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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 75-0381

JAMES LEROY TOLLEY,
Plaintiff in Error,

v.

COMMONWEALTH OF VIRGINIA,
Defendant in Error.

JOINT APPENDIX

Mercer Theodore Kissinger, Jr.
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Followed by:

The transcript of the testimony introduced and proceedings had upon the 4th of June 1973, and 21 January 1975, before the Honorable James C. Godwin, Judge of the Circuit Court of Southampton County

IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

Record No. 750381

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in Error

VIRGINIA: IN THE CIRCUIT COURT FOR SOUTHAMPTON COUNTY

COMMONWEALTH

vs.

JAMES LEROY TOLLEY

NOTICE OF APPEAL AND ASSIGNMENT OF ERROR

To: Mr. B. A. Williams, Jr., Clerk
Circuit Court for Southampton County
Courtland, Virginia, 23837

PLEASE TAKE NOTICE; That the defendant, by his court appointed counsel, M. Theodore Kissinger, Jr., respectfully advises the Honorable Court that he desires to appeal to the Supreme Court of Virginia the judgment of the Honorable Court of January 21, 1975, sentencing him to serve a term of confinement in the Penitentiary of the Commonwealth for twenty years for abduction. He respectfully assigns the following errors in compliance with Rule 5:6, RULES OF COURT:

1. The finding of the Court was contrary to the law and the evidence and without sufficient evidence to support it.

2. The Commonwealth failed to prove the corpus delicti as to the indictment charging abduction.

3. The Commonwealth failed to prove venue with regard to the indictment charging abduction.

4. The finding of the Court that defendant was an accessory before the fact to abduction was in error, for the Commonwealth failed to prove beyond a reasonable doubt that defendant was guilty of abduction.

5. The Court erred in failing to strike the Commonwealth's evidence as to the indictment charging abduction.

6. The Court erred in its ruling that abduction was a

continuing offense, for there was no evidence that the deceased was ever taken or transported against her will from any address in Norfolk, nor was there any evidence that she was ever alive in Southampton County.

7. The Court lacked jurisdiction to try defendant for abduction for Section 19.1-221.1 gives the Court jurisdiction only to try homicide and not abduction when it cannot be determined in which city or county death occurred.

8. The Court erred in finding the defendant guilty as an accessory before the fact, for there was no evidence as to how deceased met her death nor is there any evidence that defendant was in any particular an aider or abettor.

9. The Court erred in finding defendant guilty of any offense higher than the misdemeanor of accessory after the fact, for the evidence in the light most favorable to the Commonwealth merely showed that defendant had knowledge of a crime and concealed this knowledge from authorities.

10. The Court erred in failing to exclude inadmissible hearsay evidence of witnesses Judy Edwards and Sidney Cherry which evidence was objected to by defense counsel on the grounds it was irrelevant and immaterial and inadmissible.

11. The Court lacked jurisdiction to try defendant for abduction for in striking the Commonwealth's evidence as to murder, it in effect ruled that the death occurred in Norfolk, and there was no evidence of any kidnapping or abduction of the deceased prior to her death, only the transportation of a dead body from Norfolk to Southampton County.

12. Court erred in ruling that any advance knowledge that the defendant had that the deceased, Mrs. Harrell, was to be killed

made him an accessory before the fact to abduction in the absence of any evidence to the effect that deceased was abducted prior to her death.

13. The Court erred in finding defendant guilty as an accessory before the fact because he attempted to burn deceased's pocketbook when evidence clearly made defendant guilty only of misdemeanor of accessory after the fact on this evidence.

Respectfully submitted,

JAMES LEROY TOLLEY

M. THEODORE KISSINGER, JR.
Court appointed counsel

M. Theodore Kissinger, Jr.
Court appointed counsel for the defendant
1105 Plaza One
Norfolk, Va., 23510

I certify that on the 17th day of February 1975, I mailed a copy of the foregoing Notice of Appeal and Assignment of Errors to Mr. R. C. Grizzard, Commonwealth's Attorney for Southampton County, Boykins, Va.

M. THEODORE KISSINGER, JR.

VIRGINIA,

IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY:

COMMONWEALTH

v.

JAMES LEROY TOLLEY

TRANSCRIPT of the testimony, and other incidents of the trial of the above matter, when heard on June 4, 1974, before The Honorable James C. Godwin, Judge.

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PRESENT: Mr. Richard C. Grizzard,
Attorney for the Commonwealth

Mr. M. Theodore Kissinger,
Counsel for defendant

Mr. James Leroy Tolley,
defendant

MR. GRIZZARD: Your Honor, this is the case of Commonwealth vs. James Leroy Tolley on a charge of abduction and on a charge of murder. I believe they can be tried together.

MR. KISSINGER: We have no objection to trying them together.

THE COURT: Are you ready for trial?

MR. KISSINGER: The defendant is ready, Your Honor.

MR. GRIZZARD: The Commonwealth is ready.

THE DEFENDANT, JAMES LEROY TOLLEY, WAS ARRAIGNED ON TWO INDICTMENTS CHARGING MURDER AND ABDUCTION, AND ENTERED A PLEA OF NOT GUILTY TO EACH INDICTMENT.

MR. WILLIAMS, CLERK: Do you wish to be tried by the Court or by a jury?

DEFENDANT TOLLEY: By the Court.

THE COURT: Now, Tolley, do you understand fully what you are charged with in

1 these two cases?

2 DEFENDANT TOLLEY: Yes, sir, Your

3 Honor.

4 THE COURT: Have you talked to your

5 lawyer about it?

6 DEFENDANT TOLLEY: Yes, Your Honor.

7 THE COURT: Have you told him every-

8 thing you want to tell him about your cases?

9 DEFENDANT TOLLEY: Yes, Your Honor.

10 THE COURT: Do you understand that

11 you have a right to a jury trial in these cases

12 if you want one?

13 DEFENDANT TOLLEY: Yes, sir, Your

14 Honor.

15 THE COURT: Are there any witnesses

16 that you want here today?

17 DEFENDANT TOLLEY: My lawyer will take

18 care of that.

19 THE COURT: Are your witnesses here?

20 DEFENDANT TOLLEY: Yes, they are.

21 MR. KISSINGER: The ones Mr. Tolley

22 asked me to subpoena are here.

23 THE COURT: Are you ready for trial

24 today?

25 DEFENDANT TOLLEY: Yes, sir, Your

26 Honor.

27 THE COURT: All right, be seated.

28 MR. GRIZZARD: The Commonwealth concurs

in the waiver of the trial by jury.

THE COURT: The Court concurs. Do you gentlemen want the witnesses excluded?

MR. GRIZZARD: Yes, sir.

THE COURT: All right, after the witnesses are sworn, the Sheriff will take them out.

MR. GRIZZARD: We have one witness, Dr. Springate, who is due here around twelve o'clock. We will swear him when he comes.

THE COURT: All right.

MR. GRIZZARD: Your Honor, Sheriff Brooks was sworn, and it is not my intention to call him, and I don't believe he will be called.

THE COURT: The Sheriff may remain in the courtroom.

JUDY EDWARDS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Mrs. Edwards, would you state your name, address and occupation please?

A Judy Edwards, 3501 Lakewood Drive, Norfolk, Virginia, and I am a housewife.

Q Were you employed in May of last year, 1973?

A Yes, sir.

Q Where were you employed?

A The Jolly Roger Restaurant.

Q Where is that located?

A Shore Drive in Ocean View.

Q During the period of May, 1973, did you know Sandra Harrell Jones?

A Yes, sir.

Q And in what capacity did you know Sandra Jones?

A I had known her as a friend for a long time, and she had also come to work at the Jolly Roger.

Q Do you recall when she started working at the Jolly Roger?

A Well it was right after her birthday; I think the 8th of May.

Q During the period after she started working for the Jolly Roger after May 8th of last year, did you have any conversation with Sandra Harrell Jones concerning the Pagan's motorcycle club?

A On one occasion she told me one of the Pagans was trying to get her money from her, and she wasn't going to give it to him. She had come in and she said if he came in looking for her to tell him that she was gone, and she went out the other door. He was looking for her.

Q Why did she duck out the back?

A She said she was afraid of him.

MR. KISSINGER: Who was she afraid of?

A One of the Pagans.

MR. GRIZZARD CONTINUING -

Q Did she mention anyone in particular?

A Mongoose.

Q Do you know who she was speaking of when she said Mongoose?

A Yes.

Q Who was that?

