 that -- that's when that one day me and my dad was talking.
9 I asked him, I go, how long you think I could get?

10 He said the max I could get is -- I think he said either
11 2 years or 3 years.

12 Q Did you ever discuss this with James?

13 A James Wilkerson? Na.

14 Q You sure?

15 A What do you mean? Discuss as far as what mean --

16 Q He was under indictment, getting ready to go to prison,
17 you and him were working together kind of; and he was
18 spending a lot of time at your place, coming back and forth;
19 and I understand he discussed it with you.

20 A Discuss what?

21 Q The case, the whole thing?

22 A Oh, no. Well, James had his -- James had his own
23 theories. That was one thing about him. He had his own
24 theories about Court.

25 Q What were they?

1 A Oh, oh, they got you no matter what you do. They got
2 you. You, oh, you're going to go -- oh, we always joked
3 around, me and whole bunch of guys 'cause James knew he was
4 going down. So I think he wanted to take people.

5 You know what I'm saying?

6 Once you got busted, that was it. You -- you gonna ride
7 with him. That was his way of looking at it 'cause I know
8 there was plenty of days James would laugh. He was like,
9 man, you coming with me.

10 He was like, no, you might as well get ready to pack it
11 up. You know, we be laughing and shit.

12 And I was like, James, I said, you want me to go so bad,
13 don't you?

14 He was like, hell, I'm going. You might as well go. It
15 don't matter, you know; and that was it.

16 Q Did you ever discuss the death of Ron Lally with him?

17 A Um.

18 Q -- Ron died before he went to jail?

19 A You know what, he had, um -- he was over by my house one
20 day; and, ah, he -- he asked me about it. He -- you know
21 what I said, 'cause he didn't even know that I knew. He was
22 like, man, he say, guess what.

23 I said, what?

24 He was like, you know, that dude is dead?

25 And I was like, who?

1 He said, Ron.

2 Q How'd he know of it?

3 A I guess probably -- how would he ever know? I don't --
4 through the -- through the -- probably through the papers or
5 a lot of people on the south side knew about it; and I know
6 he knew a lot of people on the south side 'cause that's
7 how -- that's -- I guess Duane told me there was a lot of
8 people standing around when -- he said some Officers had went
9 over there and taped up the house with stuff and everything.

10 Q Never happened?

11 A See, that's what he told me. See, that's what I'm
12 saying, there's -- there's a lot of stuff going around that
13 don't nobody even know about; and they got their own
14 theories.

15 You know, I done have people come up to me; and they was
16 like, man, I heard -- I heard you shot that dude. And I be
17 like, man, get the hell out of here with that shit. And then
18 I heard -- I heard he was killed Mafia style. Then I heard
19 he was killed --

20 Q What is Mafia style?

21 A They said -- I didn't know. I didn't know myself what
22 Mafia meant -- style at the time.

23 They said, well, you get on your knees and they shoot
24 you in the head. I ain't never heard of no shit like that.
25 I -- I don't even know why they call it Mafia style.

1 Q Do you know if Ron died that way?

2 A No.

3 Q Your dad ain't discussed that with you?

4 A No.

5 Q Your dad came in and made a tape to me. Do you remember
6 the statement your father made to me?

7 A Uh-huh.

8 Q You -- you do remember when you dad talked to me?

9 A (Inaudible) yeah, he came and talked to you.

10 Q Yeah.

11 A In there.

12 Q And your dad talked about somebody getting down on their
13 knees Mafia style?

14 A See, he never -- I never -- I never knew what Mafia
15 style meant. Duane is the first person who said Mafia style.

16 When he said that to me, I said, Mafia style?

17 Then he was like, yeah.

18 I said, what's Mafia style?

19 And he said, when -- when you get on your knees and they
20 shoot you.

21 And I was like, why -- why -- 'cause I -- why do they
22 even call it Mafia style. I don't know why; and then, um.

23 Q What was that -- where's -- where's Michael at now?

24 He's in jail, right?

25 A Mike?

1 Q Your brother, Michael?

2 A I think -- I'm not sure if he's in jail or not. I
3 don't --

4 Q Do you know where he's in jail at? He's not in jail in
5 Lorain County.

6 A I don't know. I --

7 Q He robbed the card store, right?

8 A Yeah.

9 Q Do you know where the card store was at?

10 A I heard it was in Lorain. I don't know -- I -- me and
11 Mike, we don't -- I haven't talked to Mike in a long time. I
12 haven't talked to Mike in a long time.

