

1 MR. BENDER: NO. NOTHING FURTHER, YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN.

3 LET'S TAKE ABOUT A FIVE-MINUTE RECESS.

4 (THEREUPON, COURT RECESSED AT 3:42 P.M., TO RECONVENE
5 AT 3:58 P.M., AFTER WHICH THE FOLLOWING TRANSPIRED:)

6 THE COURT: OKAY. ARE WE ALL SET?

7 MR. BENDER: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. RETURN THE JURY.

9 (THEREUPON, THE JURY ENTERED THE COURTROOM.)

10 THE COURT: THESE AREN'T LIKE PERRY MASON ON TV
11 AND OVER IN AN HOUR, ARE THEY?

12 ALL RIGHT. THE DEFENSE MAY PROCEED.
13 CALL YOUR NEXT WITNESS.

14 MR. EIDE: THANK YOU, YOUR HONOR. AT THIS TIME
15 WE WOULD CALL MICHAEL WILLEY.

16 THEREUPON,

17 MICHAEL J. WILLEY,
18 WAS CALLED AS A WITNESS BY THE DEFENSE AND, AFTER HAVING
19 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED ON HIS
20 OATH AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. EIDE:

23 Q HI, MR. WILLEY.

24 A HOW ARE YOU DOING?

25 Q WOULD YOU, PLEASE, STATE YOUR FULL NAME?

1 A MICHAEL JAMES WILLEY.

2 Q WHERE DO YOU LIVE RIGHT NOW?

3 A 1331 ADMIRAL.

4 Q DO YOU REMEMBER WHERE YOU LIVED ON MAY 18TH OF
5 THIS YEAR?

6 A HMM-HMM. 1058 HIGH MEADOW.

7 Q DO YOU KNOW SCOTTY MERSON?

8 A YES. YES, SIR.

9 Q HOW DO YOU KNOW SCOTTY?

10 A HE'S JUST ONE OF MY FRIENDS.

11 Q DO YOU REMEMBER SEEING SCOTTY ON EITHER MAY 18TH
12 OR MAY 19TH?

13 A YEAH, BOTH.

14 Q I'M SORRY. MAY 17TH OR MAY 18TH, A THURSDAY OR
15 FRIDAY?

16 A YEAH.

17 Q DID YOU TALK TO SCOTTY AT ALL THAT EVENING?

18 A ON WHICH DAY?

19 Q ON THE 17TH.

20 A IN THE EVENING, AT NIGHT.

21 Q WHEN WAS THE FIRST TIME YOU HAD ANY CONTACT WITH
22 HIM THAT NIGHT?

23 A ABOUT 10:30, ELEVEN.

24 Q HAD YOU TALKED TO HIM PRIOR TO THAT?

25 A A LITTLE BIT ON THE PHONE.

1 Q WHEN DID HE CALL YOU?

2 A A LITTLE AFTER NINE.

3 Q DO YOU KNOW WHY HE CALLED YOU?

4 A TO SEE IF HIS GIRL FRIEND WAS THERE.

5 Q AND ANY OTHER REASON THAT YOU KNOW OF?

6 A NO, THAT'S ALL.

7 Q WHAT HAPPENED AFTER THAT?

8 A HE TALKED TO MY BROTHER, AND THEN MY BROTHER AND

9 HIS GIRL FRIEND LEFT TO GO GET HIM.

10 Q WHO IS YOUR BROTHER?

11 A SHAWN WILLEY.

12 Q AND DO YOU KNOW WHAT TIME THEY LEFT?

13 A PROBABLY 9:30, TEN.

14 Q OKAY. WHAT TIME DID THEY COME BACK; DO YOU KNOW?

15 A IT ONLY TOOK THEM ABOUT AN HOUR; 10:30 OR ELEVEN.