A I don't know him by name. I just know him by Mongoose. I think he was the leader of the Pagans; I am not sure.

Q Do you know the defendant in this case, James Tolley?

A No, sir.

Q When was the last time that you ever saw Sandra Harrell Jones alive if you can recall?

A Well it was in May; about Tuesday or Wednesday before she was killed.

Q The same week?

A Yes, sir.

Q And where did you see her then?

A At the Jolly Roger.

Q This conversation that you had with her concerning her fear of Mongoose. . .

MR. KISSINGER: I object. All of this has nothing to do with my client whatsoever, and the young lady on the stand has indicated she doesn't know this man, or anything, and she

is talking about Mongoose with her, and this has nothing to do with this case. It is irrelevant.

MR. GRIZZARD: Your Honor, Sandra Harrell Jones is not here to testify as to her state of mind as to Mongoose, or the Pagans organization in May of 1973. We are trying an abduction case, and abduction is the taking of someone by force or against their will. She is not here to testify whether or not she goes voluntarily with the Pagans, and we can only produce her state of mind by what people who saw her during that period of time know as to what she said as far as her relationship between Mongoose, who it has been testified was the leader of the Pagans, and Jim Tolley's relationship will be brought out as the case proceeds. I have got to start somewhere, and I think her attitude toward the Pagans and Mongoose and her state of mind on the week she was murdered is necessary and relevant to the charge of abduction and the charge of murder.

MR. KISSINGER: We are not here to try Mongoose. We are here to try James Tolley. Again I renew my motion that this is totally irrelevant; what the Commonwealth is talking about with this witness. If he can tie it in I would like to see it tied in. If he doesn't tie it in, I will renew my motion.

MR. GRIZZARD: I intend to tie it in. I have got to start somewhere.

THE COURT: I am going to let it in, but if it is not tied in, I will strike it from the record.

MR. GRIZZARD CONTINUING -

Q This conversation was on that Tuesday or Wednesday of the week you last saw her alive?

A Yes, sir.

Q After that Tuesday or Wednesday when did you next see Sandra Harrell Jones?

A On May 31st.

Q And where was that?

A At the City Morgue.

Q And what was the purpose of going around there on May 31st?

A To identify her body.

Q Do you recognize who that is in that photograph?

A Yes, sir, Sandra Harrell Jones.

MR. GRIZZARD: I would like this photograph marked Commonwealth's Exhibit "1"; the photograph the witness identified.

MR. GRIZZARD CONTINUING -

Q This other thing that you have testified where Sandra Harrell Jones left the back door to avoid Mongoose and the Pagans; was that the same Tuesday or Wednesday that she had this conversation with you?

MR. KISSINGER: I object, Judge; he says to avoid and she says to avoid Mongoose. She did not say to avoid Mongoose and the Pagans. I didn't hear that and the Commonwealth's Attorney is testifying for her.

THE COURT: Restate the question.

MR. GRIZZARD CONTINUING -

Q When did she leave by the back door, and who was she afraid of?

A The last time I saw her, she said that Mongoose was trying to take her money, and she was afraid of him.

MR. GRIZZARD: All right, answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Now you are Judy Edwards, is that correct?

A Yes, sir.

Q Judy, the Commonwealth's Attorney asked you what date that was; you don't know what date that was, do you?

A What date?

Q The date she left the Jolly Roger?

A It was either Tuesday or Wednesday before she was killed.

Q But you do not know the date?

A No.

Q Now I am going to ask you one more time; when she did leave on that occasion, she indicated to you and you indicated under oath that she was afraid of Mongoose, right?

A Yes, sir.

MR. KISSINGER: No further questions.

SIDNEY E. CHERRY, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Sergeant Cherry, state your name, address and occupation please, sir.

A Sidney E. Cherry, 417 Fisherman's Road, and I am a Sergeant on the Norfolk Police Department.

Q Were you so employed the latter part of May of 1973?

A I was.

Q Did you know Sandra Harrell Jones?

A I did.

Q Will you tell the Court whether or not you had occasion to see her during the week of May 20 to May 27?

A I did.

Q Will you tell the Court when and under what circumstances you saw her?

A On the night of May 21st, or early morning of the 21st approximately 2:00 A.M., I had occasion to talk to Sandra Harrell up at the Jolly Roger. This is in the East Ocean View area of Norfolk, and at that time she came to my police unit and stated that she was afraid that Mongoose or the motorcycle gang was going to kill her. I asked her what she wanted me to do, and she wanted me to get her out of that area, and I called another police unit operated by Officer W. L. Ross, and he carried her home. On May 22nd at approximately 2:00 A.M., I talked with her again and the last time I talked with her or saw her was shortly after that she had gone over to the Sea King Motel, which is behind the Jolly Roger in the Ocean View area. I asked her as to why she thought they were going to kill her, and she stated that she would not work any more so they could get her money from her.

MR. GRIZZARD: All right, answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Sergeant Cherry, as a matter of fact, when you saw her what she stated was in fact that she was afraid of Mongoose, is that correct?

A And his motorcycle gang.

Q Now didn't you testify in here on February 4, 1974, that she was afraid of Mongoose, and in fear of her life, and you didn't say one thing about the motorcycle gang on that occasion?

MR. GRIZZARD: I object to the manner the question is phrased. Mr. Kissinger is trying to testify.

MR. KISSINGER: I am on cross examination, if it please the Court, and I feel like I can cross examine the witness, and I am asking him, trying to impeach his testimony at this point.

MR. GRIZZARD: Is it in your notes?

MR. KISSINGER: I heard his testimony, Mr. Grizzard.

THE COURT: Well impeachment must be by someone other than counsel. You can ask him what he stated. Go ahead with your examination.

MR. KISSINGER CONTINUING -

Q Did you or did you not testify on February 4th that she was afraid, or in fear of her life from Mongoose?

A I did.

Q And on that occasion did you mention the motorcycle gang?

A I do not recall. I have it in my notes.

Q Would you check your notes a little closer and see if you didn't also testify that you saw her on the 23rd, and not the 22nd.

A On the night of the 22nd, or the early morning of the 23rd.

Q I will ask you this, Sergeant Cherry; at any time did she mention that she was afraid of James Tolley; this defendant here?

A No.

Q Did she mention his name at all?

A No. The only name mentioned was Mongoose, and the motorcycle gang known as the Pagans.

MR. KISSINGER: I have no further questions.

REDIRECT EXAMINATION

BY MR. GRIZZARD:

Q Sergeant Cherry, in order to clarify, are these notes that you made on whatever date he has mentioned?

A Yes, sir.

Q February 4th, or whatever date it was?

A It is.

Q What do your notes reflect as to what she said?

A May 22nd or May 21st at approximately 2:00 A.M. she came to my police unit and stated that she was afraid of Mongoose and the motorcycle gang, the Pagans, was going to kill her.

MR. GRIZZARD: That's all.

RECROSS EXAMINATION

BY MR. KISSINGER:

Q Now you just testified on cross just a

second ago that you don't recall on February 4th whether or not you mentioned the motorcycle gang or not.

A That's right.

MR. KISSINGER: No further questions.

WILLIAM L. ROSS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Officer Ross, would you state your name, address and occupation please, sir.

A William L. Ross, 2712 Alder Street, in the City of Norfolk, and I am a police officer with the City of Norfolk.

Q Were you so employed in May of 1975?

A Yes, sir, I was.

Q Did you know Sandra Harrell Jones?

A Yes, sir.

Q And in what capacity did you know her?

A I knew her as an informant in the Ocean View area.

Q During the week of May 20th to May 27th, did you have occasion to see Sandra Harrell Jones?

A Yes, sir, I did.

Q Would you tell the Court the circumstances under which you saw her?

A I saw her on the night of May 21st, it was the 20th or the 21st, a Saturday night, approximately 2:00 A.M. Saturday morning, and Sergeant Cherry called me from the Jolly Roger Restaurant in Ocean View and asked me to take Sandra Harrell Jones, and I took her to her address on Portview Avenue.

Q Did you have any conversation with her at that time?

A I talked to her a little along the way, and she stated to me that she was a little scared that Mongoose was putting the heat on her for her money she was making working at the Jolly Roger, and she was trying to stay away from him.

Q What address did you take her to on the early morning of May 21st?

A The address on Portview Avenue. I am not completely sure, but I believe it was 221 or 223, and it is a duplex.

Q Did you have any other conversation?

MR. KISSINGER: I object to his leading the witness. He has already asked what conversation he had.

