

1 are, again, conversations that were  
2 discussed with witness Smith or whether  
3 these -- this is a narrative of the  
4 defendant as to his version of the events.

5 THE DEFENDANT: This is sort of a  
6 narrative for the last question.

7 MS. GONZALEZ: I will rephrase my  
8 question and ask Mr. Lambrix to answer my  
9 question.

10 THE COURT: Okay. Rephrase.

11 MS. GONZALEZ: Which is -- thank you,  
12 Judge.

13 BY MS. GONZALEZ:

14 Q Mr. Lambrix was there ever a time that  
15 you told Miss Smith that you took any property  
16 off Mr. Lamberson, such as keys -- I already  
17 asked you about the necklace or any other  
18 property.

19 A I never told Miss Smith that I took  
20 any property from either one of the deceased.

21 Q What statement did you make to Frances  
22 Smith or explanation as to why you were going  
23 to get a shovel and flashlight?

24 A The statement made relevant to the  
25 shovel and the flashlight was that me and

1 Frances had discussed that we could not go to  
2 the police. We agreed that we could not go to  
3 the police together. We had mutually agreed  
4 that we had to superficially conceal the two  
5 deceased and then we were planning to leave the  
6 area immediately. Me and Frances together went  
7 to the convenient store where we purchased a  
8 flashlight and then on the way back stopped at  
9 a friend's house to get the shovel. The  
10 statement made was, actually, both of us  
11 agreeing to do this together.

12 Q Was there ever a time that you  
13 indicated to Debra Hansel that you had killed  
14 anyone?

15 A No, ma'am. I never told Miss Hansel I  
16 killed anyone.

17 Q Or killed anyone to steal  
18 Mr. Lamberson's car? This is, again, in any  
19 statements to Debra Hansel.

20 A Never. No, ma'am, I never made any  
21 such statement.

22 MS. GONZALEZ: I don't believe we  
23 have any further questions.

24 MR. AHLBRAND: I have a few  
25 questions, with the Court's permission.

## 1 CROSS EXAMINATION

2 BY MR. AHLBRAND:

3 Q Mr. Lambrix, my name is Mark Ahlbrand.  
4 We have never met before. I work for the State  
5 Attorney's office.6 With respect to your conversations with  
7 Miss Smith; Miss Smith was not -- the first  
8 time you talked to her about what happened  
9 outside is when you came back to the trailer  
10 after you had left and Mr. Lamberson and Miss  
11 Bryant had also left the trailer; that was the  
12 first time you spoke to her about what happened  
13 outside, correct

14 A Well, that's a complicated question.

15 Q Well, it can be answered with yes or  
16 no. Was that the first time that you spoke to  
17 her about what happened outside of the  
18 trailer?19 A The first time being when I first went  
20 back inside?

21 Q Yes, sir.

22 A That would have been the first time I  
23 spoke with her.24 Q Thank you. Now, when you came back  
25 in, at that point and you had some blood on

1           you, correct?

2           A     Yes.

3           Q     And at that juncture, you then  
4           discussed with her; that being Miss Smith, the  
5           scenario that you described here in court, that  
6           being the practical joke that was being played  
7           out between yourself, Mr. Lamberson, with the  
8           intent to scare Miss Bryant, you discussed that  
9           plan to pull a practical joke on Miss Bryant  
10          when you came back in covered in blood,  
11          correct?

12          A     No, sir. I never discussed that with  
13          Miss Smith.

14          Q     The practical joke then that you were  
15          discussing, that was never discussed with Miss  
16          Smith at any point?

17          A     No, sir.

18          Q     All right. So when you came back in  
19          covered with blood, she must have said  
20          something to you, correct, she must have said,  
21          yeah, you're covered in blood?

22          A     I don't believe she said those  
23          words.

24          Q     All right. So she didn't make any  
25          comment to you about the fact that you had any

1 blood?

2 A I believe she was visibly shocked.

3 Q Okay. So her expression spoke more  
4 than words at that point, is that what you're  
5 trying to express?

6 A I would say so, yes, sir.

7 Q And at that juncture, the two of you  
8 then left and on the way to the convenient  
9 store to buy a flashlight, you had yet a  
10 further discussion with her about what had  
11 happened out in the yard that night?