13 It was -- in fact, I think since I had my case, I
14 haven't even talked to him.

15 Q Okay. Was Mike there the night you were at the -- at --
16 at Power Slam and then at Razzles, and your dad showed up?

17 Did Mike show up that night? Was he around?

18 A Um, you know, I think he showed up, but -- or did he?
19 Let me think.

20 Q No hurry.

21 A Holy shit. I'm not for -- damn, I'm trying to think.
22 No, I don't think I seen Mike that night. Ah, shit.

23 No, to be honest, I -- I can't remember if I ever
24 remember seeing Mike that night.

25 I'm not sure if I seen him down -- downtown that night

1 or not. I don't know, I -- I really -- I really can't say.

2 Q He may or may not have been downtown? You can't say?

3 A Yeah, I -- I can't say. I'm not sure. I -- I can't
4 pinpoint it 'cause Mike --

5 Q Was James downtown that night?

6 A Um, James Wilkerson? I'm trying to think if I seen him
7 or not that night. I can't -- no, I don't know. I don't
8 know if he came in Power Slam or not.

9 Q What about Razzles?

10 A No.

11 Q Stan ever show up that night? Did you ever talk to Stan
12 that night anywhere?

13 A Um, he came to Power -- he came to Power Slam.

14 Q How was he getting around that night?

15 A I think when I seen him -- shit, when I seen him that
16 night -- I'm not sure how he got (inaudible) -- how'd he get
17 up there? I don't know. He wanted some stuff from me 'cause
18 I was drinking. He wanted some stuff from me that night.

19 Q He wanted some drugs?

20 A Yeah, and, um -- see, how could he leave?

21 Q Was he driving?

22 A I don't know.

23 Q Well, you know that I got a green convertible impounded,
24 right?

25 A A what?

1 Q Convertible?

2 A Yeah, he was telling me about that.

3 Q Do you know who's car that is?

4 A Queen Eee's.

5 Q Do you know what her real name is?

6 A No, I never did know her name -- Corrine, something like
7 that, Corrine.

8 Q You used to get that car to drive once in a while,
9 didn't you?

10 A Yeah.

11 Q What did you have to do to get that car to drive?

12 A Um, sometimes she wanted drugs for the car; but, then
13 again, sometimes me and her drive to the point to where I
14 would -- I would -- I would just go over there.

15 You know what I'm saying?

16 Q Um-hum.

17 A And, um, she just let me use the car, you know. If I
18 wanted to go somewhere or, you know, 'cause I liked it, you
19 know.

20 It was the summertime; and I always rode with the top
21 down, you know; so -- me and her was on a first shit basis;
22 you know. Now, there's a lot of people who drove that car
23 that gave her drugs 'cause I never thought she lent the car
24 to nobody; and then I seen Marlin driving it.

25 Q Marlin?

1 A Groves; then I seen Bo -- I seen Bo driving it. I seen
2 Tracy --

3 Q Davis?

4 A Ha?

5 Bo Davis?

6 A Yeah, then I seen Tracy driving it. Then I seen --

7 Q Tracy Beckett?

8 A Yeah, I seen all them driving it. They -- they was
9 having it day after day after day. That's when I was like,
10 fuck it. I -- I don't even want the car no more 'cause she's
11 got too many --

12 Q Did Stan ever drive it?

13 A I think -- I think she let Stan drive it a couple times.

14 Q Stan got stopped in it. Stan got arrested in it. You
15 know that, right?

16 A Yeah, she let him drive. Well, I heard Stan was
17 driving; but she was giving it to Rick.

18 Q Rick?

19 A Rick, ah, that dude that was in the car with them that
20 night he got --

21 Q He got arrested in?

22 A Yeah.

23 Q Altpater or something like that?

24 A Yeah, he got arrested -- well -- um, I heard -- the way
25 I heard, she gave the car -- well, they -- they both told me

1 they gave -- she gave the car to Rick 'cause she wasn't gonna
2 let Stan drive it; and Stan wound up driving it.