THE COURT: Restate the question; I don't know what followed.

MR. KISSINGER: He is leading the witness. He asked the Officer, if it please the Court, what conversation he had with the girl and he stated that, and now he is back redundantly asking what conversation they had, and

this is leading the witness and I object to it.

THE COURT: All right, I will overrule your objection until I have heard the whole question.

MR. KISSINGER: Note my exception.

MR. GRIZZARD CONTINUING -

Q Did you have any conversation with her as to regards her home address?

A She stated to me that she was living on Bay Street at the time, and she was getting ready to move from that location to stay with some friends at another location.

A After the 21st, the early morning hours of the 21st, did you have occasion to see her again that week?

A Yes, sir, I saw her again on the night of May 22nd or May 23rd; on a Wednesday morning, which would have been the 23rd, approximately 4:00 A.M., at the Sea King Motel, and I saw her at that time going into a motel room with three other men. It was from a distance and I couldn't identify the three men because they were too far off.

Q That is the last time you saw her?

A Yes, sir.

MR. GRIZZARD: All right, answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q You indicated, Officer Ross, that you

saw her on the 21st?

A Right.

Q And on that occasion she made a statement to you that she was in fear of her life from Mongoose, and to put it exactly what you said that Mongoose was putting the heat on her?

A Yes, sir.

Q And on any occasion did she indicate to you that James Tolley had done anything to her, or put any heat on her, or had done anything?

A When I talked to her the only name she named was Mongoose.

Q And on the occasion that you saw her with the three white males, could you identify any of those?

A No, sir, the only one I could positively identify was Sandra Harrell.

MR. KISSINGER: No further questions.

WILLIAM GIBBS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Mr. Gibbs, would you state your name, address and occupation please.

A William A. Gibbs and I live at Capron, Route 1, Box 90, and I work for Narro Fabrics in Boykins.

Q And were you living at that address on

May 24th of 1975?

A Yes, I was.

Q I want to direct your attention to that night around eleven o'clock and ask you what, if anything, occurred at your residence?

A Yes, sir, it was about eleven o'clock that night, and I had been to Waverly, Virginia, and come in late, and it was raining and thunderstorms, and we ate supper about dark, and went in and went to bed, and I was awakened by the dogs barking, and, of course, at the trailer that I live in I had the windows open and I hollered at the dogs to hush, and I could hear voices and they were coming over toward the trailer, and I could understand them saying please help us, and I talked with them and it was three girls at that time, and I didn't know their names. They said they were stuck, and I asked them where were they stuck, and they told me by somebody's garden, and I said, "Are you in the field", and they said, "No, we are on a road, and we went to turn around and got stuck". They said they would like to get a wrecker to pull it out and wanted to use a telephone and at the trailer we didn't have a telephone in the trailer, and we have one over at the house, at my wife's mother's, so I told my wife to get up and we would see if we could help them, and they said they were cold, and they acted scared, and I told them after we come out of the trailer, I told them to get in the car and sit down and we would find out where the car was stuck, and when we come out the drive-way they told me to turn left, and I went the direction they told me to go, and we

went to the loop road, which is 609, and turned left, and it comes down to this woods path, and she said they were stuck up there, and I didn't go up that path at that time because I didn't think I could get up there with my car, and I said, we'll run out to Joyner, which is a little town, or a little village close to where I live, and it so happened a friend of mine was up, and I went over to his house, and he is a farmer, and he said, do you reckon we could get them out.

MR. KISSINGER: I object to what he said as hearsay.

THE COURT: I think it is harmless but I will sustain the objection.

MR. GRIZZARD CONTINUING -

Q Anyway, what did you do after you got to your friend's house? Did you give the name of your friend?

A George Edwards.

Q And I know you have given your address, but do you know what county that is in?

A That is in Southampton County.

Q After you went to Mr. Edwards and you had a conversation with him, what did you all do then?

A He said, we will go down with my pickup truck and take a look at it and see where it is, and we went down to where the car was at and it was stuck and the right-hand door was open to it, and it was just as muddy as it could be, and I opened the door on the driver's side, and got into it, and inside it was just as muddy as it could be, and

the windshield was cracked and the left-hand vent was broke, and I told George, I said, "This don't look right to me, let's write the license plate number down on this", so we wrote the license plate number down on the car, and inside of the car on the passenger side there was a black purse and a motorcycle tag in it, which we wrote the number down on that, and then a section between the two bucket seats there was a drink cup.

MR. KISSINGER: I object to this. What is in the car; what has this got to do with murder or abduction?

THE COURT: Well, I don't know yet. If it is not relevant, we will strike it out, but it will have to be connected.

MR. GRIZZARD CONTINUING -

Q Go ahead.

AA So we took the drink cup and smelled of it to see if it smelled like alcohol and put it back, and we pulled the car out; pulled it out to the road, and I drove it out to the road and followed him on out, but being the windshield was so muddy I couldn't see out of it, and I had to lean out of the side glass to see how to drive it out, and he was out to the road where the girls were waiting at my car, and he said the girl paid him $30.00, and he was going to give me $15.00 of it, and I didn't see the girl pay him the money, and I didn't know whether she did or not, but I taken the $15.00 and they followed us and wanted to know how to get out on 58, and they followed us on out to the hardtop road, and that is the last I have seen of them.

Q This automobile that you are speaking of, what color or what make?

A It was a maroon Mustang, '67 model.

Q This black purse that you say was inside the car; what type of black purse was it?

A Well I don't remember whether it had a buckle or not. I don't remember. It was just a black purse with a handle onto it, and it was sitting in the foot of the car.

Q Now you testified you first were awakened about 11:00 P.M. Do you know about what time it was that you last saw this maroon '67 Mustang. You said that they followed you out.

A I don't know the exact time; the last time I did see it, but it was somewhere between eleven and twelve o'clock.

Q Have you subsequently or after May 24th, had occasion to see or know who any of those three girls were?

A Yes.

Q Who were they?

A I have heard the names; Pam Blair and Reed, and the other one, I forgot her name.

Q Do you recall how any of the girls were dressed?

MR. KISSINGER: I object. What has this got to do with the case; how the girls were dressed?

THE COURT: What about it, Mr. Grizzard; what has it got to do with the case?

MR. GRIZZARD: Well, sooner or later we are going to get to it. We are going to get to the body unless Mr. Kissinger wants to stipulate it was there in Southampton County.

MR. KISSINGER: I am not going to stipulate anything. If you want to get to the body, get on with it.

MR. GRIZZARD: I am entitled to produce my case in a normal sequence of events. Mr. Kissinger might not want it tied back to his men, and it has got to be done and it takes a long time. It takes a sequence of events to do it, and we are going to have to be patient and go through it all. I know he doesn't want to hear it, but he is going to have to.

MR. KISSINGER: But not what the girls were wearing; I renew my objection.

THE COURT: Of course, it must be connected just as the other evidence.

MR. KISSINGER: Note my exception.

MR. GRIZZARD CONTINUING -

Q What were they wearing?

A They were wearing blouses, sport blouses like, and two of them were barefooted and the other one had on shoes, and one had on, it looked like, dungarees and it was hard to tell exactly what they were wearing because

they were so wet and muddy.

MR. GRIZZARD: All right, thank you, and answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Mr. Gibbs at any time when these people came to your house was there a man with them?

A No.

Q Did you hear a man's voice?

A No.

Q Did you see a man?

A No.

Q Have you ever seen my client before?

A No.

MR. KISSINGER: No further questions.

GEORGE EDWARDS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Mr. Edwards, would you state your name, address and occupation please?

A George B. Edwards, Capron, Virginia, and I am a farmer.

Q Your address is Capron, Virginia, but where is your home located?

A At Joyner, a little village.

Q Do you know what county that is in?

A Southampton County.

Q Were you living there on May 24th of last year?

A Yes, sir.

Q I want to call your attention to the night of May 24th at approximately 11:00 P.M., and ask you if anything occurred at your residence that night?

A Yes, sir. Between 11:00 and 11:30 Bill Gibbs came to my house and knocked at the door. I went to the door and he told me that three girls were stuck and wanted me to help him try to get them out, so I got in the truck and I went out to the car first where the three girls were, and I understood they were from Fayetteville, or going to Fayetteville, and I don't know which, and anyway we went back there where the car was and I thought it was on a county road, and it was back in a woods path about three-quarters of a mile off the road, and the car was stuck, and the door was open, and one side of the car there was some shoes and bottles and a ladies pocketbook, and we pulled the car out and Bill drove their car back to where his car and his wife was parked.

