

1 (Whereupon, the witness was given the oath.)

2 TONY FIKE,

3 called as a witness on behalf of the State, after having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. SMITH:

7 Q. Would you state your name, please?

8 A. Tony Fike.

9 Q. What is your occupation or profession, sir?

10 A. I'm a police detective with the City of Edmond.

11 Q. How long have you been a police detective?

12 A. Six and a half years.

13 Q. Let me refer you back to July the 30th of 1999 and ask
14 you if you were a police officer and acting in that capacity
15 on that day?

16 A. Yes, I was.

17 Q. Did you become involved in the investigation of the
18 murder of Paul Howell?

19 A. Yes, I did.

20 Q. And as a result of your investigation, did you apply for
21 or make an affidavit for a search warrant for the home that
22 you believed to be that of Mr. Julius Jones?

23 A. Yes, I did.

24 Q. And do you recall at the time what the address of that
25 home was?

1 A. It was a five-digit number, I believe, on Greystone
2 or --

3 Q. 12104 Greystone Terrace?

4 A. Yes.

5 Q. Would that --

6 A. I believe so.

7 Q. -- be correct? And did you in fact obtain a search
8 warrant based upon your affidavit from Judge Black?

9 A. Yes, I did.

10 Q. And is he a District Judge in the District Court of
11 Oklahoma County?

12 A. Yes, he is.

13 Q. And ~~did you~~ obtain that warrant on July the 30th of
14 1999?

15 A. ~~Yes, I did.~~

16 MS. SMITH: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes.

19 Q. (By Ms. Smith) Let me hand you what's previously been
20 marked as State's Exhibit No. 3 and ask you if you can
21 identify that?

22 A. Yes, I can.

23 Q. What is that?

24 A. It's an affidavit for a search warrant.

25 Q. Is that the one that you've testified about that you

1 obtained from Judge Black?

2 A. Yes, it is.

3 MS. SMITH: Your Honor, at this time I move to
4 admit State's Exhibit No. 3.

5 MR. BOCK: I believe for the record, Your Honor,
6 I've got no standing on it, so I'll let Mr. Albert proceed.

7 MR. ALBERT: Judge, the Defendant Julius Jones
8 will object to the testimony of this witness and the
9 introduction of this search warrant and affidavit in support
10 thereof and the return for such reason that the search
11 warrant is drawn in conclusive terms. It does not state
12 sufficient facts to uphold the warrant on its own four legs,
13 and we object at this time subject to our right to file a
14 motion to suppress this evidence and have a hearing either
15 before this Court or, if my client is bound over, before the
16 assigned District Judge. I don't want to waive anything. So
17 I'm objecting that the search warrant is insufficient. The
18 affidavit is insufficient on its face to support the search
19 warrant at this time, and we're requesting a Motion to
20 Suppress hearing either before this Court or, if my client is
21 bound over, before the assigned District Judge before the
22 admissibility of the search warrant is determined.

23 THE COURT: That will be overruled. The search
24 warrant will be admitted, and it would -- the Court will --
25 in this proceeding, we will conduct the hearing on it. You

1 may inquire with respect to its validity and the Court will
2 make its determination based upon the evidence that's
3 presented in this -- in this hearing, as to the validity of
4 the search. But this affidavit, according to the witness, is
5 the affidavit that supports the search warrant he executed,
6 and I will allow it to be admitted for that purpose, to that
7 extent, that it forms the basis of the search warrant which
8 was issued. You may present evidence and examine relative to
9 facts surrounding the evidence, service, et cetera, as to its
10 validity. Let's proceed. Along with the search warrant that
11 may be subsequently admitted. Let's proceed.

12 MS. SMITH: Your Honor, at this time, I would
13 point out to the Court that also attached to No. 3 is the
14 return and inventory, which I don't believe can be testified
15 to by Detective Fike, as it was signed by Detective Mize, who
16 was our first witness, so I would ask the Court if I can
17 remove that portion of it and mark it as State's Exhibit
18 No. 4.

19 THE COURT: You have the Court's permission to do
20 so. This witness only sponsors Exhibit No. 3?

21 MS. SMITH: Yes, which is the affidavit for the
22 search warrant and the search warrant itself.

23 THE COURT: All right.

24 MS. SMITH: Pass the witness at this time.

25 THE COURT: Proceed, please.

1 MS. SMITH: I'm sorry, Your Honor. Pass the
2 witness.

3 THE COURT: Are we going out of order here?

4 MR. BOCK: Well, Mr. Albert has asked me to go out
5 of order. If the Court acquiesces, I'll ask a few questions.

6 THE COURT: Proceed.

7 MS. SMITH: And, Your Honor, I object to Mr. Bock
8 cross examining this witness, because anything he can ask him
9 would have to be outside the scope of direct. The only thing
10 I asked this witness about was the search warrant, which goes
11 to Mr. Albert's client, not to Mr. Bock's client. I object.