3 Q How well do you know Rick?

4 A Um, I know him. No, I -- I know --

5 Q Do you know where he lives?

6 A Yeah.

7 Q Where does he live?

8 A On, ah, Pasadena. I don't know what the house --

9 Q You been over there?

10 A Yeah.

11 Q Has he got a wife or kids or anything?

12 A Yeah, he has a wife and kids.

13 Q Do you know what the wife's name is?

14 A Ah, Lee.

15 Q Okay. They got anything to do with this at all?

16 A If they did, I wouldn't know nothing about it to my
17 knowledge.

18 Q Okay.

19 A I'm -- I don't think -- I couldn't see nobody -- you
20 know what I'm saying?

21 He -- Rick's more or less of a family man. You know, he
22 parties; but he -- he stays out the way. He try to stay out
23 of everybody's way.

24 Q We've been setting here now for about 15 minutes; and
25 I've been pretty much letting you talk pretty much as you

1 wanted.

2 Now, I haven't promised you nothing or anything to have
3 you talk on this tape, have I?

4 A No.

5 Q You're doing this of your own free will? I've not made
6 you any kind of guarantees or promises; so that that's clear
7 on there?

8 A Yeah.

9 Q You're doing this 'cause you wanted to do it?

10 A Well, I'm doing it because I'm getting pinpointed for
11 something that -- you know what I'm saying?

12 Q I've explained to you --

13 A The way -- yeah.

14 Q -- you are being seriously considered as a suspect in
15 capital murder.

16 A Right.

17 Q I don't believe a lot of the things you just told me; an
18 I'd hoped that you'd be a little bit more truthful than you
19 were just now.

20 Um, I think that you know who killed Ron Lally. You
21 know who was present. You know where they got the gun. Um,
22 you know what they did with the clothes afterwards that had
23 blood all over them. You know the car that was used.

24 You probably hooked up with them after it was done that
25 night; and, at the very least, they discussed it with you.

1 I'm not saying you were there?

2 A Yeah.

3 Q You weren't there I don't think. What I'm saying is you
4 know other things. You weren't there, but -- but you know
5 who did it. They discussed it with you. And now would be a
6 good time for you to come forward and tell the truth; and
7 you're not being truthful.

8 A That --

9 Q I'm -- I'm looking at you and I'm -- and the tape
10 recorder is sitting here running.

11 A Um-hum.

12 Q I'm being very frank with you.

13 A I'm telling the truth.

14 Q The truth, Danny, is that they did come back to Elyria
15 that night; and they did make contact with you; and you were
16 aware of it the night that he -- before you went to Court the
17 next morning for your scheduled Court appearance, you were
18 aware that Ron Lally was no longer a problem; isn't that
19 true?

20 A No, I did not.

21 Q You didn't?

22 A No.

23 Q Okay. And you never did offer anybody any money?

24 A Na.

25 Q To beat him up? What about to beat him up? Did you

1 think, maybe, that if you could threaten him with a beating
2 that he wouldn't -- was maybe that -- did maybe that enter
3 your mind at some point if, maybe, you could just get him --
4 beat him -- beat him up, he'd not show up?

5 A I would beat him up? I would -- that'd be stupid for me
6 to sit there and try to --

7 Q No, it wouldn't. If you -- if I got a case, and the --
8 and the guy that's -- that's causing me to have the case
9 (inaudible) some place I know if I don't mess with him, the
10 law is gonna come and get me because it's direct. It's one
11 on one. It's intimidation.

12 A Yeah.

13 Q If I have somebody else do, you can't necessarily prove
14 I was involved in it. Maybe you were mad at him for
15 something else?

16 A No, no, I wasn't -- I rather -- I -- like I told you. I
17 would rather -- I would be more than happy to go down for
18 some punk ass 18 months than to kill somebody and get -- and
19 being jeopardized for some life; or I would rather go down
20 for them 18 months. Instead of paying somebody to beat him
21 up, I would rather go down and do the 18 months; and if I
22 wanted to beat him up when I got out, I could beat him up.
23 I would go to jail for what, beating him up? That --
24 the only thing is you prefer -- press charges after I beat
25 him up.

NAME **ESTERIE DANIEL**PLAINTIFF ☐DEFENDANT ☒

1 Well, like I said, I don't think you're being truthful.
 2 I think they made contact with **(Kathryn)** when they come back from

SUITS CASE NO

CASE NO'S AGAINST PARTY

3 **D 14812 DIV. JUDGE 11/2/72 (HHS)** would be a good opportunity

4 for you to get that straightened out and for you to tell what
 5 happened.