Q Will you describe this automobile.

A It's a '67 maroon Mustang.

Q Did you notice any physical features of the car?

A Well the left-hand vent was broken out, and the windshield was cracked and it was real muddy and

that was about all I observed.

Q What all did you find in the car?

A Some bottles in there and ladies shoes and ladies pocketbook and it was some paper cups or something like you get at a Tastee Freeze, where a coca-cola or something was poured in it.

Q What type of ladies pocketbook was it?

A It was a black pocketbook, and I would say twelve inches long and it looked like it had handles on it, and I don't remember whether it was a particular type, I didn't observe that close.

Q These three girls that you saw have you since had occasion to find out or see them again, or know who they are?

A Yes, sir. I have seen them here in Court on different occasions. That night they didn't tell me who they were or nothing, and I found out their names here in Court.

Q Who were they?

A Linda Grant, Pam Blair and June Reed.

Q All right, sir, after you all got the car out, what happened?

A Well we got back to where Bill Gibbs wife and the three girls were in his car, and they paid me $30.00; $15.00 a piece and they wanted a cigarette and I give them a cigarette, and, in fact, I gave them just about a pack of cigarettes and they wanted to know how to get back onto 58

and I told them, and I told them I would direct them out there, and I told them if they turned to the right they could go to Emporia, and left to go to Norfolk, and one of the girls, I don't know which one it was said Norfolk is where we are going, and that was the last I saw of them.

Q Now about what time was it that you actually last saw these girls that night?

A I'd say between twelve-thirty and one o'clock.

Q After May 24th, when you were down that path and pulled the car out, could you tell the Court whether or not you had occasion to go down that path again?

A Yes, sir. We went back down there the next morning and I went down to the store, and I was telling this neighbor about the ordeal we had that night, and I said, I am going back down there this morning come on and ride with me. His name was Paul Barnes and so he went with me back down there, and we got to where the car was and it was three jackets in the mud hole and a towel, a blue bath towel, and we picked the jackets up and put in my truck and, of course, I understood that night that they turned around there at the mud hole but we could see the tracks had been down the path further, and so we got in the truck and went down the path, and we got within fifty or seventy-five yards and we saw this body laying on the right-hand side of the path.

Q How far was that from the mud hole that you were at; the first one that you are speaking of?

A Around four hundred yards, I think.

Q As you approach this area where the body was, could you describe the position the body was in?

A She was laying face down with her head twisted to the right, both arms out, one leg was kind of cocked up on a little sapling and the other leg was laying across, kind of behind the knee.

Q Mr. Edwards, I hand you this photograph and ask you what that depicts, sir?

MR. KISSINGER: I am going to object to those pictures. There is no way for me to tell when those pictures were taken, or that the scene was like that on the night of the particular occurrence and the Commonwealth's Attorney has laid no ground work, and I am going to object.

MR. GRIZZARD: Trooper Twine is here and he can testify. He took the pictures on the morning of May 25th.

THE COURT: I will mark them for identification, and Mr. Twine can testify as to when the pictures were taken.

MR. GRIZZARD CONTINUING -

Q Go ahead.

A Yes, sir. This is where the car was stuck, and that is where the jackets were.

Q Would you write your initials where the car was stuck? As you look at this photograph which way did you come in on the morning of the 25th?

A I came in this way.

MR. GRIZZARD: For the record, he is pointing from the bottom of the photograph towards the top. I would like this photograph marked as Commonwealth's exhibit "2" for identification.

MR. GRIZZARD CONTINUING -

Q What does this photograph reflect, Mr. Edwards?

A This is where I came in, and this is where we made the turn and came up this way to where the body was, and this is where the car was actually stuck.

Q Again would you mark where the car was stuck?

MR. GRIZZARD: For the record, he is pointing that he came in from the left-hand side of the photograph and came around the bend to the bottom of the photograph where he drove. I would like this photograph marked Commonwealth's exhibit "3" for identification.

MR. GRIZZARD CONTINUING -

Q Will you tell the Court what that represents, sir?

A This is where the body was right here, and this is the mud hole.

Q Which way did you approach it?

A I came in from this way.

Q Does that correctly depict what you

saw when you got down to that second mud hole?

A Yes, sir.

MR. KISSINGER: Which way was he traveling?

MR. GRIZZARD: From the bottom of the photograph to the top.

MR. GRIZZARD CONTINUING -

Q What is this in this photograph right here?

A This is the body right here.

Q Would you write your initials underneath the body please.

MR. GRIZZARD: We would ask that this photograph be marked Commonwealth's exhibit "4" for identification.

MR. GRIZZARD CONTINUING -

Q Mr. Edwards, I hand you another photograph and ask you what that represents, and if it is accurate.

A This is the girl, the way she was.

MR. GRIZZARD: I would like this photograph marked Commonwealth's Exhibit "5" for identification.

MR. GRIZZARD CONTINUING -

Q What did you do after you saw the body up there, Mr. Edwards?

A When I first saw it, I drove up to where the body was and got out of the truck and went around to

the front of it, and I satisfied myself that she was dead, and I didn't touch her, but I could tell she was dead then and we came out and called the Sheriff, and it was about 8:30 or quarter to nine, or maybe quarter after nine the Sheriff came, and we went back down there and I showed him where it was.

Q How did you leave the area?

A I went straight on through the path and came out on 609.

Q This area where the body was found, do you know what county this is in?

A That is in Southampton County.

MR. GRIZZARD: All right, answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Mr. Edwards, what time was it that you got to the car?

A We left home I'd say between eleven and eleven-thirty, something in there, and I imagine it took us fifteen minutes to get back there where the car was.

Q Were there any lights back there?

A No, sir.

Q And you didn't get in the car, did you?

A No, sir.

Q Did Mr. Gibbs get in the car?

A Yes, sir.

Q How did you know about all of the articles in the car?

A I had my flashlight.

Q You had your flashlight and you checked all of that out?

A Yes, sir.

Q You checked the pocketbooks?

A No, sir. We just saw it; we flashed the light in the car.

Q Was there anything unusual about a ladies pocketbook being in a car with three girls?

A Well, no.

Q Can you tell the Court why Mr. Gibbs said that you got $15.00 and you are testifying that you got $30.00?

A It was $15.00 a piece. We divided it.

Q Did you at any time when you arrived there see any man?

A No, sir.

Q Have you ever seen my client before?

A No.

Q Did you hear any male voices in the area?

A No, sir.

Q And if I showed you that same pocketbook you couldn't identify it here today, could you?

A No, I doubt it.

1 Q You said one girl said she was going
2 to Norfolk, but you don't know that they went to Norfolk?
3 A No, I don't.
4 Q And the three jackets found in the
5 hole; they were girls' jackets?
6 A It was four jackets in the hole.
7 Q I thought you said three and a towel.
8 A I made a mistake; it was four jackets
9 in there.
10 Q Didn't you say three and a towel?
11 MR. GRIZZARD: He said he made a
12 mistake.
13 MR. KISSINGER: I am asking him about
14 the towel.
15 MR. KISSINGER CONTINUING -
16 Q Was there a towel in there?
17 A Yes, it was a towel in there.
18 Q Where did you get those notes you
19 have got there?
20 A I wrote them myself.
21 Q Is that your handwriting?
22 A Yes, sir.
23 Q When did you write them?
24 A The next morning after we come out
25 of the woods I sat down and wrote all the notes up and the
26 time.
27 Q You didn't go over that with the
28 Commonwealth's Attorney?

A No, I don't think the Commonwealth's Attorney has seen my notes.

Q You have talked to Mr. Grizzard?

A Yes, I have talked to him here in Court.

Q Are you going to ask this Court to believe that you talked to Mr. Grizzard and you have got notes and he has never seen them?

A I don't think Mr. Grizzard has seen these notes.

MR. GRIZZARD: I will be glad to take the witness stand and testify I have never seen them.

MR. KISSINGER CONTINUING -

Q In those pictures where you located the body, do you know whether or not the body had been moved?

A I don't know whether it had been moved or not. Not from the time I saw it until I came back.

Q You don't know that that is where the body originally was. You only know that is where you saw the body?

A That's right.

Q Do you know when this girl was killed?

A No, sir.

Q Do you know where she was killed?

A No, sir.

MR. KISSINGER: I have no further questions.

W. P. TWINE, being first duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Mr. Twine, would you state your name, address and occupation to the Court please?