16 Q WAS SCOTTY WITH THEM WHEN THEY CAME BACK?

17 A HMM-HMM, YES.

18 Q OKAY. AND WHO ELSE WENT TO GO GET HIM?

19 A SHAWN, CHRISTI, ALLISON. THAT'S ALL.

20 Q WHEN HE CAME BACK DID HE HAVE ANY BEER WITH HIM?

21 A YEAH, I THINK SO.

22 Q HOW MUCH?

23 A I THINK A SIX-PACK.

24 Q DID YOU SEE HIM DRINK AT ALL THAT NIGHT?

25 A I WASN'T EVENLY PAYING ATTENTION TO HIM. I DON'T

1 KNOW.

2 Q DID YOU HAVE ANYTHING TO DRINK THAT NIGHT?

3 A NO.

4 Q WHAT DID YOU DO WHEN THEY GOT THERE?

5 A WELL, I WAS THERE WATCHING MOVIES.

6 Q YOU WERE WATCHING MOVIES BEFORE THEY GOT THERE?

7 A HMM-HMM.

8 Q DID YOU GO OUT DURING THE EVENING AND GO BUY BEER?

9 A NOT THAT I KNOW OF.

10 Q WAS THERE ANYONE ELSE THERE BESIDES SHAWN AND

11 CHRISTI, ALLISON AND SCOTTY?

12 A NO, NOT UNTIL LATER ON.

13 Q WAS MICHAEL HYLAND THERE?

14 A OH, YEAH, HE WAS THERE.

15 Q WAS TAMMY WILLEY THERE?

16 A YEAH. SHE GOT THERE ABOUT ELEVEN OR SO.

17 Q WAS A GUY NAMED CHUCK LANG THERE?

18 A NO, NOT WHEN SCOTTY WAS THERE.

19 Q HAD CHUCK LANG BEEN THERE EARLIER?

20 A EARLIER.

21 Q WHEN DID CHUCK LANG LEAVE?

22 A I DON'T KNOW; MAYBE EIGHT, NINE.

23 Q DID YOU EVER GO OUT AND GET ANY BEER WITH

24 MICHAEL HYLAND?

25 A NO.

1 Q WAS HE DRINKING ANY BEER PRIOR TO SCOTTY BEING
2 THERE?

3 A YEAH, MICHAEL WAS.

4 Q WHERE DID HE GET THE BEER FROM; DO YOU KNOW?

5 A I DON'T REMEMBER. WE WENT TO THE GROCERY STORE
6 EARLIER. HE MIGHT HAVE GOT IT THEN.

7 Q DID YOU GET ANY BEER WHEN YOU WENT TO THE GROCERY
8 STORE?

9 A I DIDN'T BUY NONE.

10 Q DID HE BUY ANY, HIMSELF?

11 A WE GOT SOME STEAK AND STUFF.

12 Q WHO ELSE WENT TO THE GROCERY STORE WITH HIM?

13 A JUST ME AND HIM.

14 Q WHOSE CAR DID YOU TAKE?

15 A I DON'T, I DON'T KNOW.

16 Q DID YOU TAKE YOUR CAR?

17 A MY CAR DIDN'T RUN.

18 Q DID HE DRIVE? DID HE DRIVE SOMEONE ELSE'S?

19 A I DON'T REMEMBER HOW WE GOT THERE.

20 Q HOW FAR AWAY IS THE STORE?

21 A A MILE.

22 Q DID YOU WALK?

23 A NO.

24 Q WHAT?

25 A NO. WE HAD TO GO IN A CAR.

1 Q COULD CHUCK BRING YOU?

2 A HE COULD HAVE DONE. I DON'T REALLY REMEMBER.

3 Q I WANT YOU TO TELL ME ABOUT THE CARS THAT WERE
4 AT THE HOUSE.

5 WHEN SCOTTY GOT THERE, HOW MANY CARS WERE THERE?

6 A JUST MINE AND THE TRUCK.

7 Q WHICH TRUCK?