12 A No, sir, that's not correct. At that  
13 juncture I washed up. At that juncture I went  
14 into the bathroom and Miss Smith followed me  
15 and we continued to have a conversation at the  
16 trailer before leaving the trailer.

17 Q Okay. So in the trailer, you had  
18 discussed, then, with her, the fact that you  
19 had seen Mr. Lamberson assaulting Miss Bryant  
20 and that you had struck Mr. Lamberson in the  
21 defense of Miss Bryant; you had discussed that  
22 scenario with her in the trailer?

23 A No, sir, I discussed that scenario on  
24 the way to the store after leaving the  
25 trailer.

1 Q When you got into the trailer you were  
2 covered in blood, correct?

3 A Yes, sir.

4 Q She was visibly shocked, correct?

5 A Yes, sir.

6 Q You went in the rest room and washed  
7 up, correct?

8 A Yes, sir.

9 Q You had a conversation with her about  
10 something at that point, correct?

11 A She attempted to ask me what  
12 happened.

13 Q And you did not respond to her at that  
14 point?

15 A I believe I told her I didn't want to  
16 talk about it.

17 Q All right. So you left the house then  
18 at that point and the first discussion you had  
19 about what happened outside was on the way to  
20 the convenient store where you bought the  
21 flashlight?

22 A That is when I first told her what  
23 happened outside, yes, sir.

24 Q You needed a flashlight because you  
25 needed to return to the trailer with a shovel

1 to participate in the burial of the bodies,  
2 correct?

3 A That's correct, sir.

4 Q And you then went to a friend's house,  
5 I believe his name was Mr. Tex -- Chisolm?

6 A John Chisolm -- Tex, I believe his  
7 name was Tex.

8 Q And you lied to him about why you  
9 needed the shovels, correct?

10 A I don't recall that, sir.

11 Q Well, didn't you tell him that --

12 MS. GONZALEZ: Judge, objection, this  
13 is about what he told Miss Frances Smith.

14 THE COURT: Isn't that the issue?

15 MR. AHLBRAND: Your Honor, if the  
16 issue is his version as to Miss Smith's  
17 credibility, one would assume that his  
18 credibility should be equally discussed.

19 MS. GONZALEZ: Judge, if I may  
20 respond.

21 THE COURT: Sure.

22 MS. GONZALEZ: The State specifically  
23 made objections and limited us to  
24 specifically what was told to Miss Frances  
25 Smith. We are asking that they be limited

1 as well.

2 THE COURT: I sustain the  
3 objection.

4 BY MR. AHLBRAND:

5 Q When you returned with the shovels  
6 from Mr. Chisolm's house, the two of you had  
7 further discussions on the way back about what  
8 you were going to do with the shovels,  
9 correct?

10 A On the way back from where?

11 Q Mr. Chisolm's house with the shovels.

12 A No, sir, I don't believe we did. That  
13 was a very short distance. There was a gate we  
14 had to get out and open.

15 Q So when you went to Mr. Chisolm's, you  
16 had told Miss Smith that you were going there  
17 to get shovels so that you could bury the  
18 bodies?

19 A I'm not sure exactly what I might have  
20 told her, but she knew.

21 Q With respect then to the issues  
22 regarding -- you said that Miss Smith was  
23 mistaken regarding some body of water that she  
24 made reference to about you putting one of the  
25 decedents in a body of water. Did you testify

1 as to something in regards to her being  
2 mistaken about that?

3 A Sir, she was not mistaken, she lied.  
4 There is a difference.

5 Q Isn't it true that there was a body of  
6 water that prompted you to go out and  
7 investigate the screams that you heard because  
8 you thought there may have been snakes or  
9 alligators that came up from that water area?

10 MS. GONZALEZ: Objection; assuming  
11 facts not in evidence.

12 THE COURT: I'll overrule.

13 THE DEFENDANT: Sir --

14 BY MR. AHLBRAND:

15 Q Isn't it true that that is why you  
16 went out there, sir?

17 A Sir, I'm familiar with that piece of  
18 property. You're misconstruing the events.

19 Q My --

20 A To answer your question I must explain  
21 to you where the snakes and alligators might  
22 have been. This property in which the trailer  
23 was on has pasture about six hundred feet by  
24 one thousand feet deep. Behind this property  
25 approximately two hundred feet behind the rear

1 pasture fence is the B Branch Creek. There is  
2 nothing inside the pasture area.