A W. P. Twine, and I live at Great Bridge, Virginia, and my occupation is investigator with the Department of Virginia State Police.

Q And how long have you been with the Virginia State Police?

A Twenty-one years.

Q How long have you been an investigator?

A A little over one year.

Q Did you have occasion, sir, on the 25th day of May of 1973, to come to Southampton County?

A Yes, sir, I did.

Q Where did you go in Southampton County?

A This was at a point 11.8 miles northwest of Courtland in a farm path between Route 608 and 609.

Q When you got there what did you find?

A I found a body in this woods path.

Q Was anyone else there when you arrived?

A Yes, sir, Sheriff Brooks was there; Mr. George Edwards was there and Mr. Paul Barnes.

Q You say you found a body; what did

you do once you arrived at the scene?

A Well, I walked over and observed the body and then I started taking photographs.

Q What time of day was this, sir?

A This would have been approximately 10:45 A.M.

Q This photograph marked Commonwealth's exhibit "2" for identification; did you take that photograph?

A Yes, I did.

Q And what does that depict?

A That is Investigator Coffman pointing to a point where a vehicle was stuck in the mud.

Q Did you take this photograph?

A Yes, I did.

MR. GRIZZARD: We would ask that this be marked as evidence, Your Honor.

MR. GRIZZARD CONTINUING -

Q I will show you a photograph marked Commonwealth's exhibit "3" for identification, and ask if you took that photograph?

A Yes, sir, I did.

Q What does that depict?

A That depicts a farm path where a curve to the left leading towards Route 608, and a point just around the curve, just beyond the apex of the curve is the mud hole on the right-hand side where a vehicle was stuck.

MR. GRIZZARD: I would like this marked Commonwealth's exhibit "3" as evidence.

MR. GRIZZARD CONTINUING -

Q I show you another photograph marked Commonwealth's exhibit "4" for identification and ask if you took that photograph?

A Yes, sir, I did.

Q What does that show?

A This shows the path where the body was found and the body is located just on the right side of the path at the mud hole.

Q Can you see the body in that photograph?

A Yes, sir, I can see the body.

MR. GRIZZARD: Let the record reflect that he pointed to the body, and I would like that marked Commonwealth's exhibit "4" as evidence.

MR. GRIZZARD CONTINUING -

Q I will show you Commonwealth's exhibit number "5" for identification and ask you if you took that photograph?

A Yes, sir, I did.

Q What does that depict?

A That is a body that is located on the right side of the road, or on the right side of the path with the arms out stretched and the legs in the air at this point.

Q Does that correctly depict what you observed when you arrived?

A Yes, sir, it does.

MR. GRIZZARD: I would like this marked Commonwealth's exhibit "5" as evidence.

MR. GRIZZARD CONTINUING -

Q I hand you this photograph and ask you if you took that photograph?

A Yes, sir, I did.

Q What does that depict?

A This depicts the injury on the right side of her cheek; the injury of her upper part of her cheek, and also shows many bruises on the upper part of her back.

MR. GRIZZARD: I would like that photograph marked Commonwealth's exhibit "6".

MR. GRIZZARD CONTINUING -

Q Did you take the photograph, sir?

A Yes, sir, I took this photograph.

Q What does that show?

A That shows the blood that was on the ground immediately below her mouth. It was approximately three tablespoons of blood if I had to estimate.

MR. GRIZZARD: I would like this photograph marked Commonwealth's exhibit "7".

MR. GRIZZARD CONTINUING -

Q Trooper, did you make a physical survey of the area where the body was found?

A Yes, sir.

Q Will you tell the Court what, if anything, you found there?

A Well immediately in that vicinity it was only one footprint that was found, somewhat northwest of the body. This was approximately fifteen feet from where the body was located, just the heel part of a foot, and also we found some tire tracks that were twenty-nine feet six inches from the body; tire tracks that came in, and also went out and also some tracks indicating that a vehicle had turned around near the spot. The body was clad in a blue woolen sleeveless sweater and blue dungarees, no brassiere and she was barefooted, and the clothes and hair were wet, and sand and mud was in the hair and between the toes and bruises were on the upper part of her back, somewhat oval shaped, and her eyes were closed, and blood was stringing from her mouth to the ground, and, as I previously testified, it was maybe three tablespoons of blood. The tire tracks indicated the vehicle came in on 608 and went back out in that direction.

Q 608, where is that in relation to the first mud hole; the one shown in Commonwealth's exhibit "2"?

A 608 is going back out and around the curve that bears to the left leading in the direction of 608; the tracks indicated that the vehicle hugged to the right going in and upon going out hugged to the right and went too far to the right, and appeared that a vehicle got stuck in the field. It was very muddy at that point.

Q In checking the tire tracks, was tire tracks the only thing you found other than the footprint?

A The footprint there and it was several

more observed on Route 608, and it was many tracks present on 608, generally in the center of the road.

MR. KISSINGER: I object, Judge, to, "Many tracks"; what does that mean? It is irrelevant.

THE COURT: I will sustain the objection.

MR. GRIZZARD: That's all, answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Did you find any evidence of my client being at that scene?

A No, sir, I have not.

Q You have been an investigator for a year, haven't you?

A A little over a year, yes, sir.

Q In that time you have investigated how many murders would you say you have investigated, Mr. Twine?

A This was the first one since I was investigator.

Q Have you investigated any since then?

A No, sir.

Q Can you tell us what was the cause of death of that girl?

A No, sir.

Q Can you tell me that girl was killed in Southampton County?

A No, sir.

MR. GRIZZARD: That is a question for the Court to determine.

MR. KISSINGER: That is a question for the witness; he saw the body.

THE COURT: Well, don't argue among yourselves.

MR. KISSINGER: I think it is a proper question.

THE COURT: Go ahead if he knows.

MR. KISSINGER CONTINUING -

Q Can you tell whether she was killed in Southampton County or not?

A Certain evidence that I found; the blood stringing from her mouth to the ground.

Q You have testified to all of that; can you tell me as a matter of fact that the girl was killed in Southampton?

A No, sir.

Q There was no evidence of my client being at that scene at all, is that correct?

A As far as my part of the investigation is concerned. I have not been associated with every phase of it.

Q Could you tell whether the body had been moved when you took the picture?

A I could only testify as to what I saw as the pictures and the photograph indicate.

Q Well you took the photographs and you viewed the scene?

A Yes, sir.

Q Did it appear to you that the body had been moved?

A It appeared to me that the body was at a point where the blood was stringing from the mouth to the ground.

Q You are not answering my question.

THE COURT: Well I don't understand your question. At what point in time are we talking about?

MR. KISSINGER: When he arrived at the scene and took these pictures that he is putting into evidence. I am asking him whether or not that body had been moved at the time he took those pictures.

THE COURT: Before he arrived?

MR. KISSINGER: Yes, sir.

THE COURT: Go ahead.

MR. KISSINGER CONTINUING -

Q Go ahead, Mr. Twine.

A The initial investigation made at the scene, I would not be in a position to say.

Q Were you at the scene?

A Yes, sir.

Q You took those pictures?

A Yes, sir.

Q And you can't tell me or tell this Court?

A They accurately depict what I saw.

MR. KISSINGER: No further questions.

REDIRECT EXAMINATION

BY MR. GRIZZARD:

Q Trooper Twine, did you notice anything on the body itself?

A Yes, sir.

Q What did you notice on the body itself other than the blood coming from the mouth?

A I noticed a discoloration on the lower part of the stomach, which was lividity.

Q What is lividity?

A That is when the blood drops of its own accord to the lowest part of the body.

MR. KISSINGER: That calls for medical testimony, and he is not the proper person to testify to that.

THE COURT: Well I am going to allow the answer insofar as he saw the discoloration. As to what it is, we will leave that to the doctor.

MR. GRIZZARD CONTINUING -

Q This discoloration that you saw on

the stomach, was it just a trace, or was it pronounced or what?

A It was a difference in the color of the skin that you could see without any difficulty.

Q As a result of that, what did you all do with the body, Mr. Twine.

A We had the body covered and the hands and the feet preserved, and the funeral vehicle operator was requested to transport the body as it was found to preserve this condition.

MR. GRIZZARD: All right, that's all.

RECROSS EXAMINATION

BY MR. KISSINGER

Q Just one other thing. You say you had the body covered and preserved; for what purpose?

A To preserve any evidence on the limbs of the body. We had it transported in that position so that the Medical Examiner could make the proper investigation.

Q As to the cause of death?

A As to any condition or anything regarding the body that may aid us in the investigation.

