

IN THE CIRCUIT COURT, 9th JUDICIAL
CIRCUIT, CRIMINAL JUSTICE DIVISION
IN AND FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

PLAINTIFF,

VS.

CASE NO. CR 90-5351
VOLUME IV

SCOTTY MERSON,

DEFENDANT.

FILED IN OFFICE
CRIMINAL DIVISION
91 MAR 26 PM 4: 10
FRAN CARLTON
CLERK OF CIRCUIT COURT
ORANGE COUNTY, FL.

JURY TRIAL PROCEEDINGS

BEFORE

THE HONORABLE GEORGE A. SPRINKEL, IV

ORANGE COUNTY COURTHOUSE
COURTROOM C, THIRD FLOOR
ORLANDO, FLORIDA 32801
WEDNESDAY, OCTOBER 17, 1990
COMMENCING AT 1:40 P.M.

A P P E A R A N C E S:

MARK C. BENDER, ESQUIRE
ASSISTANT STATE ATTORNEY
250 NORTH ORANGE AVENUE
ORLANDO, FLORIDA 32801
APPEARING FOR THE PLAINTIFF

ERIC R. EIDE, ESQUIRE
ASSISTANT PUBLIC DEFENDER
ONE NORTH ORANGE AVENUE
ORLANDO, FLORIDA 32801
APPEARING FOR THE DEFENDANT

I N D E X

VOL. IV

OCTOBER 17, 1990
AFTERNOON SESSION (CONTINUING)

DEFENSE WITNESSES (CONTINUING):

TESTIMONY OF MARY ALLISON LOWERY

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REDIRECT EXAMINATION BY MR. EIDE	438

TESTIMONY OF MICHAEL J. WILLEY

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TESTIMONY OF TAMMY WILLEY

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TESTIMONY OF JUDY WILLEY

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E-X-H-I-B-I-T-S

DEFENSE COMPOSITE EXHIBIT NO. 1 IN EVIDENCE	500
DEFENSE COMPOSITE EXHIBIT NO. 2 IN EVIDENCE	504

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1 OCTOBER 17, 1990

2 AFTERNOON SESSION

3 P R O C E E D I N G S

4 THEREUPON,

5 MARY ALLISON LOWERY,

6 WAS CALLED AS A WITNESS BY THE DEFENSE AND, AFTER HAVING

7 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED ON HER

8 OATH AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. EIDE:

11 Q HI THERE. COULD YOU, PLEASE, STATE YOUR FULL
12 NAME FOR THE RECORD?

13 A MARY ALLISON LOWERY.

14 Q WOULD YOU SPELL YOUR LAST NAME, FOR THE RECORD?

15 A L-O-W-E-R-Y.

16 Q WHAT NAME DO YOU GO BY?

17 A ALLISON.

18 Q WHERE DO YOU WORK?

19 A AT AMOCO GAS STATION.

20 Q DO YOU KNOW SCOTTY?

21 A YES, I DO.

22 Q HOW DO YOU KNOW SCOTTY?

23 A THROUGH FRIENDS, A LONG TIME AGO.

24 Q WHAT'S YOUR RELATIONSHIP WITH SCOTTY? ARE YOU
25 HIS GIRL FRIEND OR JUST A FRIEND?

1 A YEAH.

2 Q WHICH ONE?

3 A GIRL FRIEND.

4 Q HOW LONG HAVE YOU BEEN DATING SCOTTY?

5 A SINCE I WAS 16.

6 Q YOU'VE BEEN DATING HIM ON AND OFF, OR STEADY?

7 A BOTH.

8 Q DO YOU REMEMBER MEETING UP WITH SCOTTY IN MAY 18TH,
9 MAY 19TH, OF THIS YEAR?

10 A YES, I DO.

11 Q TELL ME HOW YOU CAME INTO CONTACT WITH HIM THAT
12 NIGHT?

13 A HE CALLED ME AT HOME AROUND 9:30. HE'D JUST GOT
14 BACK INTO TOWN. HE WAS OUT OF TOWN ALL WEEK. AND HE WANTED
15 TO COME SEE ME. SO HE ASKED SHAWN IF HE WOULD COME GET HIM.

