

1 THE COURT: RE-CROSS?

2 MR. BENDER: NO, YOUR HONOR.

3 THE COURT: YOU MAY STEP DOWN.

4 CALL YOUR NEXT WITNESS.

5 MR. EIDE: YOUR HONOR, COULD WE APPROACH?

6 (THEREUPON, COUNSEL APPROACHED THE BENCH, AND THE  
7 FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE HEARING OF THE  
8 JURY, AND ON THE RECORD AS FOLLOWS:)

9 MR. EIDE: YOUR HONOR, AT THIS TIME I WANT TO  
10 CALL A WITNESS, AND I NEED TO MAKE A MOTION IN LIMINE  
11 REGARDING QUESTIONING FROM THE STATE AS TO POSSIBLE  
12 PRIOR CONVICTIONS.

13 AND I BELIEVE THERE'S CASE LAW SAYING,  
14 FIRST OF ALL, WE HAVE TO BE PROVIDED WITH J AND S'S  
15 AS TO THE CONVICTIONS.

16 THE COURT: IS THIS YOUR WITNESS?

17 MR. EIDE: YES, IT IS.

18 THE COURT: WHEN DID YOU FURNISH HIM WITH THAT?

19 MR. EIDE: A LONG TIME AGO.

20 AND, SECONDLY, EVEN IF THEY DID FURNISH  
21 IT, THEY COULD NOT USE A CRIME WHERE AN ADJUDICATION  
22 WAS WITHHELD. AND SO I WOULD LIKE TO MOVE IN LIMINE  
23 THAT THE STATE NOT --

24 MR. BENDER: WHAT WITNESS ARE YOU TALKING ABOUT?

25 MR. EIDE: MY NEXT WITNESS, MICHAEL HYLAND.

1 MR. BENDER: HE WAS CONVICTED FOR ROBBERY.

2 MR. EIDE: I DON'T HAVE A J AND S ON IT AT ALL.

3 THE COURT: SO WHAT IF ADJUDICATION WAS WITHHELD?  
4 I THOUGHT THE LAW WAS CLEAR THAT YOU CAN ASK THEM EVEN  
5 IF ADJUDICATION WAS WITHHELD.

6 MR. EIDE: THERE'S A FEDERAL CASE ON POINT, SAYING  
7 IF ADJUDICATION WAS WITHHELD --

8 MR. BENDER: YOUR HONOR, TO SAVE A LOT OF TIME  
9 AND TROUBLE, WE'RE NOT GOING TO ASK HIM.

10 MR. EIDE: ALSO, MY MOTION IN LIMINE WOULD GO  
11 FURTHER, TO BOTH MICHAEL WILLEY AND ALSO TO SCOTTY  
12 MERSON, IF HE WERE TO TAKE THE STAND.

13 IF THE STATE IS WILLING TO AGREE NOT TO  
14 ASK THAT QUESTION AS TO MICHAEL WILLEY --

15 MR. BENDER: ARE YOU SAYING HE WAS PLACED ON  
16 PROBATION AND WITHHELD ADJUDICATION?

17 MR. EIDE: YES.

18 MR. BENDER: THAT'S FINE, JUDGE.

19 MR. EIDE: AS TO SCOTTY, ALSO?

20 MR. BENDER: WAS SCOTTY MERSON WITHHELD ON  
21 ADJUDICATION, ALSO?

22 MR. EIDE: YEAH.

23 MR. BENDER: HE HAS NO CONVICTIONS?

24 MR. EIDE: NO.

25 MR. BENDER: THAT'S FINE. I'M NOT GOING TO GO

1 INTO IT.

2 THE COURT: ALL RIGHT.

3 (THEREUPON, THE SIDE-BAR CONFERENCE WAS CONCLUDED.)

4 MR. EIDE: YOUR HONOR, OUR NEXT WITNESS WOULD  
5 BE MICHAEL HYLAND.

6 THEREUPON,

7 MICHAEL S. HYLAND,

8 WAS CALLED AS A WITNESS BY THE DEFENSE AND, AFTER HAVING  
9 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED ON HIS  
10 OATH AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. EIDE:

13 Q GOOD AFTERNOON, MR. HYLAND.

14 A GOOD AFTERNOON.

15 Q COULD YOU, PLEASE, STATE YOUR NAME FOR THE RECORD?  
16 AND YOU MIGHT WANT TO SPELL YOUR LAST NAME.

17 A MICHAEL SHAWN HYLAND, H-Y-L-A-N-D.

18 Q MR. HYLAND, WHERE ARE YOU LIVING AT THIS TIME?

19 A IN CHALET NORTH TRAILER PARK.

20 Q WHAT IS YOUR ADDRESS?

21 A 1006 TIMBERLINE ROAD.

22 Q WHERE WERE YOU LIVING ON MAY 17TH, MAY 18TH OF  
23 THIS YEAR?

24 A WITH THE WILLEY'S.

25 Q AND WHERE WAS THAT?