MR. KISSINGER: No further questions.

JAMES THORPE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

1 Q Would you state your name, address
2 and occupation please, sir?
3 A James Thorpe, 806 Lane Drive, Hampton,
4 and I am a service station operator.
5 Q Were you so employed in May of 1973?
6 A Yes, sir.
7 Q And where is your service station
8 located?
9 A On the Corner of Pembroke Avenue and
10 Shell Road in Hampton.
11 Q Is this the station that you operated
12 last year.
13 A Yes, sir.
14 Q I want to call your attention to the
15 afternoon of May 24th, late afternoon or early evening, and
16 ask you if you noticed anything unusual occurring at your
17 service station that night, sir?
18 A Not really unusual; the only thing
19 the girls came in a car, and talked about going to South
20 Carolina and Florida, and the car didn't look like it would
21 get out of town good, and the girls reminded me of fourteen
22 or fifteen year old girls and I was wondering why anybody that
23 age would be trying to go that far.
24 Q What about the car that caught your
25 eye?
26 A Well it was kind of a dilapidated
27 car, and it was from Norfolk or Virginia Beach, and it had two
28 stickers on the windshield, and it was an old rough looking

car.

Q Do you remember anything about the make, color or model of the car?

A It was a redish Mustang.

Q Did you have any idea what year or model it might have been?

A Probably a '64 or a '65, or something like that.

Q How many girls were there?

A Three in the front seat and one in the back seat laying down.

Q Do you know what these three girls did at your service station?

A They bought gas, and two of them went to the restroom.

Q Where were you while the two were in the restroom?

A Servicing the car and checking the oil and putting in the gas.

Q Did you ever see the one in the back?

A Sir?

Q Did you notice anything about the girl in the back?

A No, I didn't see her or anything, and I saw that she was covered up and I just saw her hair hanging out from under it, and I saw the form of her body.

Q This conversation you are speaking of, going to South Carolina or Florida, who was doing the talking,

if you know?

A The girl who was driving was the first one that asked me a question about it, and in the process of checking the oil and all, the other two girls came back but I was thinking the girl in the back seat was the only one there at the time she asked me about it.

Q You never saw that girl in the back seat. Did you have any conversation with her?

A No, only I thought she said something when I was talking to the girl in the front seat about how to get to South Carolina. I was thinking she said, why not go on to Florida or something; maybe it wasn't her and I wasn't looking directly at her, and I was cleaning the windshield and checking the oil while I was talking to her.

Q Have you ever seen any of those three girls since the 24th, or let me ask you this way; what time of day was it, if you know?

A It was late in the evening or early in the night before it got dark. It was possibly anywhere from six to eight, or eight-thirty.

Q Have you ever seen any of the girls that were at your station that night?

A I have seen photos that I identified as they looked like the ones.

Q When you saw the photographs, how many photographs were you shown?

A Six or eight, a bunch of them.

Q I hand you a group of seven photographs.

Will you look through them, sir, and tell the Court whether or not they are the photographs you were shown?

A Yes, sir.

Q I believe you testified you identified some of the photographs. Would you tell the Court which, if any, of these photographs you identified?

A I believe it was these two, but I am not certain.

MR. GRIZZARD: I would ask that the record show that he has identified the photographs of Pam Blair and Louise Carol Weekly. I would like these photographs marked as Commonwealth's exhibit "8" and "9".

THE COURT: There are three photographs and two of them are attached together.

MR. GRIZZARD: Answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Just a couple of questions, Mr. Thorpe. You indicated you didn't really see the girl that well, and that you couldn't identify her.

A The one in the back seat?

Q You saw the girl on the back seat, and you overheard some talking while you were servicing the car. You don't know whether it came from the back seat or not?

A No, sir, I am not positive.

Q And you never saw the girl in the back seat as she was covered up with her hair hanging down? You never saw her sit up, did you?

A No, sir.

Q And you don't know that she wasn't dead then, do you?

A No, sir.

Q You saw no movement?

A No, sir.

MR. KISSINGER: No further questions.

DR. CHARLES SPRINGATE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Dr. Springate, state your name, address and occupation, please, sir.

A Dr. Charles Springate, 401 A Colley Avenue, Norfolk, and I am a Forensic Pathologist.

Q Will you tell the Court where you went to school and your qualifications.

A After obtaining a Bachelor's Degree.

MR. KISSINGER: I will stipulate his qualifications.

THE COURT: All right.

MR. GRIZZARD CONTINUING -

Q Dr. Springate, I hand you a photograph

1 marked Commonwealth's exhibit "1", and ask if you have ever
2 seen this girl?
3 A Yes.
4 Q Will you tell the Court when you first
5 had occasion to see her?
6 A Approximately five to six P.M. on
7 May 25th, 1973.
8 Q And under what circumstances?
9 A This was approximately the time that
10 the body was brought into the Medical Examiner's Office.
11 Q What did you do when you observed
12 the body on the 25th, between five and six P.M.?
13 A I just looked at it briefly and
14 observed the external injuries, and took appropriate smears
15 at that time, and then held the autopsy until the following
16 morning.
17 Q What smears did you take, sir?
18 A Smears of the vagina; the oral cavity
19 and the rectum.
20 Q Now you said the autopsy itself was
21 done on the 26th?
22 A Yes.
23 Q In your examination on both the after-
24 noon of the 25th, and your autopsy on the 26th of May, will
25 you tell the Court what injuries and what your autopsy revealed?
26 A The body had a number of injuries.
27 MR. KISSINGER: Your Honor, these are
28 notes that he is looking at, and I want to know

if they are notes made by him or by someone else. I would like to know that.

DR. SPRINGATE: The notes I have right here in front of me is the autopsy protocol based upon dictation that I made, which I signed down at the bottom.

MR. KISSINGER: You did not make those?

DR. SPRINGATE: I did not type them, no.

MR. KISSINGER: I will object to them.

THE COURT: The objection is overruled.

MR. KISSINGER: Note my exception.

BY MR. GOLDMAN CONTINUING -

Go ahead.

A The autopsy revealed a number of injuries which I have divided into various areas of the body. The injuries of the head included dark discoloration and swelling of both eyelids and the left lower eyelid and an abrasion of the forehead and one on the right and one on the left. There were contusions or bruises on the internal aspect of the lips. There was a hematoma on the right side of the face, three and three-quarters by four inches with two superimposed abrasions, and there were about fifteen scalp hemorrhages, measuring up to two inches in diameter and going to the back, there were five ring-like contusions of the upper back and there was a similar oval contusion in the right lumbar region of the lower back, and there were several other medium

red contusions of the upper back, and a contusion of the right buttock. The right upper extremities exhibited two faint contusions of the hand, and the left upper extremity had four contusions of the top of the left shoulder and the upper arm, and a contusion on the left forearm three inches above the wrist, and another contusion on the outer aspect of the left forearm and three contusions on the back of the left hand. The lower extremities exhibited two oval contusions of the outer aspect of the left thigh, which were similar to those that I mentioned previously of the upper back, and there was also a faint contusion of the interior right thigh, and the internal examination of the neck showed prominent hemorrhages in what we call the strap muscles in the front part of the neck in this region, and a fracture of the back of the cricoid cartilage, which is the cartilage completely surrounding the airway located a short distance below the Adams Apple, approximately here.

Q Are these injuries that you saw on the 26th, or the afternoon of the 25th?

A Well, of course, I saw some of these injuries on the first evening when I saw the body, but the listing of the injuries and close examination was done the following morning.

Q In your internal examination, what did you find?