6 A I already told you, they came over with what they came
 7 over with. What my dad came over for was drugs.

8 Q Came over to your house later. But I'm saying, I think
 9 you had contact with -- with those that were involved; and

LORAIN COUNTY CLERK OF COMMON PLEAS COURT

10 I'm not gonna sit here and say who was involved. I'll leave
 11 that to you to say; but you had contact with those that were
 12 involved downtown after they come back from Cleveland.

13 A I'm telling -- telling you no. I mean that's the --
 14 hey, I told you --

15 Q Do you think -- do you think -- you told me that your
 16 dad came in the bar about 10:00 o'clock?

17 A Or 10:30, somewhere around there.

18 Q In the Power Slam. Then he came back by your house
 19 about what time? After bar closing, obviously, 'cause you
 20 guys were home already?

21 A Yeah, it was -- it was in the morning.

22 Q For drugs. Oh, okay, no, you guys -- he come back -- he
 23 was in Power Slam when -- you dropped him off at your aunt's?

24 A Um-hum.

25 Q And then he came back the next morning?

1 A Yeah, that's how -- that's how --

2 Q Do you think that he went out that night and did it
3 sometime between when you dropped him off at your aunt's and
4 when he showed up at your house?

5 A Ah, you know what, if he did, I don't know nothing about
6 that. That's -- that's what I'm trying to clear up.

7 If he did go out that night, I don't know nothing about
8 it.

9 Q And you're absolutely certain you never offered to have
10 anybody beat him up?

11 A Yeah, I'm -- I'm -- I'm positive.

12 Q Okay. Does Tammy know anything about the homicide, know
13 anything about what was going on?

14 A No, in fact -- no, 'cause they said that we -- and they
15 said we -- we have broke up 'cause she went back home.

16 Q She staying with her mom now?

17 A No, she stay -- she got -- she got a new boyfriend; and
18 this is -- if I ever came to jail, she got a new boyfriend
19 living --

20 Q Where she dancing at now?

21 A I don't know if she still there?

22 Q Sam's?

23 A If she is.

24 Q A place called Sam's something?

25 A In Cleveland?

1 Q Yeah.

2 A She was dancing at Teaser's. I know that 'cause she --
3 she's -- um. -- um --

4 Q But you don't know her current phone number?

5 A No.

6 Q Do you remember her mom's phone number?

7 A She got it changed. The way it was, we -- we had broke
8 up and then --

9 Q Do you remember what it used to be?

10 A No.

11 Q It's on your booking card?

12 A Then it -- it be on there. I don't know it now.

13 Q You don't remember it at all? You called it quite a
14 bit.

15 A You know, I can't -- I can't remember my own home phone
16 number. After -- after you done clear -- clear that number
17 out, it's out.

18 Q I don't know. My phone number when I was growing up was
19 4161, 4 digits. And I can still remember that.

20 A The only number I can remember is the one when I was
21 growing up by my mom's house; and it's still the same number.

22 Q 281-7371?

23 A Yeah, that's the old one.

24 Q That's your mom's number?

25 A Yeah.

1 Q Do you know where your mom worked at?

2 A Na, she don't work. She collects unemployment -- I
3 mean, um, disability check.

4 Q Whose phone number is 741-0100?

5 A Ah, that's where she used to work.

6 Q Where's that at?

7 A That was down in Cleveland.

8 Q Which --

9 A That was -- that was Sam's in Cleveland.

10 Q That's Sam's?

11 A Yeah.

12 Q You don't know where she's at now?

13 A No.

14 Q Cleveland?

15 A I don't know 'cause the dude -- 'cause we (inaudible) to
16 the jail -- I tried to get over. She had moved and I tried
17 to look for her. She moved with this dude that she was with
18 a while ago.

19 Q What's his name?

20 A (Inaudible.) It's -- it's some Cleveland guy. I
21 don't -- I don't know him from Adam.

22 You know what I'm saying -- um --

23 Q I asked you once before when we were talking, does it
24 bother you that Ron Lally died because of the drug buys?

25 Does that bother you?

1 In your own mind, in your own head, do you have any --
2 distress you or -- I mean, if somebody died because of me, it
3 would bother me a lot.