12 THE COURT: All right. I'm going to overrule it.
13 I'm going to see what questions that he may have. Proceed.

14 MR. BOCK: I just have a couple of questions in
15 general.

16 CROSS EXAMINATION

17 BY MR. BOCK:

18 Q. It's true, isn't it, that you are the lead investigator
19 on the case, on this case?

20 A. Yes.

21 Q. And you and Detective Pfeiffer interviewed Chris Jordan,
22 correct?

23 A. Yes.

24 Q. Approximately how many times and for how long?

25 A. Formally interviewed, maybe two. I'm not for certain.

1 Q. And were you with him when he was in the back of a
2 police car being driven around Oklahoma City?

3 A. Yes.

4 Q. How long was that? How long was he in the --

5 MS. SMITH: To which I object as being outside the
6 scope of direct examination.

7 THE COURT: Overruled.

8 A. Your question again, sir?

9 Q. (By Mr. Bock) How long was that that he was in the back
10 of the police car?

11 A. Probably four or five hours.

12 Q. So he was in the back of a police car, an Edmond police
13 car, being driven around to different locations in and around
14 Oklahoma City for four or five hours, correct?...

15 A. Yes.

16 Q. Was that on Friday, two days after the murder took
17 place?

18 A. I believe it covered Friday and Saturday, late Friday
19 night and early Saturday morning.

20 Q. And then sometime after he was driven around for four or
21 five hours, he gave a two to three-hour statement or two-hour
22 statement, which you called --

23 A. The next day on Saturday evening.

24 Q. And that's what you referred to as kind of a formal --

25 A. Yes.

1 Q. -- statement? Any other statements besides the four or
2 five hours that we spoke about in the police car and the two
3 or three hours at the Edmond police station that you know
4 about?

5 A. Not that I recall.

6 Q. And were you present for four or five hours in the back
7 of the police car?

8 A. Yes, I was.

9 Q. So he was in your car being driven around?

10 A. Not in my car.

11 Q. Okay. Was he in Detective Pfeiffer's car?

12 A. Yes.

13 Q. And so it was her driving, you, and Mr. Jordan, is that
14 correct?

15 A. And Detective Turner.

16 Q. And there were conversations for those four or five
17 hours in different locations that we went to, correct?

18 A. Yes.

19 Q. And generally you would say that at that point in time,
20 he was cooperating.

21 A. Yes.

22 Q. Is there a police report that was derived out of those
23 four or five hours in the police car?

24 A. Just -- just the transcript from the formal interview, I
25 believe.

1 Q. So the answer would be no. There's not --

2 THE COURT: Excuse me. He answered you, "Only in
3 the transcript." That's not no. That's only as it may be
4 referred to in the transcript. So let's proceed.

5 Q. (By Mr. Bock) But -- I've got copies of the
6 transcripts.

7 A. Okay.

8 Q. The transcripts speak for themselves. We don't have to
9 go into that.

10 A. All right.

11 Q. Other than the transcribed taped interview, are there
12 any reports that you know about in this case that are a
13 result of information derived during those four or five hours
14 from Mr. Jordan?

15 A. I didn't make a report specifically of that, no.

16 Q. And is that standard?

17 A. Yeah, I believe so.

18 Q. Do you know -- would you agree with me that if you're
19 the lead investigator, that Detective Turner and Detective
20 Pfeiffer work underneath you on this case?

21 A. It's more of a cooperative effort. I wouldn't say that
22 they were under my direction.

23 Q. Do you know if Detective Turner did a report from those
24 hours in the back of the police car?

25 A. No, I do not.

1 Q. You don't know if he did a report or you know that he
2 did not do one?

3 A. I don't know.

4 Q. Is that standard for you not to know if a person did a
5 report in a case that you're the lead investigator in?

6 MS. SMITH: I object, Your Honor.

7 THE COURT: Sustained.

8 Q. (By Mr. Bock) And do you know if there's a report from
9 Detective Pfeiffer on those four or five hours in the back of
10 the police car?

11 A. Just the transcript that I know of.

12 Q. So you would agree with me that other than the
13 transcribed tape recorded -- or the transcription of the tape
14 recorded transcript, you didn't make a report and you don't
15 know if there's any other reports out there that were made as
16 a result of conversations made by my client in the back of
17 the police car for four or five hours, correct?

18 A. Right. I don't know if anyone else did it.

19 Q. But you did not.

20 A. That's right.

21 MR. BOCK: Nothing else, Your Honor.

22 THE COURT: Mr. Albert?

23 CROSS EXAMINATION

24 BY MR. ALBERT:

25 Q. Detective Fike, during the four or five hours that you

1 drove my client -- strike that. That you drove the
2 codefendant around the city, Chris, did you interview him?
3 Did you ask him questions and did he provide you answers?
4 Did you interrogate Christopher as you drove him around the
5 city?

6 A. I didn't know if you were through or not. Asked him
7 where Julius often would be. That's what we talked about.

8 Q. Where Julius might be?

9 A. Yes.

10 Q. So you were looking for Julius Jones at that time?

11 A. Yes.

12 Q. Did you have a warrant for his arrest?

13 A. Yes, I believe we did. Yeah, we did.

14 Q. Did you go to the house in Camelot?

15 A. Did I what now?

16 Q. Looking for Julius Jones, did you go to the house where
17 he lived? The house where Julius Jones lived.

18 A. They had already been there, yes.

19 Q. Oh, other officers had been there?

20 A. And they were executing a search warrant at that time,
21 or had, I think, maybe already completed that.

22 Q. Were you present during the execution of the search
23 warrant?

24 A. No, I wasn't.

25 Q. Did you log all of the evidence removed from his home

1 into the property room or the forensic lab --

2 A. No, I didn't.

3 Q. -- to the Edmond PD?

4 A. No.

5 Q. Who are the officers that did that, if you know?

6 A. Detective Mize.

7 Q. So you didn't participate in the search of his home.

8 A. No, I didn't.

9 Q. When I say "him," I'm talking about Julius Jones.

10 A. No, I didn't.

11 Q. And you did transport Chris around the city to different
12 locations in your efforts to locate -- to locate my client,
13 is that correct?