A The internal examination disclosed the neck injuries and scalp injuries which I previously described. It showed that she had an old appendectomy and

1 those were really the only significant findings internally.
2 Q Who took these photographs, Dr.
3 Springate?
4 A I did.
5 Q And do they correctly depict the
6 injuries which you have described?
7 A Yes, sir, they do.
8 MR. GRIZZARD: I would like these
9 marked Commonwealth's exhibit "10", "11", and
10 "12".
11 MR. GRIZZARD CONTINUING -
12 Q When you first observed the body on
13 May 25th, what was the condition of the body at that time?
14 A It was clothed in blue jeans and a
15 blue knit sleeveless shirt, and the body and clothing were
16 wet and rigor mortis was well developed in the jaw and
17 extremities, and the post-mortem lividity was well developed
18 in the interior.
19 Q After conducting the autopsy, have
20 you determined what was the cause of death?
21 A Yes.
22 Q What was that, sir?
23 A Strangulation.
24 Q In particular what led you to conclude
25 that strangulation was the cause of death?
26 A The presence of the hemorrhage over
27 the cricoid cartilage with the associated fracture of the
28 cartilage, and separation of the mucosa from the cartilage as

1 characteristic in this kind of case.
2 Q The smears that you have taken on the
3 25th, do you have a report on them, sir?
4 A Yes, sir.
5 Q Was that done under your direction?
6 A Yes.
7 Q Do you have that report with you?
8 A I have the original, yes.
9 MR. KISSINGER: I have the same
10 objection.
11 THE COURT: I overrule your objection.
12 MR. KISSINGER: Note my exception.
13 MR. GRIZZARD: At this time the
14 Commonwealth would offer as an exhibit in
15 totality the pathological report, the death
16 certificate from the Chief Medical Examiner,
17 and the autopsy report. These are the pathologi-
18 cal reports done in Norfolk at the Medical
19 Examiner's Office certified by Dr. Springate.
20 The death report is by Dr. Gardner of Southampton
21 County certified by Dr. Springate, and the
22 autopsy report, itself, was conducted by Dr.
23 Springate.
24 THE COURT: I am going to admit them
25 over your objection.
26 MR. KISSINGER: Note our exception.
27 THE COURT: That will be exhibit "13".
28 MR. GRIZZARD CONTINUING -

Q Could you determine, Dr. Springate, from your physical examination of the body, and the autopsy that was performed, and the other medical evidence available to you a time of death?

A I estimated at approximately twelve to twenty-four hours before I saw the body.

Q That would be sometime between five and six A.M., and five or six P.M. the night before?

A Yes.

Q This cricoid cartilage that you described that was broken. How can you go about breaking a cricoid cartilage?

A It is broken by pressure applied directly over the cartilage usually either by squeezing with the fingers or pressure with the hand or with the forearm.

Q You say it was broken in the back of the cricoid cartilage. How do you go about breaking it at the back?

A When it is squeezed from the front or from the side, sometimes the break will be one place and sometimes another, and sometimes several places.

MR. GRIZZARD: Answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q A person, Doctor, could break somebody's neck, and I am going to call it neck for the sake of not being technical by just playing around with them and

1 grabbing them from behind accidentally. This could occur?
2 A By just playing around?
3 Q Sure; wrestling.
4 A It would be pretty rough playing.
5 Q I didn't say it wouldn't be rough,
6 but it could happen?
7 A It is possible.
8 Q You said that you estimated the time
9 of death twelve to twenty-four hours before you saw the body?
10 A I said approximately, yes. Not
11 necessarily.
12 Q Now you didn't do the autopsy until
13 the following day?
14 A That's right.
15 Q So therefore you really don't know
16 when the body or the person was killed or died, do you?
17 A Well I said I gave a pretty wide
18 range.
19 Q That's not wide when you say it could
20 have been twenty-four hours. You said it could have been
21 twelve to twenty-four hours and it could have been forty-eight,
22 couldn't it?
23 A I put twenty-four as probably the
24 upper limit, but that doesn't necessarily mean it has to be
25 the upper limits. It could have been more than that. The
26 further you go beyond that twenty-four hours, the less likely
27 it becomes.
28 Q The less likely it becomes, certainly,

1 but we are talking about a girl who purportedly was found in a
2 mud hole. Now when rigor mortis sets in maybe if you were
3 killed or injured and caused death right here in this court-
4 room where it is dry and everything is lovely, rigor mortis
5 would set in a certain way, but it wouldn't set in if the girl
6 was in the water like that, would it?
7 A The water wouldn't have anything to
8 do with it.
9 Q It would keep her limber?
10 A Not unless the water was considerably
11 colder than the air in which case it would delay its onset but
12 the amount of water in the mud hole would not be sufficient
13 to delay the set in of rigor mortis.
14 Q Now your report says probable cause
15 of death is strangulation. Is there anything else that could
16 have caused her death?
17 A In viewing everything I had, and all
18 of the information available to me as well as the autopsy
19 results, that was my conclusion as to the cause of death.
20 THE COURT: How long does it take
21 rigor mortis to set in?
22 A It begins approximately two to six
23 hours following death. A warm environment will speed its
24 onset and development, and a cold environment will delay its
25 onset, and it becomes complete anywhere from six to twelve
26 hours.
27 MR. KISSINGER CONTINUING -
28 Q How about in the cold?

A Well, as I said, in cold it would tend to delay its onset.

Q Then it wouldn't be twelve hours, would it?

A What wouldn't be twelve hours?

Q Rigor mortis setting in totally at the end of twelve hours in the cold.

A No, it could be somewhat longer.

Q You don't know where or when the various bruises that you have seen; these various pictures up here, you don't know when they were put on the body do you?

A That's right.

Q It could have been when she was killed, or she accidentally hurt herself or anytime, right?

A Well some of them, but some of them were not just her accidentally hurting herself.

Q Could you tell us was that put on there when the girl died?

A I don't know.

Q You don't know in any of these pictures do you?

A That's correct.

Q Can you tell us whether or not the girl died in Norfolk, Virginia, or in Southampton County?

A No, I do not.

Q The only thing you can tell us is that you have examined the body and that you think that it died twelve to twenty-four hours before, but it could have been

1 longer, but you don't know where the body died?
2 A That's correct.
3 Q And further the marks on the body,
4 you don't know when they were put on, or whether they were
5 put on her two or three days before the body died, or when
6 the body actually died?
7 A Well two to three days is a little
8 bit long. It would have been unusual.
9 Q Say twenty-four hours before, it
10 could have been put on, couldn't it?
11 A Yes.
12 Q How about a fall? Could a person
13 fall and break that joint that you are talking about in the
14 neck accidentally?
15 A That would be extremely rare.
16 Q I am not saying whether it is rare;
17 what I am asking you is yes or not?
18 A It is a possibility, but extremely
19 unlikely.
20 Q I didn't ask you that either, but
21 they can do it, right?
22 A Well I have never heard of it occur-
23 ring; let me put it that way. It is a possibility.
24 Q I only asked you very simply could a
25 person fall and do that?
26 A Yes.
27 Q Apparently too, Doctor, when you
28 took these smears at five or six o'clock that night, you were

in a little bit of a hurry, weren't you, to get out of there, and that is why you held over the autopsy until the following day?

A Absolutely not.

Q What time do you normally go home to eat dinner?

A Well, we aim for 6:30, but on the vast majority of evenings it is not until 7:00 or 7:15.

Q You were aiming at 6:30 that night, weren't you?

MR. GRIZZARD: I object to that. I fail to see the relevancy.

MR. KISSINGER: I will get to it if you will let me.

MR. GRIZZARD: I would like a ruling on it.

MR. KISSINGER: What I am getting at is the autopsy and the body is rigid, and if he was in a hurry, and he checked the girl and got the smears, he didn't pay that much attention to rigor mortis. He spent the bulk of the time getting the oral cavity, and the vagina, and the rectal cavity, and the next day he did the autopsy on that occasion.

THE COURT: Go ahead.

MR. KISSINGER CONTINUING -

Q You know what I want from you now?

A I am not sure you will get it.

Q I asked you if you were aiming that night at 6:30 and you said you were.

A No, we were speaking in general terms and we were not speaking about that evening specifically.

MR. GRIZZARD: I object if he is talking about the autopsy on May the 24th on Sandra Harrell Jones. I don't care what he does on any other evening.

THE COURT: Well, let's confine it to this particular night.

MR. KISSINGER: Well apparently he can't remember it that well.

A Yes, I can.

MR. KISSINGER CONTINUING -

Q You can?

A Yes, certain aspects.

Q But certain aspects you can't?

A I can't remember if I took a drink of water at five o'clock.

Q Do you remember what you wore?

A No, I don't.

REDIRECT EXAMINATION

BY MR. GRIZZARD:

Q Well, let's look at possibilities. It is possible the sun won't set this evening, isn't it?

A Yes.

Q A lot of things are possible?

