

1 THE COURT: I ASSUME YOU WISH TO RENEW YOUR
2 MOTIONS?

3 MR. EIDE: YES, YOUR HONOR.

4 THE COURT: I'LL ALLOW YOU TO STATE ANY ADDITIONAL
5 GROUNDS. BUT, JUST FOR THE RECORD, YOU HAVE PRESERVED
6 YOUR RIGHT. AND I'LL HEAR THE GROUNDS AFTER WE HEAR
7 THE BRIEF REBUTTAL WITNESS.

8 MR. EIDE: THANK YOU.

9 MR. EIDE: MAY I HAVE A MOMENT TO GO OUT IN THE
10 HALLWAY TO CHECK ON A POSSIBLE SUR-REBUTTAL WITNESS?

11 THE COURT: YOU JUST WANT TO STICK YOUR HEAD OUT?

12 MR. EIDE: YES, IF I MAY.

13 THE COURT: ALL RIGHT.

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

15 THE COURT: THE DEFENSE HAVING RESTED, DOES THE
16 STATE HAVE ANY REBUTTAL TESTIMONY?

17 MR. BENDER: YES, YOUR HONOR, WE WOULD AGAIN CALL
18 INVESTIGATOR FRANK ROACH.

19 * * * * *

20 THEREUPON,

21 FRANCIS P. ROACH,

22 WAS CALLED AS A WITNESS BY THE STATE AND, AFTER HAVING
23 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED ON HIS
24 OATH AS FOLLOWS:

25

DIRECT EXAMINATION ON REBUTTAL

1
2 BY MR. BENDER:

3 Q GOOD MORNING AGAIN, INVESTIGATOR ROACH. HOW ARE
4 YOU?

5 A GOOD MORNING. GOOD.

6 Q FOR THE RECORD, WOULD YOU STATE YOUR FULL NAME,
7 PLEASE?

8 A MY NAME IS FRANCIS P. ROACH.

9 Q AND YOU HAVE TESTIFIED EARLIER AT THIS TRIAL;
10 IS THAT CORRECT?

11 A YES.

12 Q I WOULD LIKE TO ASK YOU A FEW QUESTIONS VERY
13 BRIEFLY. THIS WON'T TAKE VERY LONG. I DON'T HAVE VERY
14 MANY QUESTIONS.

15 CONCERNING YOUR INVESTIGATION AND DISCUSSION
16 WITH SEVERAL WITNESSES WHO LIVED AT THE TIME IN APOPKA;
17 DO YOU RECALL THAT, SIR?

18 A YES.

19 Q WHEN YOU WENT OUT TO HIGH MEADOWS ROAD TO CONDUCT
20 YOUR INVESTIGATION, WHOM DID YOU SPEAK WITH AT THAT TRAILER?

21 A WELL, THE NIGHT I WAS OUT THERE I SPOKE TO CHRISTI
22 MOORE, SHAWN WILLEY, MICHAEL WILLEY AND MICHAEL HYLAND.

23 Q THOSE FOUR PEOPLE?

24 A YES.

25 Q WAS THERE ANYONE ELSE THAT YOU SPOKE TO?

1 A NOT THAT NIGHT. I WENT BACK ANOTHER DATE. THERE
2 WAS NO ONE ANSWERED THE DOOR THERE, AND I DID SPEAK TO MARY
3 LOWERY A FEW DAYS LATER.

4 Q OTHER THAN MR. MERSON YOU DID NOT SPEAK TO ANY
5 OF THE OTHER WITNESSES IN THE CASE, OTHER THAN THE FAMILY
6 MEMBERS OF ANGELA AND MICHELLE COLE?

7 A YES.

8 Q DO YOU RECALL THE DAY YOU WENT OUT TO THE TRAILER
9 TO SPEAK WITH THESE FOUR PEOPLE?

10 A IT WAS MAY 19TH.

11 Q AND WHAT TIME OF THE DAY OR NIGHT WAS IT?

12 A IT WAS IN THE EVENING. IT WAS RIGHT AFTER I
13 ARRESTED THE DEFENDANT. PROBABLY AROUND NINE O'CLOCK,
14 SOMEWHERE AROUND THERE.