3 Q Okay. So there is a creek beyond the  
4 pasture area?

5 A Approximately twelve hundred feet  
6 back.

7 Q Okay. So there is a body of water  
8 there, your position is she simply lied about  
9 whether or not you admitted putting the bodies  
10 in the water, correct?

11 A Sir, I'm familiar with her testimony.  
12 She never testified as to anything that might  
13 have happened behind the rear fence. You're  
14 going a significant distance west of where  
15 these events took place.

16 Q So in your discussions with Miss  
17 Smith, just so that we can conclude this, then  
18 we will get on to Miss Bryant; you're not  
19 denying any component that you admitted to Miss  
20 Smith that you were present, that you swung the  
21 tire iron that resulted in the injuries  
22 sustained by Mr. Lamberson, that you  
23 participated in the burying of the bodies, and  
24 all of this was discussed with Miss Smith and  
25 you're not denying any of that?

1           A     I'm not denying those elements,  
2           specifically.

3           Q     Okay. What you are denying is, as I  
4           understand it, is that there was a conversation  
5           with Miss Bryant, correct?

6           A     A conversation with Miss Bryant?

7           Q     Per -- I'm sorry -- with Miss Hansel,  
8           my mistake -- with Miss Hansel, correct?

9           A     What conversation?

10          Q     You were asked a question as to  
11          whether or not you discussed a conversation  
12          with Miss Hansel in which you admitted being  
13          responsible for -- I think the way the question  
14          was put -- or involved in the death of the two  
15          people, Mr. Lamberson -- Mr. Lamberson and Miss  
16          Bryant and you denied making that telephone  
17          call, correct?

18          A     Sir, the only thing I have ever told  
19          Miss Hansel was the same thing I told her in  
20          the presence of Mr. Branch and that is, that  
21          while intoxicated, after consuming  
22          approximately two six packs of beer because I  
23          was upset about having to return to the trailer  
24          area, I made some spontaneous remark as to;  
25          there is two bodies buried back there. I never

1 made any statement suggesting that I was  
2 responsible.

3 Q But you acknowledged being there when  
4 the bodies were being buried?

5 A That does not make me responsible for  
6 what happened.

7 Q I'm not suggesting it makes anybody  
8 responsible. My question is; you did have a  
9 conversation with Miss Hansel regarding the  
10 fact that there is dead bodies buried at the  
11 trailer in which you occupied along with Miss  
12 Smith, correct?

13 A In that limited context, that is  
14 correct.

15 Q Okay. Were you aware of the fact that  
16 Miss Hansel initially -- or Miss Hansel was  
17 interviewed by one of your previous attorneys  
18 back in 1998 -- were you aware of an interview  
19 that took place between one of your  
20 postconviction relief collateral crimes  
21 division attorneys and Miss Hansel back in  
22 1998?

23 A Yes, sir, I am.

24 Q And you were aware of the gist of that  
25 conversation in which she had qualified, or, in

1 fact, modified her position regarding any  
2 testimony she had other than what you've  
3 already admitted to; the fact that there were  
4 bodies buried out there and that you were drunk  
5 that night?

6 A I'm aware that in the 1998 statement  
7 she confirmed what I've always said and that is  
8 that I have never told her that I killed  
9 anyone.

10 Q Okay. But you did tell Miss Smith  
11 that you struck Mr. Lamberson?

12 A In self defense.

13 Q I understand.

14 A In an attempt to stop him from  
15 assaulting Miss Bryant.

16 Q Okay. With respect to the  
17 relationship that Miss Smith may have had with  
18 Miss Hansel, when you first started seeing Miss  
19 Smith and she had come down to the area, you  
20 had known her for approximately how long before  
21 the incident at the trailer took place on the  
22 night of the -- what was that, the 5th of  
23 March; 5th and 6th -- I'm sorry -- 5th and 6th  
24 of February; how long had you known Miss  
25 Smith?