14 A. Yes.

15 Q. All right. Tell me what locations you were directed to.

16 A. We went all over the city, probably eight to ten
17 different locations. I don't really -- I can't recall
18 exactly. As far as Spencer, south Oklahoma City, several
19 apartment complexes down there, northwest Oklahoma City
20 apartment complexes, any -- any ex-girlfriend that he may
21 have had or current girlfriends. We just went all over.

22 Q. Did you knock on the doors and ask for him?

23 A. Yes.

24 Q. Did you go to Norman?

25 A. I didn't understand what you said.

1 Q. Did you go to Norman, Oklahoma?

2 A. Yes, we did go to Norman.

3 Q. And your efforts, then, to find my client were
4 unsuccessful, is that correct?

5 A. No. We eventually found him.

6 Q. And where did you find him at?

7 A. Well, I, myself, didn't find him, but the people that
8 were working with us found him at the Pickwick Apartments in
9 Oklahoma City.

10 Q. Oklahoma City police officers found him, transported him
11 to a location where Detective Flowers with the Oklahoma City
12 Police Department was located, is that right?

13 A. No. He was there on the arrest.

14 Q. Who was?

15 A. Detective Flowers.

16 Q. He was there at the location where my client was
17 arrested?

18 A. Yes.

19 Q. Well, were you at that location at the time of the
20 arrest?

21 A. No, I wasn't.

22 Q. So you -- were you dispatched to that location by other
23 officers?

24 A. Which location are you talking about?

25 Q. Where you first came into contact with my client, Julius

1 Jones.

2 A. I know who you're talking about, but I wasn't dispatched
3 to any location. When they notified us that he was under
4 arrest, they did tell us that we'd meet in an area so they
5 didn't have to drive all the way to Edmond to transport him.
6 We met around Memorial or 122nd and Western or something like
7 that and transferred him to our car and then took him on to
8 Edmond.

9 Q. Okay. So you met him at a location other than where he
10 was arrested.

11 A. Yes.

12 Q. You never went to the Pickwick Apartments.

13 A. Not that night, I didn't.

14 Q. Now, let me ask you. I forgot. You did not participate
15 in the search -- in the seizure of certain items of evidence
16 from his home, is that correct?

17 A. That's correct.

18 Q. Now, did you have an occasion to interview Julius Jones?

19 A. No, I didn't.

20 Q. You never Mirandized him or attempted to talk to him.

21 A. No, I haven't.

22 Q. During the time he was in your presence, did he make any
23 voluntary statements to you at any time about this or any
24 other incident?

25 A. No.

- 1 Q. So if I understand what you're telling me, he never
2 talked about the shooting incident in Edmond in your presence
3 at any time, is that correct?
- 4 A. That's correct.
- 5 Q. Did you tell him what he was arrested for?
- 6 A. No, I didn't.
- 7 Q. Were you present when other officers told him what he
8 had been arrested for?
- 9 A. No.
- 10 Q. So you don't know when or if he was ever told what he
11 was being arrested for.
- 12 A. That's correct.
- 13 Q. Did Chris Jordan, while he was directing you to
14 different locations in the Oklahoma City/Edmond area, did he
15 ever make any statements to you at any time about the conduct
16 of my client concerning this shooting in Edmond, Oklahoma, on
17 July the 28th?
- 18 A. I don't recall anything like that.
- 19 Q. Well, what I'm asking you, to make it short and simple,
20 is, did Chris ever tell you that, "Yeah, I talked to him and
21 he told me he did it"? Did he ever tell you that?
- 22 A. Do you mean that night or at any other time?
- 23 Q. Any time.
- 24 A. Yes. He said he saw him do it.
- 25 Q. Okay. Now, fix a time and place for me.

1 A. When he told me that?

2 Q. Yes.

3 A. When we did the interview on Saturday. I guess it would
4 be the 31st of July.

5 Q. So Chris was being driven around on Friday.

6 A. Friday night and early Saturday morning.

7 Q. And the interview, then, on Saturday evening is the
8 first time that he made some statement regarding my client
9 indicating that he had some culpability in this shooting, is
10 that right?

11 A. No. He told other officers information, I believe
12 Detective Flowers. He interviewed him the day -- or evening
13 that he was arrested.

14 Q. He interviewed Chris?

15 A. I believe so, yes.

16 Q. Tell me, on that Saturday that you're referring to, what
17 Chris said to you, as precisely as you can, about the
18 activities of my client. What did he say to you?

19 A. From the very beginning as far as --

20 Q. I guess that's a good place to start. We have a little
21 trouble here communicating.

22 MS. SMITH: Judge, I object as being outside the
23 scope.

24 THE COURT: Overruled.

25 Q. (By Mr. Albert) What did Chris tell you about my

1 client?