15 Q SO IT WAS DARK?

16 A YES.

17 Q DID YOU GO TO THE TRAILER ON HIGH MEADOWS ROAD?

18 A YES.

19 Q DID YOU SEE ANY CARS OUT BY THE TRAILER?

20 A YEAH, I SAW THREE CARS ON THE SIDE OF THE TRAILER.

21 Q DO YOU REMEMBER WHAT KIND OF CARS THEY WERE?

22 A NO, I DON'T.

23 Q DID YOU SEE ANYTHING WRONG WITH THE TIRES OF ANY
24 OF THESE CARS?

25 A NO. I WALKED BY THE CARS AS I WENT UP TO THE

1 DOOR. YOU HAVE TO WALK BY THESE CARS TO GET TO THE DOOR,
2 TO GO INTO THE TRAILER. AND NOTHING STRUCK ME AS BEING --
3 I DIDN'T NOTICE ANY FLAT TIRES.

4 Q WHEN YOU SPOKE WITH THESE FOUR PEOPLE AT THE
5 TRAILER -- WE'RE TALKING MICHAEL HYLAND, MICHAEL WILLEY,
6 SHAWN WILLEY AND CHRISTI MOORE, CORRECT?

7 A YES, THAT'S CORRECT.

8 Q WHEN YOU SPOKE WITH MICHAEL WILLEY, DID YOU ASK
9 HIM ANY QUESTIONS ABOUT HIM HAVING A CAR OR OWNING A CAR?

10 A I ASKED -- WHAT I DID, I ASKED THEM ALL, I SAID,
11 "AS FAR AS THESE CARS OUT THERE, IS IT POSSIBLE THAT SCOTTY
12 MERSON COULD HAVE GOT UP AFTER YOU ALL WENT TO BED AND USED
13 ONE OF THESE CARS; COULD HAVE GOTTEN YOUR'S?"

14 AND THEY ALL AGREED, "YEAH, IT'S POSSIBLE."

15 ALL FOUR OF THEM SAID IT'S POSSIBLE.

16 Q DID MICHAEL WILLEY, OR ANY OTHER WITNESS WHO HAS
17 TESTIFIED, ONE OF THOSE FOUR PEOPLE, TELL YOU THAT MICHAEL
18 WILLEY'S CAR WAS DISABLED OR HAD A FLAT TIRE THAT NIGHT ON
19 THE 17TH?

20 A NO.

21 Q DID ANYONE OFFER THAT INFORMATION TO YOU?

22 A NO, THEY DID NOT.

23 MR. EIDE: OBJECTION, YOUR HONOR. MAY WE APPROACH?

24 THE COURT: HMM-HMM.

25 (THEREUPON, COUNSEL APPROACHED THE BENCH AND THE

1 FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE PRESENCE OF THE
2 JURY, AND ON THE RECORD AS FOLLOWS:)

3 MR. EIDE: THAT'S IMPROPER UNDER JOHNSON VERSUS
4 STATE. I DON'T HAVE THE CASE LAW HERE, BUT THAT'S
5 IMPROPER QUESTIONING FOR IMPEACHMENT. THEY HAD THE
6 DUTY TO TELL WHETHER THEY HAD A CAR, OR NOT. BUT WE
7 WOULD SAY THAT'S IMPROPER IMPEACHMENT.

8 THE COURT: OBJECTION IS OVERRULED.

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

10 BY MR. BENDER:

11 Q DID SHAWN WILLEY TELL YOU THAT THE CAR HE HAD
12 HAD A FLAT TIRE?

13 A NO.

14 Q DID MICHAEL HYLAND TELL YOU THAT THE CAR HE HAD
15 HAD A FLAT TIRE?

16 A NO.

17 Q DID MICHAEL WILLEY TELL YOU THAT THE CAR HE HAD
18 HAD A FLAT TIRE?

19 A NO.

20 Q DID CHRISTI MOORE TELL YOU THAT THE CAR SHE HAD
21 HAD A FLAT TIRE?

22 A NO.

23 Q DID ANYONE TELL YOU THAT MR. MERSON HAD NO ACCESS
24 TO ANY KEYS WHATSOEVER THAT NIGHT TO ANY OF THE VEHICLES?

25 A NO. THEY ALL SAID IT WAS POSSIBLE HE COULD HAVE,

1 WHEN THEY WERE ASLEEP, GOTTEN THE KEYS.

2 Q WHEN YOU TALKED TO MARY ALLISON LOWERY, DID YOU
3 ASK HER, SIR, WHEN SHE WENT TO BED THAT NIGHT ON THE 17TH?

4 A YES, I DID.

5 Q DO YOU RECALL HER RESPONSE?

6 A YES, I DO. SHE SAID THAT EVERYBODY WAS IN BED BY
7 1:15. SHE SAID SHE HAD LOOKED AT A CLOCK BECAUSE THAT WAS
8 WHEN JUDY WILLEY CAME HOME.