1           A     Oh, significantly longer than that.  
2     Her younger brother, Edward Ottinger, used to  
3     date my younger sister, so I actually --

4           Q     Weeks, months, or days, sir, how long  
5     had you known her?

6           A     Actually, it would have been years,  
7     casually.

8           Q     How long?

9           A     At the time that she and I were  
10    together, that would have been approximately  
11    five to seven weeks.

12          Q     Okay. And how long had you known Miss  
13    Hansel as of the 5th or 6th of February?

14          A     Oh, at least three months, perhaps --  
15    actually, no -- I have to correct myself on  
16    that. Actually, it had been more like eighteen  
17    months because I had met her through her sister  
18    Donna who owned a truck topper business right  
19    across from her boyfriend's mother's house.

20          Q     Okay. So you had known Miss Smith for  
21    several years, but had a relationship with her  
22    for several weeks and you had known Miss Hansel  
23    for eighteen months?

24          A     Only casually.

25          Q     Casually?

1           A     Just by name.

2           Q     Okay.  And did you ever discuss with  
3 Miss Smith prior to the night of the 5th or 6th  
4 of February, your relationship, albeit an  
5 acquaintance, with Miss Hansel?  Did you ever  
6 sit down and say, I've got a friend out here,  
7 her name is Debbie Hansel, I thought you ought  
8 to know about her; she is a nice lady, not a  
9 nice lady, just wanted to share my life  
10 experience about her?  Did you ever tell --

11          A     No.  I don't believe Miss Hansel  
12 was --

13          Q     My question is; did you ever tell her  
14 about her, yes or no?

15          A     No.

16          Q     By the same token, did you ever  
17 discuss with Miss Hansel the fact that you had  
18 an intimate relationship with Miss Smith that  
19 had been ongoing for five or six weeks before  
20 the night of the 5th of February?

21          A     I don't see why I would have, no.

22          Q     Okay.  So there would have been no  
23 reason for you to be the medium by which these  
24 two ladies would have common information about  
25 you as a person?

1           A     No, I don't believe so.

2           Q     Okay. With respect to Miss Hansel's  
3 recantation, or her change of testimony and so  
4 forth, has she been one of the people that has  
5 written in to your web page and discussed her  
6 feelings about the case with you?

7           MS. GONZALEZ: Objection, Judge, as  
8 to relevancy and beyond the scope.

9           THE COURT: Overruled.

10          BY MR. AHLBRAND:

11          Q     Has she written in to your web page,  
12 sir, Miss Hansel?

13          A     Sir --

14          Q     The question is yes or no; has she  
15 written in?

16          A     No. I would have to say no. I have  
17 no knowledge of it. I'm on death row I don't  
18 have access to the internet. I don't know who  
19 is on the internet or who is on my web page.

20          Q     You're under oath now, sir. You don't  
21 have any idea who is on your web page?

22          A     I have -- I do not have access to the  
23 internet, I do not know who logs on. I could  
24 tell you some of the people, but I could tell  
25 you this; I have no knowledge of Debra Hansel

1 logging on into my web page, signing guest  
2 books - I believe that's what most of them call  
3 them - or anything. Nobody has brought this to  
4 my attention, nor do I have knowledge of it.

5 Q And you've never responded to her  
6 within that context on the internet?

7 MS. GONZALEZ: I believe the question  
8 was asked and answered.

9 THE DEFENDANT: I don't -- I don't  
10 know --

11 THE COURT: Yeah, asked and answered

12 MR. AHLBRAND: I don't have any  
13 questions then for you, sir.

14 MS. GONZALEZ: Just one moment,  
15 Judge.

16 Judge, we have no further questions.

17 We have nothing further to present to  
18 the Court.

19 THE COURT: Okay. State want to call  
20 a witness?

21 MS. ROSS: Your Honor, the State  
22 would call Frances Ottinger.

1       Thereupon,

2                               FRANCES OTTINGER,

3       a Witness, after being duly called and sworn,  
4       was examined and testified as follows:

5                               DIRECT EXAMINATION

6       BY MS. ROSS:

7               Q     State your name, please, and spell  
8       your first name and last name for the court  
9       reporter.