4 A I mean, it bothers me. It bothers me that he died
5 because for the simple fact I'd have rather went down and --
6 and did -- I would -- I would rather have went down and did
7 18 months -- you know what I'm saying -- than get caught up
8 with some life time.

9 You know what I'm saying?

10 Q Yeah.

11 A So --

12 Q That -- that and the fact that he's dead ain't no big
13 thing, just the fact that it might drag you into prison?

14 A Oh, yeah, it --

15 Q That's what bothers you?

16 A No -- yeah, it bothers me. I mean, let's talk about
17 (inaudible) damn -- I mean, that's fucked -- I say, that's
18 fucked up that he's dead because I don't want to see nobody
19 dead, be honest with you, 'cause I know I don't want to be
20 dead.

21 You know, it bothers me as far as like that but --

22 Q Well, I guess I wish it bothered you enough that you
23 would tell me a little more about it. I -- I honestly -- not
24 in an argumentative fashion or anything else, I know that you
25 know more about it than what you're saying as we sit here;

1 and there's more that you could be telling me and you're not.

2 A Well --

3 Q I think that your father's talked to you about this.

4 Your father probably told you how it went down.

5 A Uh-huh, I'm -- I'm trying to tell you -- I may sound
6 religious -- come out and just say to me for real --

7 Q He told you he was there, didn't he?

8 A Huh?

9 Q He told you he was there, didn't he? He told me he was
10 there.

11 A He told me that he -- yeah, he told me that he said --
12 he said to me exactly -- um, he said exactly the reason why,
13 the reason why, um -- the reason why he said it to you
14 guys -- this -- this is what he told me. He said he knew
15 enough for -- he said he know enough from the papers, from
16 reading the papers, to tell you to try to get me off of
17 trouble.

18 You know what I'm saying?

19 Q Is that what you're saying is that he wasn't even there,
20 and when he told me he was there, he was lying?

21 A Yeah, that's what -- from -- from -- from what I know,
22 that's what I'm saying with.

23 Like I told you, I think you know what I'm saying -- the
24 way this is falling out, I think you know he was there.

25 He even -- he -- he --

1 Q He ain't told you he was there?

2 A He never actually came out and said, I did it; I was
3 there, you know.

4 Q Did he ever come out and say, I took care of business;
5 you ain't got to worry about it or something to that effect?

6 Did he imply to you that he did it?

7 A He ain't -- no, just -- I told you that day I went -- I
8 was going to Court, he came over and he just looked at me.

9 Ah, ah, can you stop this?

10 Q Do you want the tape stopped?

11 A Yeah.

12 Q Yeah, it's about to run out anyway. So, I'm gonna stop
13 the tape; and we're just gonna stop it. There's another
14 couple minutes on it yet; but we'll stop it at 10 minutes
15 after 9:00.

16 (End of first side of tape.)

17 (Start of second side of tape.)

18 DET. LEIBY: Restarting the tape. It's been
19 flipped. We're on side B; and it's 9:00 -- about 9:24 on the
20 same date, 1/7.

21 The tape was turned off at Dan's request; and it's been
22 turned back on at my request. And we've discussed for a
23 couple minutes here various options that we have; and I've
24 explained time and again that Dan's -- that I don't believe
25 Dan's being truthful and that the first step to getting this

1 cleared up is he needs to tell the truth, and he's insisting
2 that he's being truthful.

3 Is that pretty much correct, Dan?

4 A Yeah.

5 Q And the night that this happened, ain't nobody told you
6 it happened. You didn't know when you went to Court that
7 Lally was already dead, right?

8 A Right -- well, I never went to Court. I had called the
9 lawyer.

10 Q Okay. So, you never even appeared in Court that
11 morning?

12 A Right.

13 Q And when I get ahold of Mike Ross, he's going to confirm
14 that he told you not to appear that morning?

15 A He should 'cause he told me not to. He told me that he
16 would call me 'cause he was trying to get it postponed.

17 To my belief, he said, either he'll have it postponed or
18 they'll probably postpone it.

19 So, I said all right. I said, um, what you want to do?

20 He said, stay here; and he said, and if -- he told me
21 that if, ah, he needs me, that he's going to call; and I have
22 to come straight down there.