2 A. He said they -- they were driving around Edmond. I
3 mean, there's other stuff -- like they went to get something
4 to eat and then they went driving around looking for a
5 Suburban to pop up, is what he called it, and they were
6 driving around an addition. They had seen a -- I believe a
7 black Suburban is what he said, and they were cruising by
8 this -- the house and a Burban drove past them, and they
9 decided to steal it, because it was a newer looking model,
10 and he said he parked down the road and let Julius walk up to
11 the vehicle, and he stayed in the car and watched Julius walk
12 up, and he heard the shot and he saw the man fall and Julius
13 pull him out of the vehicle, I believe, and then he said he
14 saw Julius drive off in the Suburban and saw the man laying
15 there on the ground, just to put it -- kind of a summary on
16 what he said. And then they drove over to Ladell King's
17 apartment and --

18 Q. And then what?

19 A. They talked to Ladell about the Suburban. I can't
20 remember exactly what all was said. I'd have to look at the
21 transcript.

22 Q. Did you make a report on that?

23 A. Just what's in the transcript.

24 Q. Now, when you refer to the transcript, what transcript
25 are you referring to?

1 A. The taped interview between Chris Jordan and myself and
2 Detective Pfeiffer.

3 Q. So you did make a tape recording.

4 A. Yes.

5 Q. So you could hear the voices of the people that are
6 talking.

7 A. Yes.

8 Q. Now, is that the only time that Chris Jordan ever made
9 any inculpatory statements about my client?

10 A. No. I talked to him before we went riding around that
11 night looking for Julius, in the jail cell.

12 Q. What did he say to you? What did Chris Jordan say to
13 you --

14 A. I'm trying to think.

15 Q. -- about Julius? Let's see if we can do it this way.
16 When was the first time that Chris Jordan ever made any
17 statement to you that implicated --

18 A. When he was in the cell.

19 Q. Pardon?

20 A. It's when he was in the jail cell.

21 Q. At Edmond?

22 A. To me, yes.

23 Q. All right. That's -- that would be confrontation number
24 one. Now, tell me what Chris Jordan told you about the
25 implications of my client in that first conversation.

1 A. Basically the same story that he told me on the formal
2 interview, that they were out trying to steal a Suburban and
3 that Julius shot this man. I think he may have said that --
4 I can't remember if he said it was by accident or the gun
5 wasn't on safe, but --

6 Q. Well, wait a minute. He said that it was by accident?

7 A. I think that's what Chris had said at that time or --

8 Q. Chris told you that Julius had shot this man by
9 accident?

10 A. I believe that's what he said in the cell.

11 Q. In the cell. That's the first conversation you had with
12 him.

13 A. Yes.

14 Q. That they were driving around looking for a Suburban and
15 that Julius had shot this man by accident.

16 A. I think at some point in there, he mentioned that he
17 felt the gun -- that the gun was off safety, and when he
18 touched his head, it went off.

19 Q. The gun was off safety, and when he touched his head,
20 the gun went off by accident.

21 A. Yes.

22 Q. Did you pursue that and ask him what kind of gun it was,
23 what kind of safety it had on it?

24 A. I don't believe I did. I don't think it was really
25 material. At that time we were trying to find Julius, is

1 what the main goal is at that point.

2 Q. Okay. Now, it's a fact, then, that at no time after
3 that first statement that Julius had shot the man by
4 accident, no time that Chris ever told you anything different
5 than that. Would you agree with that?

6 A. Yeah, I agree with that. That's -- I mean, talking
7 about during the interview or any time after --

8 Q. Yeah.

9 A. -- that, it seems like that's what he said.

10 Q. After that first jail cell interview. So every time
11 Chris Jordan has implicated my client, he told you the
12 shooting was by accident, is that correct?

13 A. I don't know if every time he said that or not.

14 Q. Well, did you make notes?

15 A. Down in the jail cell, no, I didn't.

16 Q. Did you make notes afterwards?

17 A. No, I didn't.

18 Q. So you're relying on --

19 A. On memory, yes.

20 Q. You're relying on your raw memory.

21 A. (Witness nods head up and down.)

22 Q. But your memory tells you that each time that Chris
23 Jordan talked about my client and the incident, that his
24 statement was that Julius had shot the man by accident, is
25 that right? Is that what your recollection is now?

1 A. I don't know if he said it every time, but I remember
2 that he did say that at one point.

3 Q. Did he say it more than once?

4 A. It's possible. I don't -- I don't recall.

5 Q. You're the lead detective on the case, and you don't
6 make a police report on this statement give to you by
7 Christopher Jordan about the conduct of my client? You don't
8 make any report on that?

9 A. Like I said, it was done when we were trying to locate
10 Julius. No, I didn't.

11 Q. Well, at least you do remember that his first statement
12 to you was that Julius had shot the man by accident, is that
13 right?