10              A     First name is Frances, F-R-A-N-C-E-S,  
11     O-T-T-I-N-G-E-R.

12              Q     Thank you, Miss Ottinger.

13                     Did you at any time have a conversation  
14     with a Miss Hansel and instruct her to give  
15     false information to any investigator  
16     investigating the case regarding Cary Lambrix,  
17     the defendant, and Mr. Lamberson and Miss  
18     Bryant

19              A     I did not.

20              Q     Did you at any time have a  
21     conversation with Mrs. Hansel where you  
22     instructed her to testify falsely or give false  
23     information during the trials of Mr. Cary  
24     Lambrix?

25              A     No, I did not.

1 Q Did you at any time have a  
2 conversation with Mr. Branch in which you asked  
3 him or instructed him to give false information  
4 to anyone conducting an investigation regarding  
5 the deaths of Mr. Lamberson or Miss Bryant?

6 A No.

7 Q Did you at any time have a  
8 conversation with Mr. Branch in which you asked  
9 him or suggested to him that he should testify  
10 falsely at either trial for -- regarding Cary  
11 Lambrich pertaining to the deaths of  
12 Mr. Lamberson or Miss Bryant?

13 A No, ma'am.

14 MS. ROSS: I have no further  
15 questions.

16 CROSS EXAMINATION

17 BY MS. GONZALEZ:

18 Q Miss Ottinger, Miss Hansel had your  
19 phone number, isn't that correct?

20 MS. ROSS: Your Honor, I'm going to  
21 object to what Miss Hansel may have said,  
22 beyond the scope of the knowledge of this  
23 witness.

24 THE COURT: Overruled.

25 BY MS. GONZALEZ:

1 Q You may answer the question.

2 A I'm not sure. I don't remember if she  
3 had it.

4 Q Would looking at any phone records  
5 refresh your recollection?

6 A It may. I don't know.

7 MS. GONZALEZ: Judge, if I may  
8 approach.

9 If you can review page two and page  
10 three --

11 And Judge, I'd simply ask that the  
12 State not speak so loudly so that we all  
13 can hear what he's saying.

14 THE COURT: I'm sorry. The State  
15 what?

16 MS. GONZALEZ: The State not speak  
17 too loudly so that the witness can hear  
18 what they're saying.

19 THE COURT: Oh, okay.

20 BY MS. GONZALEZ:

21 Q At page two and page three, ma'am,  
22 please.

23 After reviewing these phone records,  
24 does that refresh your recollection as to  
25 whether Miss Hansel had your phone number?

1           A.    I still don't remember her having my  
2 phone number.  Maybe she did.

3           Q    Okay.  The phone numbers that you  
4 reviewed on the statement, the highlighted  
5 numbers were the phone number that you were  
6 using back in 1983, correct?

7           A    Yes, it is.

8           Q    And they appear on this statement with  
9 Miss Hansel's name on it?

10           MR. AHLBRAND:  Your Honor, I'm going  
11 to object, I think the record speaks for  
12 itself.  The witness has already testified  
13 it doesn't refresh her recollection.

14           THE COURT:  Overruled.

15           MS. GONZALEZ:  And this statement --

16           THE COURT:  It does speak for itself.

17           MS. GONZALEZ:  I'm just asking to  
18 clarify her testimony as to what she  
19 recalls and does the statement accurately  
20 reflect the phone number she used and the  
21 statement has Miss Hansel's name on it.

22           THE COURT:  So what is your question?  
23 Is that your question?

24           MS. GONZALEZ:  Okay.  Now even I  
25 forgot my question.  I'm sorry.

1 BY MS. GONZALEZ:

2 Q Does this phone record accurately  
3 reflect the number that you used at the time in  
4 1983?

5 A It looks like the number, yes.

6 Q Is this the number you testified to  
7 earlier today?

8 A It is.

9 Q Okay. So it's the number you were  
10 using in 1983?

11 A Right.

12 Q On the statement that has Miss  
13 Hansel's statement on it?

14 A Yes, ma'am.

15 Q So there were times that Miss Hansel  
16 called you?

17 A I don't remember talking to her.  
18 Maybe I did. I don't remember speaking with  
19 her.

20 Q And during this time in February and  
21 March of 1983, were you involved with  
22 investigator Daniels at that time in a romantic  
23 relationship?