23 I said all right.

24 Q You've never even jokingly asked any of your friends or
25 people that you knew to, ah -- if they knew anybody that

1 would hurt somebody or kill somebody for money?

2 A No.

3 Q You never discussed with anybody the idea of hurting or
4 killing someone?

5 A No, I haven't.

6 Q As a result of a drug buy?

7 A Uh-huh.

8 Q And you don't want to change any of your story?

9 A No, ain't nothing to change.

10 Q And you don't want to say who else was downtown drinking
11 with you that night?

12 A No, I wouldn't -- I wouldn't put no name -- no --
13 nobody's names in it.

14 Q Obviously, if you give the name of people that you were
15 with, then I'll be able to interview them; and they'll be
16 able to confirm your story and back up your alibi.

17 You don't want me to do that?

18 A Na, I -- I -- I ain't very -- I got people out there --
19 there's people who I can get ahold of and they'll -- they'll
20 come down.

21 Q Down to you or down to me or what?

22 A Down to you to -- to verify what happened or let -- let
23 you know where I was.

24 Q Okay. When would you like to arrange that?

25 A Ah, well, I -- I'm gonna try to call and try to find out

1 where they're at tomorrow 'cause there's a couple people.

2 Q Do you want to tell me the names of the people that are
3 going to be contacting me so I'll expect it and they'll
4 arrange an appointment with them?

5 A A dude named Kevin, dude named Ron.

6 Q What's Kevin's last name?

7 A Ah, I don't know neither one of their last names.

8 Q How do you get ahold of them?

9 A Um, I'm gonna call over to (inaudible) one's parents'
10 house, the other his grandma's house.

11 Q Do you know those numbers?

12 A Na, I don't want to say, you know.

13 Q Okay. So, you're going to call Kevin and Ron?

14 A Ron and, ah, by then, I'm gonna find out -- I'm gonna
15 figure out who -- who else was down there; and then I'm going
16 to call them and I'm going to tell them to either -- well,
17 I'm going to tell them to call down there and tell them to
18 ask for you.

19 Q To verify that your -- to verify your alibi?

20 A Yeah.

21 Q But you don't want to provide me with numbers I can
22 reach them at so that I can make sure they come in?

23 A No, I'll -- I'll -- I'll make sure they come in.

24 Q I hoped this would be a little bit more fruitful than it
25 has been, Dan. I hoped that you'd be more inclined to be a

1 little more truthful about things.

2 A I am. I mean -- hey, I mean -- try to help you time and
3 time so --

4 Q No, you've tried to help you time and time, not me.
5 Everything that you've done thus far has been to try to help
6 yourself.

7 A Yeah.

8 Q You're not helping me with anything. I'm where I need
9 to be.

10 We're gonna conclude this interview here in just a
11 couple minutes. We're concluding it.

12 A What's that mean?

13 Q Stop it.

14 A Oh.

15 Q Make it be over with so that you can go out to the
16 County, back out to the County and get some sleep.

17 You never offered anybody any money to beat Ron Lally
18 up?

19 A No, I haven't..

20 Q You never offered anybody any money to kill Ron Lally?

21 A No, I definitely didn't do that.

22 Q When you went to Court or when you were scheduled to go
23 to Court the next morning and you didn't appear, at that
24 time, you didn't know that Ron Lally was dead?

25 A No, I did not.

1 Q Your father hadn't said anything to you to indicate that
2 your problems with Ron Lally were over?

3 A No, because, um, in fact, he told me that he had to go
4 to -- he had a -- his trial was coming up. I can't remember
5 if it was a couple days or a week later. I'm not exactly for
6 sure.

7 That's why I'm saying. Made me so mad my lawyer didn't
8 even tell me 'cause it was my dad who first showed me when he
9 gave me that paper.

10 My lawyer -- in fact, my lawyer never said nothing to me
11 about it.

12 Q Well, it's 9:30; and I think it's time to turn off the
13 tape. I'll conclude the tape with the statement that I don't
14 believe you.

15 I'll look you right in the eye and tell you I think
16 you're lying. Okay?

17 A Yeah.

18 Q And if there's anything you want to conclude the tape
19 with, you're more than welcome to put your 2 cents worth in;
20 but I'm telling you, when we turn this tape recorder off
21 right now, that you're not being truthful.