8 A SHAWN'S TRUCK.

9 Q ANY OTHER VEHICLES?

10 A NO.

11 Q TELL ME ABOUT YOUR CAR. WAS YOUR CAR OPERABLE?

12 A NO.

13 Q WHAT WAS WRONG WITH YOUR CAR?

14 A IT HAD A FLAT TIRE, AND IT WASN'T LEGAL.

15 Q WHAT DO YOU MEAN "IT WASN'T LEGAL"?

16 A NO TAG OR NOTHING.

17 Q DO YOU DRIVE?

18 A NO.

19 Q WHY DO YOU HAVE A CAR IF YOU DON'T DRIVE?

20 A I DON'T HAVE A CAR NOW.

21 Q YOU DID AT THE TIME?

22 A YEAH.

23 Q HAD YOU LOST YOUR LICENSE, OR SOMETHING?

24 A NO, I HAD A LICENSE THEN.

25 Q YOU JUST DIDN'T DRIVE?

1 A THE CAR WASN'T WORTH DRIVING. IT NEEDED WORK.

2 Q OKAY. WHAT ELSE WAS WRONG WITH THE CAR?

3 A IT NEEDED BREAKS, AND IT HAD A FLAT TIRE, AND IT
4 WASN'T LEGAL IS ALL THAT WAS WRONG WITH IT.

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

6 A I'D SAY 12:30, ONE.

7 Q DO YOU REMEMBER CHRISTI AND SHAWN GOING TO BED?

8 A YEAH.

9 Q WHAT TIME DID THEY GO TO BED?

10 A RIGHT AFTER THEY CAME BACK WITH SCOTTY. ABOUT,
11 I'D SAY TWELVE, RIGHT AROUND TWELVE.

12 Q WHEN YOU WENT TO BED WAS SCOTTY STILL AWAKE, OR
13 WAS HE ASLEEP?

14 A HE WAS AWAKE.

15 Q WHERE HAD YOU GONE TO SLEEP?

16 A RIGHT THERE ON THE MATTRESS IN THE LIVING ROOM.

17 Q THAT'S A DIAGRAM OF THE TRAILER. DO YOU RECOGNIZE
18 IT AS SUCH?

19 A YEAH.

20 Q POINT OUT WHERE THE MATTRESS WAS AND WHERE YOU
21 WERE ON THE MATTRESS, IN THE ROOM?

22 A WELL, WE HAD THE MATTRESS, RIGHT HERE.

23 Q WHO WAS SLEEPING ON THE MATTRESS?

24 A ME, ALLISON AND SCOTTY.

25 Q YOU SLEEP RIGHT TOGETHER, OR DO YOU SLEEP APART?

1 A SHE WAS IN THE MIDDLE, AND HE WAS AGAINST THE
2 WALL, AND I'M ON THE OTHER END.

3 Q DO YOU REMEMBER, WHEN YOU WENT TO BED WERE THEY
4 LAYING ON THE MATTRESS?

5 A YEAH.

6 Q WERE THEY ASLEEP?

7 A NO.

8 Q DO YOU REMEMBER IN THE MIDDLE OF THE NIGHT EITHER
9 ONE OF THEM GETTING UP?

10 A NO.

11 Q DO YOU REMEMBER SCOTTY LEAVING AT ANY TIME?

12 A NO.

13 Q DID YOU AT ANY TIME HEAR OR FEEL SCOTTY GET UP
14 OFF THE MATTRESS?

15 A NO.

16 Q YOU DIDN'T HEAR ANY OF THE VEHICLES START UP OR
17 ANYONE LEAVE?

18 A NO.

19 MR. EIDE: OKAY. I DON'T HAVE ANY OTHER QUESTIONS
20 AT THIS TIME. THANK YOU.

21 THE COURT: CROSS?

22 MR. BENDER: YES, YOUR HONOR.

23 CROSS-EXAMINATION

24 BY MR. BENDER:

25 Q HOW LONG HAVE YOU KNOWN SCOTTY?