24 A I don't remember when that was.

25 Q But you do recall being involved in a

1 romantic relationship with the chief  
2 investigator, named Bob Daniels, for the State  
3 Attorney's office?

4 A For a very short time.

5 Q And it was sexual in nature?

6 A Yes.

7 Q Now, Miss Ottinger, when you were  
8 first arrested by the police you stated to them  
9 that you did not know Mr. Lambrix, isn't that  
10 true?

11 A That's correct.

12 Q And when you were arrested by police  
13 you were arrested for aiding and abetting an  
14 escaped convict?

15 A That's correct.

16 Q You did not admit to knowing  
17 Mr. Lambrix until after you had been released  
18 and consulted a lawyer?

19 A That's true.

20 Q You admitted to knowing Mr. Lambrix  
21 after you were told that you were also under  
22 investigation on this case as a possible  
23 codefendant in the homicides of Miss Bryant and  
24 Mr. Lamberson?

25 A I'm sorry. I didn't understand the

1 question.

2 Q You admitted to knowing Mr. Lambrix  
3 after you were told you were a possible suspect  
4 in the State's investigation of the  
5 homicides?

6 A When I went to see lawyer in Tampa  
7 that is when -- I'm sorry?

8 Q When you went to see a lawyer.

9 A When I first went to the lawyer in  
10 Tampa to talk -- to speak to a lawyer about  
11 this?

12 Q That's when you first admitted knowing  
13 Mr. Lambrix?

14 A I'm trying to remember. That has been  
15 such a long time ago. I think so.

16 Q You received the benefit of not being  
17 prosecuted for aiding and abetting Mr. Lambrix,  
18 isn't that true?

19 A I'm sorry, ma'am?

20 Q You've received the benefit of not  
21 being prosecuted by this State Attorney's  
22 office by testifying against Mr. Lambrix?

23 MR. AHLBRAND: Judge, I'm going to  
24 object to the form of the question because  
25 A; the offenses to which they are saying

1           this State Attorney's office isn't totally  
2           clear that it was this one or another  
3           State Attorney's office that had to do  
4           with the stolen vehicle complaint, and  
5           whether or not she received a benefit or  
6           not is argumentative. If she perceived it  
7           as one, that's fine, but the question  
8           presumes that she received a benefit.

9           THE COURT: I tend to agree with him.  
10          You know, you've got to set a predicate  
11          for this. I understand she was arrested.  
12          But apparently no information was ever  
13          filed in that arrest, right?

14          MS. GONZALEZ: There was no  
15          information filed, yes, Judge, correct.

16          THE COURT: So how that happened or  
17          why that happened, the question assumes  
18          facts not in evidence.

19          MS. GONZALEZ: Okay. I'll rephrase.  
20          Thank you, Judge.

21          BY MS. GONZALEZ:

22           Q     You were not prosecuted for aiding and  
23           abetting an escaped felon, correct?

24           A     Correct.

25           Q     You were not prosecuted for grand

1 theft auto?

2 A No, I was not.

3 Q You have not been prosecuted for the  
4 murders of Alisha Bryant and Mr. Lamberson?

5 A No.

6 Q You were not prosecuted for being an  
7 accessory after the fact in the homicides of  
8 Alisha Bryant and Mr. Lamberson?

9 A No.

10 Q Now, you knew you were a suspect in  
11 the homicides, correct?

12 A Right.

13 Q And to this day, no one has told you  
14 you're not a suspect in the homicides,  
15 correct?

16 A Correct.

17 Q Mr. Daniels, the investigator, is the  
18 one who told you if you kept your story the  
19 same, you wouldn't be prosecuted, correct?

20 A I'm sorry?

21 Q Bob Daniels told you that if you kept  
22 your story the same, you would not be  
23 prosecuted?

24 A I don't remember that.

25 Q Now, when you first spoke to Deputy

1 Ronkietus when you were first arrested, you not  
2 only denied knowing Mr. Lambrix, but you stated  
3 that the car belonged to your boyfriend,  
4 correct?