14 A. Yes, I believe so.

15 Q. And you can't remember him ever specifically telling you
16 anything different than that, is that correct?

17 A. That's right.

18 MR. ALBERT: Judge, I have no further questions of
19 Detective Fike at this time.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MS. SMITH:

23 Q. Detective Fike, when you were talking with Mr. Jordan
24 and Mr. Jordan told you that they -- did Mr. Jordan tell you
25 that they were in Edmond for the purpose of looking for a

1 Suburban to pop?

2 A. Yes.

3 Q. And he called it -- he referred to it in a certain way,
4 such as popping a Burban?

5 A. Yes, pop up a Burban.

6 Q. And what does pop up a Burban mean?

7 A. Car jack, car jacking.

8 Q. Steal a car?

9 A. Yes.

10 Q. And when Mr. Jordan told you that the gun was off safety
11 and that Mr. Howell was shot by accident, was he referring to
12 what Mr. Jones had told him?

13 A. Yes.

14 Q. And each time that Mr. Jordan told you that the gun went
15 off accidentally, did he indicate that it was during the
16 commission of popping the Burban?

17 A. Yes, he did.

18 Q. Thank you.

19 MS. SMITH: Pass the witness.

20 THE COURT: Anything further of the witness?

21 MR. ALBERT: I may have another couple of
22 questions in view of what she did, Judge.

23 MR. BOCK: I'm going to -- may I approach, Your
24 Honor?

25 THE COURT: Yes.

RE CROSS EXAMINATION

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BY MR. BOCK:

Q. I'm showing you what is -- this is my copy with some red tabs on it of a transcription of an interview that happened on 7/31/99. Present was Chris Jordan, Theresa Pfeiffer, and Detective Tony Fike. Is this the transcription or is this a copy of what you would believe the transcription of Christopher Jordan's interview was?

A. Yes, I believe so.

Q. Will you look in there, if you will, and tell me where it says that my client, Chris Jordan, witnessed the shooting and saw the -- saw Mr. Jones shoot the gun?

MS. SMITH: Your Honor, if I could assist. Maybe we could refer him to a certain page number.

THE COURT: I'm sorry?

MS. SMITH: This is quite a lengthy transcription, like maybe over 60 pages. If I could assist, perhaps, or if Mr. Bock could assist, maybe we could refer to a certain page number rather than go through all 60 pages.

THE COURT: I believe he's suggesting that maybe it's not in there and that's why he's asking him to find it in there.

MS. SMITH: Perhaps I could assist by referring to page 48.

THE COURT: All right. If you'll refer to page

1 48.

2 A. What was your question again?

3 Q. (By Mr. Bock) I'm sorry. I asked you to find in there
4 where it said that Mr. Christopher Jordan saw Julius Jones do
5 it, or fire the gun and kill Mr. Howell. Because it's my
6 recollection that you testified earlier that -- you said
7 Chris admitted to you in his statement that he saw Julius do
8 it.

9 A. Well, it says that Jordan -- Jordan says to --
10 that, "'Oh, jeez, Chris,' he said," and this is speaking of
11 Julius Jones, "'the gun went off. I couldn't help it. It
12 went off.'" Then -- and then Jordan says that he didn't
13 shoot the man. And then also on down it says that, "No,
14 sir. I promise to God. I put that on my," inaudible. He
15 said, "I did not shoot the man. I seen the man fall to the
16 ground." He said, "No, sir. I seen the man fall to the
17 ground." He saw the man fall. That's what we were talking
18 about at that time. I got those out of order.

19 Q. That's okay. It doesn't say there, though, that he saw
20 him do it or shoot the gun, does it?

21 A. To my recollection, he said -- I don't know what -- as
22 far as what that said, but he said that he heard the shot and
23 he saw the man fall to the ground, and then when Julius drove
24 off in the Suburban, he saw the man lying on the ground.
25 That's my recollection of what took place.

1 Q. Earlier you testified that -- was that your
2 recollection, that Chris Jordan told you he saw him do it?

3 A. He said he saw him walk up to him and then he heard the
4 shot, walk up to the Suburban, heard the shot, and saw the
5 man fall.

6 Q. Is it also your recollection, from that lengthy
7 interview, that Mr. Jordan said that they went to Edmond to
8 pop a Suburban?

9 A. Yes.

10 Q. From your six and a half years as a police officer,
11 define popping a Burban.

12 A. It means to steal it, a car jacking.

13 Q. There's a huge difference. Popping a Burban is stealing
14 a car, right? They pop something on the car in order to
15 start the car without a key and then drive it off and steal
16 it, correct?

17 A. Not to my recollection, no.

18 Q. If we've had an Oklahoma City police officer of 25
19 years --

20 THE COURT: Excuse me. Excuse me. I believe
21 we've had a rule. Do you want to vacate the rule we've had,
22 that you requested, the rule of sequestration? You're going
23 to be violating the rule as to what someone may have said.
24 You're the one who requested the rule of sequestration.

25 MR. BOCK: I'll ask it a different way.

1 THE COURT: Please.

2 Q. (By Mr. Bock) Do you agree with me there's a difference
3 in the law of car jacking and stealing a car, that those are
4 two different things?

5 MS. SMITH: Calls for a legal conclusion.

6 THE COURT: Overruled. Overruled. The witness
7 may answer the question.

8 A. Yes, there is a difference between --

9 Q. (By Mr. Bock) And in the interview with Mr. Jordan that
10 is lengthy, he states over and over again, and it's stated by
11 yourself several times that you believe him, that he didn't
12 know Julius had a gun. Do you remember that?