16 SO ME, SHAWN AND KRISTI WENT AND PICKED HIM UP
17 AT THE CLUBHOUSE AT HIS GRANDMA'S TRAILER PARK. THEN WE
18 CAME BACK TO THE HOUSE. WELL, NO, WE STOPPED AT A STORE.
19 HE BOUGHT A SIX-PACK OF BEER, AND HE BOUGHT ME A PACK OF
20 CIGARETTES.

21 Q DO YOU REMEMBER WHAT TIME YOU PICKED HIM UP?

22 A IT WAS AFTER TEN O'CLOCK. PROBABLY AROUND 10:30.

23 Q WHAT TIME DID YOU GET BACK TO THE TRAILER IN APOPKA?

24 A BY ELEVEN.

25 Q WHAT'D YOU GET AT THE CONVENIENCE STORE?

1 A HE GOT A SIX-PACK OF BEER AND BOUGHT ME A PACK
2 OF CIGARETTES.

3 Q WHAT DID YOU DO WHEN YOU GOT BACK TO THE TRAILER?

4 A WE WATCHED A COUPLE OF MOVIES ON THE VCR.

5 Q WHO ELSE WAS THERE?

6 A THERE WAS TAMMY WILLEY, JUDY WILLEY, CHRISTOPHER,
7 THE BABY. THERE WAS SHAWN, CHRISTI MOORE, MICHAEL HYLAND
8 AND SCOTTY AND I.

9 Q WHOSE VEHICLE DID YOU GO PICK UP SCOTTY IN?

10 A IN SHAWN'S.

11 Q WHEN YOU LEFT WERE THERE ANY OTHER CARS AT THE
12 TRAILER?

13 A YES.

14 Q WHOSE?

15 A THERE WAS MICHAEL'S, AND IT HAD A FLAT TIRE. AND,
16 NO, TAMMY'S WASN'T THERE BECAUSE JUDY WAS GONE.

17 Q ANYONE ELSE'S?

18 A NO, THAT'S IT.

19 Q BEFORE YOU LEFT TO GO PICK UP SCOTTY, HAD YOU GONE
20 AHEAD, AND DID YOU SEE MICHAEL HYLAND AT THAT POINT? WAS HE
21 THERE?