5 MS. ROSS: Your Honor, I'm going to  
6 object to the compound nature of the  
7 question.

8 THE COURT: Overruled.

9 MS. GONZALEZ: You may answer the  
10 question, ma'am.

11 THE WITNESS: I don't remember what I  
12 said then.

13 MS. GONZALEZ: Would looking at a  
14 police report -- or statement refresh your  
15 recollection?

16 THE WITNESS: It might. I don't  
17 know.

18 MS. ROSS: Your Honor, if I could  
19 indicate, the only trouble I have with  
20 what counsel is going to show the witness  
21 is that it is not the recording of a  
22 statement that the witness may have made,  
23 but it is the recording of a statement by  
24 the deputy himself on page two, Judge.

25 MS. GONZALEZ: If I may respond, Your

1 Honor.

2 THE COURT: Yeah. Go ahead, what did  
3 you want to tell me?

4 MS. GONZALEZ: Simply that the rules  
5 permit us to refresh her recollection with  
6 anything that we have, even if it's not,  
7 per se, her statement.

8 THE COURT: This page you're showing  
9 me is talking about some anonymous phone  
10 call?

11 MS. GONZALEZ: No, page two, Judge,  
12 I'm sorry.

13 THE COURT: Show me which one it is.  
14 This is a statement that the officer  
15 said she said?

16 MS. GONZALEZ: And the rules allow us  
17 to refresh her recollection with anything  
18 that we have.

19 THE COURT: What rule? I'm not aware  
20 of any. I mean, you've seen that, ma'am,  
21 it's usually with the officer sitting here  
22 on the stand. This officer is not here.

23 MR. HALLENBERG: Judge, that was the  
24 issue we raised before we broke last.

25 MS. GONZALEZ: Regarding this morning

1 MR. HALLENBERG: And you had said  
2 that -- we made clear that we had reports  
3 and depositions of the officers.

4 THE COURT: Why don't you just use  
5 this, this is in the record somewhere.

6 MR. HALLENBERG: I don't think it's  
7 ever been admitted into evidence. It's a  
8 sworn statement that was taken by the  
9 State Attorney's office.

10 THE COURT: You can show a witness  
11 not her statement but what somebody said  
12 was her statement to refresh her  
13 recollection? Pretty extraordinary.  
14 Here. I'll let you do it. Here you go.  
15 Take a look at it.

16 MS. GONZALEZ: Thank you, Judge.

17 BY MS. GONZALEZ:

18 Q Have you had an opportunity to read  
19 it, ma'am?

20 A Yes, I have.

21 Q Does it refresh your recollection as  
22 to the statements you made when you were  
23 arrested?

24 A That I did not know him?

25 Q Yes, and that the car belonged to your

1           boyfriend?

2           A     I don't remember saying the car  
3           belonged to a boyfriend.

4           Q     Miss Smith, do you recall being given  
5           a polygraph examination?

6           A     Yes, I do.

7           Q     Were you made aware of the results  
8           being inconclusive when you gave that  
9           polygraph?

10          A     No, I don't.

11          Q     Now, when you gave statements to a  
12          Detective Miesel, you stated that you knew  
13          Mr. Lambrix but you had dropped him off at a  
14          Grey Hound station, correct?

15          A     I don't remember.

16          Q     Okay. Would looking at a Detective  
17          Miesel's report refresh your recollection?

18          A     It it may.

19          Q     Can you please read the indicated  
20          portion to yourself.

21          A     I don't remember any of this.

22          Q     It does not refresh your  
23          recollection?

24          A     No, ma'am.

25          Q     Do you recall ever speaking to

1 Detective Miesel?

2 A I don't know who he is.

3 Q Do you recall speaking to a detective  
4 who came to talk to you about the stolen  
5 vehicle and a missing person's report --

6 A I can't remember that either.

7 Q -- during the time that you were  
8 incarcerated in the county jail?

9 A I remember someone talking to me then  
10 but I don't remember who it was and I can't  
11 remember -- I can't remember what we talked  
12 about.

13 MS. GONZALEZ: Judge, we have no  
14 further questions.

15 RE-DIRECT EXAMINATION

16 BY MS. ROSS:

17 Q Do you recall receiving phone calls  
18 shortly after this happened, and pretrial, from  
19 Mr. Lambrix, trying to pressure you to change  
20 your story, to change what you had told in  
21 deposition and what you had related to the  
22 police as what happened on that evening?