13 A. No, I don't.

14 Q. And I'm talking about had a gun on the night in
15 question.

16 A. Okay.

17 Q. Would that change your answer?

18 A. No. I still don't recall him saying that.

19 Q. I'm looking --

20 MR. BOCK: Let me approach the witness, if I may.

21 Q. (By Mr. Bock) I'm approaching -- I'm looking at the
22 bottom of page ten where it says, "Did he have a gun with
23 him?" That's Fike. That's yourself. Jordan says, "He had
24 to have a gun for the dude to die, but I didn't see him with
25 the gun -- I didn't see the gun and have a gun, like, in the

1 car."

2 A. Could I read it? Yeah, it says that. It says, "But I
3 didn't see the gun and him have a gun, like, in the car."

4 Q. May I have that back?

5 A. (Complies with counsel's request.)

6 MR. BOCK: Let me approach again.

7 Q. (By Mr. Bock) I'm on page 14. I'm starting at about
8 line 20 on page 14. It says, and this is Jordan
9 talking, "Because I -- it was a little bitty shell. It was
10 like a little bitty clip" --

11 MS. SMITH: Your Honor, I object to Mr. Bock --

12 THE COURT: What's the question? Put it in the
13 form of a question, please.

14 MR. BOCK: Well, it's the same question before --

15 THE COURT: Well, it was not the same. What is
16 the question? I just want to hear the question. I'm not
17 saying you have to go back there. You can -- since you have
18 that in your hand and he doesn't have it, you may ask the
19 question from closer to him if you'd like.

20 Q. (By Mr. Bock) If you'll look at this page. Is that
21 another place where Christopher Jordan says he didn't know
22 that a gun was there?

23 A. It says, "Let me see. Let me think about it. I think I
24 remember him telling me it's a .25, something like that."

25 Q. It says Fike says, "He didn't show you the gun? You

1 never saw it?" "No, I didn't see the gun" --

2 MS. SMITH: Your Honor, same objection.

3 THE COURT: Put it in the form of a question,
4 please.

5 Q. (By Mr. Bock) Do you see on there where Christopher
6 Jordan says again that he didn't see the gun in question and
7 he wasn't shown the gun in question on the night of the
8 homicide?

9 A. It says, "No, I didn't see the gun."

10 Q. Do you remember discussing with Mr. Jordan that he saw
11 the gun approximately two weeks prior to this incident, and
12 that was the last time he saw it --

13 MS. SMITH: Objection, Your Honor.

14 THE COURT: Overruled.

15 A. I don't recall a lot of this stuff because I haven't
16 refreshed my memory off of it, but -- so he may have said it,
17 may not have. If it's in the transcript, he must have said
18 it.

19 Q. (By Mr. Bock) It states in the transcript that Mr.
20 Jordan said, "It was a long time ago when he had the gun in
21 my car." And Detective Fike says, "You're saying he had the
22 gun for quite a while then?" Answer for Jordan, "About two
23 weeks ago." Question, Fike, "He didn't show you that gun
24 that night?" Do you remember that?

25 A. I don't remember it, but if it says it, I'm sure that's

1 what took place.

2 Q. Then it goes on to say --

3 THE COURT: Put it in the form of a question,
4 please.

5 Q. (By Mr. Bock) So if I go back to the first question
6 that I asked regarding Mr. Jordan's comments about him not
7 knowing there's a gun that night, do I need to keep showing
8 you examples in the transcript or do you now recall that he
9 said several times that he didn't know there was a gun that
10 night? Do you remember that?

11 A. I don't recall, but it's right there, so I'm sure it
12 took place.

13 Q. So you agree that there -- that's important?

14 A. For who?

15 Q. Well, do you agree or disagree that that is important --

16 THE COURT: Counselor, I don't care whether he
17 testifies he thought it was important or unimportant or
18 magnificent or dull. It just doesn't make any difference to
19 me. It doesn't lend anything to this hearing.

20 Q. (By Mr. Bock) You will agree with me a person who
21 steals a car without a gun and without a person present that
22 he's stealing it from is a different crime than a person who
23 steals a gun -- that steals a car with a gun with a person
24 present.

25 A. Sure.

1 Q. And one is much more serious than the other, correct?

2 A. Yes.

3 Q. And prior to the time you interviewed Christopher
4 Jordan, how many times had you interviewed a young man or
5 young lady about popping a car?

6 A. On this case or any case?

7 Q. In your six and a half years as a police officer.

8 A. I had never heard that term of popping up a Burban
9 before.

10 Q. Based on that -- strike that. During your interview
11 with Chris, did he tell you that he was going to Edmond to
12 rob the owner of that vehicle?

13 A. That particular person or just anyone?

14 Q. The owner of the Suburban.

15 A. No.

16 Q. Did he say anything to you other than, "We were going to
17 go to Edmond to pop a car"?

18 A. Yes.

19 Q. Did he say the word "rob"?

20 A. I don't recall him using those terms, no.

21 Q. Is it fair to say that he said in the transcript that
22 they were going to go to Edmond and pop a car?

23 THE COURT: The testimony has already -- he's
24 already testified that's what it said.

25 MR. BOCK: He said he said a lot of other things.

1 THE COURT: Well, you asked him did he say that.
2 He said, yes, he did. He said that they were going to pop a
3 car, pop a Burban. Let's go on, please.