9 SHE SAID THEY HAD STOPPED WATCHING MOVIES AROUND
10 ONE A.M. AND THAT SHE AND SCOTTY MERSON AND MICHAEL WILLEY
11 WERE ALL SLEEPING ON A MATTRESS ON THE FLOOR.

12 Q DID MARY ALLISON LOWERY TELL YOU THAT SHE HEARD
13 OR SAW OR KNEW THAT JUDY WILLEY HAD COME HOME AT ABOUT 1:15
14 THAT MORNING?

15 A MARY LOWERY SAID THAT, YES.

16 Q DID MARY ALLISON LOWERY TELL YOU THAT SHE HEARD
17 OR SAW JUDY WILLEY COME HOME THAT MORNING?

18 A YES.

19 Q WHAT TIME, IF YOU CAN RECALL, SIR, DID MICHAEL
20 HYLAND -- I'M SORRY. YOU DID NOT SPEAK TO MICHAEL, OR DID
21 YOU SPEAK TO MICHAEL HYLAND?

22 A I SPOKE WITH HIM. I CAN'T RECALL WHAT HE HAD TO
23 SAY.

24 Q DID HE TELL YOU WHAT TIME HE WENT TO SLEEP THAT
25 NIGHT?

1 A MICHAEL HYLAND, NOT THAT I CAN RECALL.

2 Q MARY ALLISON LOWERY DID TELL YOU, HOWEVER, THAT
3 EVERYONE WAS IN BED ABOUT WHAT TIME?

4 A SHE SAID IT WAS ABOUT 1:15 WHEN EVERYBODY WAS
5 ASLEEP AND JUDY WILLEY CAME HOME AND WENT INTO HER ROOM.

6 Q DID YOU SPEAK TO SHAWN WILLEY?

7 A YES, I DID.

8 Q AND HIS GIRL FRIEND, CHRISTI MOORE?

9 A YES.

10 Q DID THEY TELL YOU WHAT TIME THEY WENT TO BED THAT
11 NIGHT?

12 A YES, THEY DID.

13 Q WHAT TIME WAS THAT?

14 A SHAWN WILLEY SAID HE THOUGHT IT WAS AROUND MIDNIGHT
15 AND CHRISTI MOORE SAID SHE THOUGHT IT WAS AROUND 10:30.

16 Q NOW, DID YOU SPEAK TO SCOTT MERSON ABOUT WHAT
17 TIME HE WENT TO SLEEP THAT NIGHT?

18 A YES, I DID.

19 Q WHAT TIME DID HE TELL YOU, SIR?

20 A HE SAID THAT HE DIDN'T GO TO BED UNTIL TWO IN
21 THE MORNING.

22 Q WAS THAT THE SAME AS MARY ALLISON LOWERY HAD TOLD
23 YOU?

24 MR. EIDE: OBJECTION, YOUR HONOR. THAT'S NOT
25 WITHIN THE PROVINCE OF HIM TO MAKE THAT DETERMINATION.

1 THE COURT: OVERRULED.

2 THE WITNESS: NO, IT'S NOT THE SAME AS WHAT SHE
3 SAID.

4 MR. BENDER: THANK YOU, INVESTIGATOR.

5 I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

6 THE COURT: CROSS.

7 CROSS-EXAMINATION ON REBUTTAL

8 BY MR. EIDE:

9 Q YOU STATED THAT YOU TALKED TO MICHAEL HYLAND?

10 A YES, I DID.

11 Q AND YOU TALKED TO CHRISTI MOORE, MICHAEL WILLEY
12 AND SHAWN WILLEY?

13 A YES.

14 Q DID YOU TAKE STATEMENTS FROM ALL THOSE PEOPLE?

15 A I GOT STATEMENTS FROM EVERYBODY EXCEPT MICHAEL
16 HYLAND.

17 Q WHY DIDN'T YOU GET A STATEMENT FROM HIM?

18 A I'M TRYING TO REMEMBER. I DON'T REMEMBER EXACTLY.
19 MAYBE IT WAS BECAUSE -- I DON'T EVEN KNOW IF HE CAN WRITE,
20 OR I CAN'T RECALL THE REASON AS TO WHY I DIDN'T OBTAIN ONE
21 FROM HIM.

22 MR. EIDE: MAY I HAVE JUST A SECOND, YOUR HONOR?

23 THE COURT: HMM-HMM.

24 BY MR. EIDE:

25 Q SO, BASICALLY, YOU GOT A STATEMENT, A WRITTEN