22 A I CAN'T RECALL IF HE WAS THERE, OR NOT.

23 Q WAS HE THERE WHEN YOU CAME BACK?

24 A YEAH, HE WAS THERE.

25 Q MICHAEL WILLEY WAS THERE WHEN YOU CAME BACK?

1 A YES.

2 Q WHAT TIME DID YOU GO TO BED THAT NIGHT?

3 A I LOOKED AT A CLOCK WHEN WE WERE LAYING DOWN, AND
4 IT SAID 2:20. THAT'S THE LAST TIME I LOOKED AT IT.

5 Q WHERE'S THE O'CLOCK LOCATED?

6 A IT'S ON THE VCR, RIGHT IN FRONT OF WHERE WE WERE
7 LAYING.

8 Q WOULD IT HELP YOU TO KIND OF POINT OUT ON A LITTLE
9 CHART WHERE THIS STUFF IS, AT ALL?

10 A WHERE WHAT IS?

11 Q WOULD IT HELP YOU TO SHOW WHERE THINGS ARE, TO
12 POINT OUT ON THIS DISPLAY?

13 A WHAT DO YOU NEED ME TO SHOW?

14 Q WHERE THE CLOCK IS.

15 A WE WERE LAYING HERE, AND THE CLOCK WAS RIGHT HERE.
16 THE VCR WAS AGAINST THE WALL.

17 Q NOW, WHAT TIME DID SHAWN AND CHRISTI GO TO BED;
18 DO YOU KNOW?

19 A IT WAS SHORTLY AFTER WE GOT BACK. I DON'T REMEMBER
20 WHAT TIME IT WAS.

21 Q ALL RIGHT. WHERE DID THEY GO?

22 A IN THEIR BEDROOM.

23 Q DID THEY CLOSE THE DOOR OR LEAVE IT OPEN?

24 A YEAH, THEY ALWAYS KEPT THEIR DOOR CLOSED.

25 Q WHAT TIME DID MICHAEL HYLAND GO TO BED; DO YOU

1 KNOW?

2 A NO, I DON'T KNOW. MICHAEL WILLEY WENT TO BED
3 BEFORE HE DID. AND THEN HE WAS ASLEEP BEFORE JUDY CAME IN.

4 Q DO YOU REMEMBER JUDY COMING IN?

5 A YES, I DO.

6 Q WHAT TIME WAS THAT?

7 A IT WAS AFTER ONE O'CLOCK.

8 Q DID YOU TALK TO HER AT ALL?

9 A NO.

10 Q WHAT WERE YOU DOING WHEN SHE CAME IN? WERE YOU
11 JUST LAYING THERE?

12 A YEAH, WE WERE LAYING DOWN.

13 Q WHERE WAS SCOTTY AT THIS TIME?

14 A HE WAS WITH ME, BESIDE ME.

15 Q AND WHERE'S THAT?

16 A ON THE MATTRESS ON THE FLOOR, BY THE BAR IN THE
17 LIVING ROOM.

18 Q OKAY. AND WHERE WAS MICHAEL WILLEY?

19 A HE WAS ON THE SAME PLACE.

20 Q SAME MATTRESS?

21 A YES.

22 Q WHAT KIND OF MATTRESS IS IT?

23 A IT'S A QUEEN-SIZE OR KING-SIZE MATTRESS.

24 Q WERE ALL THREE OF YOU SLEEPING TOGETHER, RIGHT
25 THERE TOGETHER, OR WHAT?

1 A YEAH, ME AND SCOTTY HAD OUR OWN COVERS, AND
2 MICHAEL HAD HIS OWN.

3 Q WERE YOU ON ONE SIDE?

4 A ME AND SCOTTY WERE TOGETHER, AND THEN MICHAEL WAS
5 ON THE OTHER SIDE.

6 Q DO YOU KNOW WHAT TIME YOU FELL ASLEEP?

7 A THE LAST I RECALL LOOKING AT THE CLOCK, IT WAS 2:20.

8 Q AND ANYTHING AFTER THAT? DID YOU WAKE UP AT ALL?

9 A NO, NOT UNTIL THE NEXT MORNING.

10 Q WHAT TIME DID YOU WAKE UP?

11 A PROBABLY AROUND -- IT WAS EARLY BUT NOT REAL EARLY.
12 BECAUSE SCOTTY HAD TO GO TO WORK.

13 Q OKAY. DO YOU KNOW HAVE ANY IDEA WHAT TIME IT WAS?

14 A NO.

15 Q WHEN YOU WOKE UP WAS SCOTTY THERE?

16 A YES, HE WAS.

17 Q AND WHEN YOU WERE ASLEEP THAT NIGHT, DID YOU EVER
18 WAKE UP?

19 A NO.

20 Q DID YOU EVER REMEMBER SCOTTY LEAVING?

21 A NO, I DON'T.

22 Q COULD SCOTTY HAVE LEFT WITHOUT YOU KNOWING?

23 A NO. I SLEEP WITH MY HEAD ON HIS CHEST AND MY LEG
24 AROUND HIM ALL THE TIME. SO I WOULD HAVE KNEW IF HE WOULD
25 HAVE GOT UP OR MOVED.

1 Q OKAY. AND HE DIDN'T?

2 A NO.

3 Q DID YOU DRINK ANYTHING THAT NIGHT?

4 A NO, I DIDN'T.

5 Q DID SCOTTY?

6 A YES.

7 Q HOW MUCH DID HE DRINK?

8 A HIM AND MICHAEL HYLAND DRANK A SIX-PACK. THAT'S

9 ALL I REMEMBER SEEING.

10 MR. EIDE: OKAY. I DON'T HAVE ANY OTHER QUESTIONS

11 AT THIS TIME, YOUR HONOR.

12 THE COURT: YOU MAY INQUIRE.

13 CROSS-EXAMINATION

14 BY MR. BENDER:

15 Q YOU'RE SCOTTY MERSON'S GIRL FRIEND?

16 A YES.

17 Q DO YOU ALL HAVE AN INTIMATE RELATIONSHIP OR

18 PLUTONIC RELATIONSHIP?

19 A INTIMATE.

20 Q HOW LONG HAVE YOU BEEN DATING HIM?

21 A SINCE I WAS 16.

22 Q AND YOU'RE HOW OLD NOW?

23 A I'LL BE 19 IN TWO WEEKS.

24 Q DO YOU LOVE HIM?

25 A YES.