4 Q. (By Mr. Bock) He did not mention the word "robbery,"
5 correct?

6 A. I don't believe he did, unless we asked him somewhere in
7 there to clarify what pop up meant.

8 Q. Did you ask him what pop a car meant?

9 A. I believe I did. I don't know if it's in there or not,
10 so you'll just have to look at the transcript and see.

11 MR. BOCK: I have nothing further.

12 THE COURT: Anything further of this witness?

13 MR. ALBERT: No, Your Honor.

14 THE COURT: Anything further?

15 MS. SMITH: Judge, I'd like to ask some questions
16 based upon Mr. Bock's.

17 THE COURT: Go ahead. It's your witness. You've
18 got the last shot for re-redirect.

19 MS. SMITH: May I approach the witness?

20 THE COURT: Yes, you may.

21 REDIRECT EXAMINATION

22 BY MS. SMITH:

23 Q. Let me hand you State's Exhibit No. 5 and ask you if you
24 can identify that?

25 A. Yes, I can.

1 Q. What is that?

2 A. It's the transcription of a tape recorded interview of
3 Chris Jordan by myself and Detective Pfeiffer.

4 Q. Is that a true and accurate representation of what was
5 said on the tape recording between yourself and Mr. Jordan,
6 the defendant you've identified in court?

7 A. I believe it is, yes.

8 Q. Have you identified him in court yet?

9 A. No, I haven't.

10 Q. Would you point him out for the Judge, please?

11 A. Mr. Jordan is the black male with the orange coveralls
12 on sitting at this end of the (indicating) --

13 THE COURT: The witness indicated Defendant
14 Jordan.

15 MS. SMITH: At this time, I move to admit State's
16 Exhibit No. 5, the defendant's statement.

17 MR. ALBERT: Judge, Defendant Julius Jones objects
18 to the introduction of State's Exhibit No. 5 for the reason
19 and on the ground that this is a purported transcript of a
20 recorded statement that has been referred to and constitute
21 hearsay. If the State needs the testimony of Christopher
22 Jordan, they can call him to the witness stand, because we're
23 going to object to the introduction of this transcript on the
24 basis of the rankest form of hearsay. It's accusatory
25 hearsay in its worst form.

1 MR. BOCK: Your Honor, I would also object for the
2 reasons Mr. Albert has stated, but I would also state that
3 we've got the detective -- the statement was used to refresh
4 his recollection. He's here, he's testified. The State's
5 had ample opportunity to ask questions from the statement
6 made. We've had ample opportunity to ask questions. Making
7 the statement a part of the record now in order -- in some
8 hopes of clearing up or answering some questions that may not
9 have been asked or answered is wholly incorrect and we
10 would -- if there's a tape out there -- if the Court is going
11 to grant any leniency to the State in this matter, we would
12 ask that the State -- that the tape be introduced. It would
13 be better than any transcript. But we would object to both
14 of those for the grounds already mentioned.

15 THE COURT: All right. May I hear from the State?

16 MR. ALBERT: Judge, if I might add -- I apologize
17 to the Court. The statement represents a denial of
18 confrontation. There is no way that we can cross examine
19 that paper document, so it denies confrontation, as well as
20 being accusatory hearsay that renders it inadmissible in an
21 American court.

22 THE COURT: Well, I'm sure that the State was
23 offering it for the purpose of saving time, but, nonetheless,
24 may I hear your argument?

25 MS. SMITH: Your Honor, I agree with Mr. Albert

1 that this statement cannot be used against his client. His
2 client did not make the statement. It is intended to be
3 offered against the defendant who made the statement only,
4 that is, Mr. Jordan. It is not different from introducing
5 the tape recording. It is the defendant's statement. It's
6 entirely admissible under the code of -- under the evidence
7 code, and just because it is a transcription of the tape
8 rather than the tape recording itself doesn't make it
9 inadmissible, and it is the defendant's statement. It is not
10 hearsay as to Defendant Jordan.

11 THE COURT: I think that that's in part accurate,
12 but I believe you have to have someone sponsor the -- the --
13 sponsor the exhibit -- the transcript. This witness didn't
14 do the transcript.

15 MS. SMITH: Yes, he did. He testified it's a true
16 and correct representation of the transcript.

17 THE COURT: I understand, but he's also previously
18 testified that he hasn't looked at that transcript. I don't
19 believe that he's testified -- I don't recall his testimony
20 as being that he was the one who prepared the transcript.

21 MS. SMITH: Well, I don't think that's a necessary
22 element, as long as he can testify that it is the statement
23 of the defendant, is all that's necessary. It's the same as
24 if we were asking --

25 THE COURT: Well, again, and I will say in

1 response to the question asked about what was contained in
2 the transcript, he stated on more than one occasion that he's
3 not sure if it's in the transcript or not, he'd have to look
4 at the transcript to see, but if it was in the transcript, it
5 would be accurate, it would be there, suggesting to the Court
6 that he doesn't know what's in that transcript in its
7 entirety. So I believe that there is a necessity for
8 sponsoring it, that is, that there be -- that there -- it was
9 a tape recording. I have that evidence, that there was a
10 tape recording, but the person who transcribed that -- who
11 transcribed the tape into that information, I don't
12 believe -- into that exhibit, I don't believe there's been
13 sufficient evidence of -- from this witness to sponsor -- to
14 lay a foundation for the introduction of that exhibit. But
15 my concern was with respect to the objection of Jones,
16 Defendant Jones, as the defense -- as the State concedes,
17 that it not be used against him, only as to the Defendant
18 Jordan. So I'm going to sustain the objection. That does
19 not mean that you can't do your inquiry and make your inquiry
20 further as a foundation for its admission, or with respect to
21 the items in there that you believe is appropriate -- that he
22 should testify to.