23 MS. GONZALEZ: Objection; beyond the  
24 scope of cross-examination.

25 THE COURT: Yeah, I agree, beyond the

1 scope.

2 MS. ROSS: Okay. Do you consider  
3 yourself a suspect in this case right now.

4 THE WITNESS: No, ma'am.

5 MS. ROSS: I have nothing further,  
6 Your Honor.

7 THE COURT: Thank you, ma'am. You  
8 may step down.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Is she released?

11 MS. ROSS: Yes, Your Honor.

12 THE COURT: You're free to go then  
13 ma'am, thank you.

14 MS. ROSS: No further witnesses, Your  
15 Honor.

16 THE COURT: Okay. Well, let's see.  
17 The decision is mine for the hearing? Do  
18 you'all want to make any argument? I --

19 MS. ROSS: I was just going to say, I  
20 think --

21 MR. HALLENBERG: Well, Judge, I would  
22 request the opportunity to submit memos  
23 after getting a transcript of the  
24 proceedings that we've had. That would be  
25 my request, Your Honor, especially given

1 the fact that we have only been able to  
2 speak to Miss Ottinger -- today has been  
3 the first time we have ever been able to  
4 speak with her. We have this information  
5 to kind of digest. I certainly do not  
6 feel that I would be comfortable making an  
7 argument until I have time to digest all  
8 the information that we've learned today.

9 THE COURT: How much time are you  
10 talking about?

11 MR. HALLENBERG: If I -- I would  
12 request sixty days.

13 THE COURT: That's way too long.

14 MR. AHLBRAND: Thirty days.

15 THE COURT: I mean, the defense has  
16 been pushing me to get this done.

17 MR. HALLENBERG: I understand, Your  
18 Honor.

19 THE COURT: Now you're telling me you  
20 don't want me to get this done?

21 MR. HALLENBERG: What -- our  
22 position, again, is that because we've  
23 only now learned of Miss Ottinger-Smith's  
24 testimony and the information that she  
25 provided, we are requesting the

1 opportunity to submit a memo, we would ask  
2 for thirty days.

3 MS. ROSS: Your Honor, it would be  
4 the State's position that it would be  
5 appropriate to hear argument now and for  
6 the Court, I mean, to reserve ruling, but  
7 to hear argument now.

8 One; the issue that is before this  
9 Court is relatively straightforward. Two;  
10 in terms of Frances' testimony --  
11 Ottinger-Smith's testimony, the deposition  
12 was scheduled, and questions that  
13 pertained to Miss Hansel or Mr. Branch and  
14 that testimony was not objected to, and  
15 was available for counsel to consider at  
16 that time. Whatever questions that they  
17 didn't choose to ask at that time, but  
18 chose to ask today that were not raised at  
19 that time, it seems -- I don't want to use  
20 the word disingenuous -- it seems  
21 inappropriate now to sit there and say, we  
22 haven't had time to digest it.

23 The more important issue is of  
24 credibility, and is for the Court to  
25 determine and the Court has heard all of

1 the testimony today.

2 THE COURT: I really do want to hear  
3 what counsel thinks about this.

4 MS. GONZALEZ: The one concern that  
5 we have is simply to the opportunity to  
6 address just what the State finished  
7 saying; that we had the opportunity to do  
8 the full deposition of Miss Smith when we  
9 originally had the deposition scheduled.  
10 We would be in a much better position  
11 to --

12 THE COURT: You have thirty days  
13 after to get it in the Court file. You've  
14 got fifteen days to respond then I'll make  
15 a decision. Okay.

16 What I want to hear -- what I want to  
17 get from you is argument, a memo. After  
18 you get the transcript -- okay. There you  
19 go. Thank you.

20 THE DEFENDANT: Your Honor, if it  
21 please the Court; can you do a motion for  
22 transport order, because I got stuck --

23 THE COURT: You want me to do an  
24 order sending you back?

25 THE DEFENDANT: I've been stuck in

1 the county jail two and a half months.

2 I'm ready to go back.

3 THE COURT: That's okay with y'all?

4 Okay.

5 (Whereupon, the proceedings  
6 concluded.)

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