22 I know that and other people that listen to this tape
23 are gonna know that.

24 A Well, everybody has their own opinions, you know.
25 Can't --

1 Q It's not a matter of opinion. There's a difference
2 between opinion and fact, Danny.

3 A Well --

4 Q I back this up with facts.

5 A There's nothing -- there's nothing I can -- I can say
6 more than you want me to come up and say something I don't --
7 I really can't provide you with.

8 Q I told you time and again, I absolutely do not want you
9 to say anything you do not know to be true. All I've asked
10 for from the very beginning is that you be truthful.

11 You haven't done that, and it doesn't appear that you're
12 going to, which is why we're about to finish this tape off.

13 A There ain't nothing I -- ain't nothing I can tell you.

14 Q You're done?

15 A Yeah.

16 DET. LEIBY: Okay. We'll conclude the tape at
17 9:31 hours, same date.

18 (Short pause on tape.)

19 DET. LEIBY: Okay. We're gonna restart this
20 tape on the 7th at 10 minutes to 10:00.

21 Danny's just expressed to me a desire to talk to his
22 father tomorrow during visitation at the County Jail. He's
23 going to attempt to have his father, Raymond Smith, tell him
24 how the homicide occurred, the order that it occurred in, how
25 the injuries occurred, who did what, and then he wants to

1 come in Monday and give me a statement as to what his father
2 told him.

3 Q Is that correct, Danny?

4 A Yes.

5 Q Have I promised you anything at all to get you to do
6 that?

7 A No, I'm just clearing -- trying to clear -- clear me
8 from the scene of what -- of -- of me having any involvement.
9 I'm just trying to clear before and, ah, -- and just that
10 at -- at the end -- at the end of everything, if anything
11 could happen good for me, as far as getting out of jail.

12 Um -- I'm --

13 Q But I've not promised you that, have I?

14 A Right, you haven't promised me that.

15 Q I've not promised you anything?

16 A Right.

17 Q You want to do this because you believe that you can
18 prove your innocence by doing this; is that correct?

19 A Yes.

20 Q And, if necessary, you're willing to wear a wire to
21 confirm this with your father?

22 A Yes.

23 Q So, you will wear a wire on your father if you need to
24 to show that he was involved in it and not you?

25 A Yeah.

1 Q What about Stan Jalowiec?

2 A Ah --

3 Q Your father will have to give him up? Is that what
4 you're saying?

5 A Yeah.

6 Q You can't give him up?

7 A No, he won't -- no, 'cause, you know, he ain't gonna say
8 nothing to me. But, that's like my -- my dad is gonna do
9 that part, as far as -- you know what I'm saying -- giving
10 him up; but, by giving him up, I'm pretty sure he's going to
11 give up the next man to save him.

12 You know what I'm saying?

13 Q So, you think your dad will give up Stanley to -- to
14 take care of himself, to get consideration on his own
15 charges? Is that what you figure?

16 A Yeah.

17 Q Do you think anybody else is involved in the homicide?

18 A No.

19 Q I'm not asking you do you know if anybody was? Do you
20 think anybody was?

21 A No, as far as I know of, I don't think of nobody. No,
22 as far as I know, enough talk went around my dad and Stan.
23 so --

24 Q Okay. Any --

25 A Ain't -- ain't no other names ever popped up.

1 Q We'll conclude the tape, then, at 5 minutes to 10:00. I
2 just wanted it perfectly clear -- clear that there was a
3 tape-recorded record of what you're offering here so that
4 there's no misunderstandings anywhere down on the line on
5 what's going on.

6 Are we all clear on that?

7 A Yes.

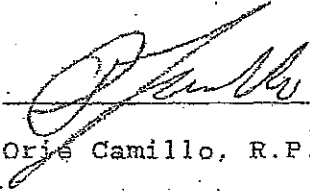
8 DST. LEIBY: Okay. We'll stop the tape then.

9 (End of tape.)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

The State of Ohio,)
County of Lorain.) SS:

I hereby certify that the foregoing is a true,
correct and complete transcript of the audiotape in this
matter taken by me from my stenographic notes; and that said
complete transcript has been compared to my stenographic
notes.


Ori Camillo, R.P.R.
Camillo Court Reporters
589 W. Broad Street
Elyria, Ohio 44035
(216) 323-3381