23 Q. (By Ms. Smith) Detective Fike, was someone else with
24 you when that tape recorded statement of the defendant, Mr.
25 Jordan, was made?

1 A. Yes.

2 Q. Was that this detective, Theresa Pfeiffer?

3 A. Yes, it was.

4 Q. And from the interview that you conducted with the
5 defendant, Mr. Jordan, did Mr. Jordan tell you that he knew
6 that Mr. Jones was going to steal the car, regardless of
7 whether a gun was used or not?

8 A. Yes, he did.

9 Q. And did he tell you that, in fact, they followed the
10 Suburban into the housing addition for the purpose of
11 stealing this Suburban?

12 A. Yes, they did. Or he did.

13 Q. And did Mr. Jordan tell you that he was driving the car
14 and that he stopped and let Mr. Jones out of the car for the
15 purpose of stealing the Suburban?

16 A. Yes, he did.

17 Q. And did Mr. Jordan tell you that he knew that the
18 Suburban was occupied, because he saw the man and knew it was
19 a white man that was driving the Suburban?

20 A. I don't recall him saying he was a white man, but he did
21 say he saw the man fall out of the vehicle.

22 Q. When they went -- when he followed the Suburban into the
23 addition and when it went to East Drive, he knew that someone
24 was necessarily driving the Suburban. Did he admit that to
25 you?

1 A. Yes.

2 Q. From your interview with Mr. Jordan, did Mr. Jordan tell
3 you that he was assisting Mr. Jones in the popping of that
4 Burban?

5 A. Yes.

6 MS. SMITH: Nothing further.

7 MR. ALBERT: Judge, I move on behalf of my client
8 to strike all of that.

9 THE COURT: The Court's not considering that --
10 the Court is not considering that, as was conceded by
11 counsel, against your client. That objection will be
12 sustained. It's not used --

13 MR. ALBERT: Well, who does it apply to if it
14 doesn't apply --

15 THE COURT: It applies to the Defendant Jordan.

16 MR. ALBERT: It's an exculpatory statement.
17 Exculpatory statements are not even admissible, period, until
18 the defendant's taken the stand and testified to them and
19 submitted himself to cross examination.

20 THE COURT: Statement --

21 MR. ALBERT: He's given an exculpatory statement.

22 THE COURT: You may classify it any way that you
23 want. I'm not considering it against your client, so I see
24 where you've got no further standing to make further
25 objections. So just have a seat. I'm doing what you say. I

1 have sustained your objection as to the defendant. I'm not
2 striking it from the record, because it applies to the
3 codefendant. So let's proceed.

4 MR. ALBERT: Well, Judge, it doesn't apply to the
5 codefendant. In all due respect, there's no way in human
6 nature that you can just blank that bell that's been run out
7 of your mind when you get ready to make your decisions on
8 whether there's probable --

9 THE COURT: Well, I'm sorry you --

10 MR. ALBERT: -- cause --

11 THE COURT: -- feel that way, but I can and I
12 will, so just have a seat and let's proceed. Do you have
13 anything further of this witness?

14 REXCROSS EXAMINATION

15 BY MR. BOCK:

16 Q. When Mr. Jordan discussed with you his going to Edmond
17 to pop the car, he didn't discuss robbing anybody, did he?

18 THE COURT: Well, now, excuse me. I would allow
19 you additional examination as to new material, but I'm not
20 certain there's any new material that has been --

21 MR. BOCK: Okay. I'll rephrase it.

22 Q. (By Mr. Bock) Ms. Fern Smith asked you if Mr. Jordan
23 said -- discussed going to get a car regardless of using a
24 gun or how they did it. Do you remember that question?

25 A. Yes.

1 Q. Now, with reference to that question, did he say he was
2 going to "go steal a car" or "help in stealing a car," end of
3 quote, or did he say, "We were going to go to Edmond and
4 steal a car whether or not we needed to use a gun"?

5 THE COURT: Counsel, I believe the State's
6 question was not as you fashioned it. I believe the State's
7 question was predicated with, "Irrespective of the gun, did
8 the Defendant Jordan say that he was going with Jones to
9 steal a car."

10 MS. SMITH: That's correct, Your Honor.

11 THE COURT: So I don't believe the statement was
12 attributed that there was a statement about not having a gun
13 in the car. It was only as I -- as I phrased it to you.
14 That's the way I recall the question.

15 MR. BOCK: So if I can be clear and possibly sit
16 down, you're saying that Ms. Smith's -- Ms. Smith said
17 irrespective of the gun, not Detective Fike.

18 THE COURT: That's correct.

19 MR. BOCK: And not my client.

20 THE COURT: That's correct. That's the way I
21 understood the question.

22 MR. BOCK: I have no further questions.

23 MS. SMITH: Nothing further, Your Honor.

24 THE COURT: That's the way you stated the
25 question, was it not?