1 A Yes.
2 Q And looking at these marks on the body,
3 can you think of anything that she could have accidentally
4 done, or fallen upon, to put these marks in that pattern on
5 her body?
6 A No.
7 Q Can you think of anything that she
8 could have accidentally have fallen upon to put the marks on
9 her eye and her mouth, and her other eye?
10 A In one fall, no.
11 Q Can you think of anything in the
12 world that she could have accidentally fallen upon to put those
13 injuries over her hips, her back, her arms and all over her
14 body?
15 A No.
16 Q You have testified, I believe, that
17 you have never in your career heard of anybody falling and
18 breaking the cricoid cartilage?
19 A That's right.
20 Q Now in answer to one question, you
21 were talking about the neck; that you can break your neck by
22 playing around. When you speak of neck in answer to that
23 question, what are you talking about?
24 A Well. .
25 Q Well let me get at it this way. Are
26 you thinking of the spinal cord or the cricoid cartilage.
27 A Well I think the defense attorney was
28 using that term to make it easier to say, but he was referring

1 to the cricoid cartilage.
2 Q Can you break the cricoid cartilage
3 by playing around?
4 A Well as I indicated previously, it
5 is possible.
6 Q Like the sun not setting this after-
7 noon.
8 THE COURT: Gentlemen, we are getting
9 into argument, and I am going to let you argue to me about
10 possibilities and probabilities.
11 MR. GRIZZARD CONTINUING -
12 Q Going to rigor mortis; you said it
13 would be complete six to twelve hours on a cold day, and it
14 could take longer for it to be complete.
15 A Well six to twelve hours is the range
16 that is usually given, and usually quoted, but this would
17 probably be the time for say the average room temperature. If
18 it is considerably colder than that, it would take longer as
19 I said, and if it is one hundred degrees in the environment
20 where the body is, it would be a shorter period.
21 Q So when you saw the body at six
22 o'clock on the 25th, rigor mortis had completed?
23 A Yes.
24 Q The lividity that you mentioned; how
25 long does it take lividity to set in?
26 A Well it begins about the time a
27 person dies, but how fast it develops or how fast you can
28 begin to see it varies from one body to another. In some bodies

it would be, say with extremely light skin, you might be able to see it within a half an hour to an hour, and on the other hand, an extremely dark colored body, you might not be able to see it at all, even when it is well developed.

Q How about the body of Sandra Harrell Jones?

A Well on her I would imagine that it might have been seen say at a very faint stage perhaps thirty minutes to an hour after she died. Then it would get progressively more prominent after that time.

Q What about bleeding from the mouth. Does that continue after death, or would that continue after death?

A It can, yes.

Q In particular on the wound that she had inside of her mouth, with her head in a down position, would blood run from her mouth?

A It could, yes.

Q How fast?

A Well that is difficult to say. It would depend upon the size of the injury and the size of the blood vessels that were allowing the blood to escape, and in her case, the injury that she had of the face that would have been bleeding with the laceration of the lip, they were quite small and so they probably would have bleed at a fairly slow rate.

Q Now you have testified in answer to Mr. Kissinger's question that twenty-four hours was the upper

1 probable limit at which death occurred to the time you first
2 saw the body, and it was likely less. Can you take that
3 twelve to twenty-four hour period and cut it down any?
4 A No, I really can't.
5 MR. KISSINGER: That is not what he
6 testified to. He said he estimated twelve to
7 twenty-four hours, and it could have been longer.
8 That is what the doctor testified to.
9 MR. GRIZZARD: Well, the Court has
10 heard the testimony, and the Court heard what
11 he said, which he said twenty-four hours was
12 the outer probable limit.
13 MR. KISSINGER: That was his estimate.
14 THE COURT: I want to ask you a question
15 Doctor, about this bleeding. How long would
16 bleeding occur after death from a small lacera-
17 tion such as found on the body of this girl?
18 A Well it could continue for say twenty-
19 four hours, or it could stop say after a few minutes, or a
20 few hours. There is no way of telling.
21 THE COURT: There is no limit?
22 A No, Your Honor.
23 MR. GRIZZARD: That is all I have of
24 Dr. Springate.
25 THE COURT: We will recess for lunch
26 and come back at 2:00 o'clock. Sheriff, would
27 you instruct the witnesses that they are not to
28 talk to anyone about the case.

TRIAL CONTINUING AFTER LUNCH RECESS.

WILLIAM LYNN WOOD, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRIZZARD:

Q Mr. Wood, would you state your name please?

A William Lynn Wood.

Q How old are you?

A Twenty-five.

Q Have you been convicted of a felony?

A Yes, sir, I have.

Q Mr. Wood, I want to call your attention to the spring of 1973, and ask you whether or not you were a member of a motorcycle group?

A Yes, sir, I was.

Q Would you tell the name of that group?

A Pagans.

Q And what was your relation to the Pagans?

A I was the President of the Portsmouth Chapter.

Q Do you know the defendant in this case, Jim Tolley?

A Yes, sir, I do.

1 Q Did you know him the period of January
2 to June of last year?
3 A Yes, sir.
4 Q In what capacity did you know him?
5 A He was then in the Chapter that I
6 was president of.
7 Q How long had he been a member of the
8 Chapter that you were president of?
9 A Approximately four months, I guess.
10 Q Do you remember when he joined?
11 A Well he was in another club that I
12 was in before this club, and it was absorbed by the Pagans
13 and he just went out with the rest of us, and I'd say about
14 four months.
15 Q You were the president of the Portsmouth
16 Chapter. Tell us something about the organization of the
17 Pagans in the Norfolk-Portsmouth-Virginia Beach area?
18 MR. KISSINGER: Your Honor, the
19 Pagans are not on trial here today. It is
20 irrelevant what they do.
21 MR. GRIZZARD: If it please the
22 Court, I think it is very relevant to this
23 particular case as to the set up of the organ-
24 ization, the rules and regulations and what-have-you of the
25 motorcycle club. It will tie into the overall
26 factual situation of the particular case. It
27 is very relevant.
28 THE COURT: Well, it is like the rest

of it. If it is proven relevant, we will leave it. If it is not, we will strike it out.

MR. KISSINGER: Note my exception.

MR. GRIZZARD CONTINUING -

Q Tell something about the organization of the Pagans motorcycle club in the Norfolk-Virginia Beach-Portsmouth area, and what are your officers and who they are, and what type of discipline and what-have-you you have in the club.

A The president of all the Chapters, the one person in charge of everything in this area was John Turnbull. He went by the name of Mongoose, and he was in charge of all the Chapters, and any final decisions that were to be made, he was over everything, and the vice-president was John Sweiter. Billy Bryant was president of the Norfolk Chapter, and I was president of the Portsmouth Chapter, and there were approximately thirty-five or forty members in all the chapters in this area.

Q Is that in each Chapter or the total.

A The total of the Chapters in Norfolk, Portsmouth and Virginia Beach.

Q What can you tell us about the discipline in the club itself?

A It's disciplined very strict, and if someone did something in the club that was against some of the club's by-laws, it was handled within the club very strictly.

Q What type of discipline was it?

A Like if John Sweiter had given someone an order to do something that was important that he hadn't done, he would have his colors called, and his motorcycle taken away, and they could have gotten hurt.

Q Could you tell the Court whether or not there were any female members of the Pagans motorcycle club?

A There were no female actual members. Girls weren't allowed to be members. They treated the girls like they were property more than anything else.

Q What do you mean by they treated them as property.

A More or less they treated them like they owned them and they do exactly what they tell them to do. They just don't make any decisions for themselves.

Q Is this relationship between the male and female in the Pagans club just anybody that dates a member, or does it have to go beyond the dating stage until they get to this discipline.

A Just dating a girl in a club instead of being married to one of them. They were more or less given a set of property colors is what they call them.

Q As to the defendant, James Tolley; did he have his colors in the club? Was he a full fledged Pagan?

A Yes, he was a Sergeant of Arms.

Q What were the duties of the Sergeant of Arms?

1 A To keep order and to follow out things
2 that his president or anyone in the club higher than him told
3 him to do.
4 Q When a girl becomes the property of
5 the club, how are they named? Do they have a special name for
6 her?
7 A They just call them their old ladies.
8 They give girls a name, not their own name, just the name that
9 they call them.
10 Q Would you name some of the members
11 of the Norfolk, Portsmouth and Virginia Beach chapters of the
12 men with their old ladies?
13 A Well, Jim was called Slow and his
14 old lady, they just called her Pam.
15 Q Do you know her full name?
16 A No, sir, I don't. Joseph Green's
17 old lady, they called him Crazy Joe and his old lady was Crazy
18 Linda.
19 Q Do you know her full name?
20 A Linda Grant, I believe.
21 Q Do you know any others?
22 A My old lady was also my wife, and they
23 called her Bubber.
24 Q How about John Turnbull, or Mongoose?
25 A They changed old ladies so often that
26 it was hard to keep up with who they were going with. Mon-
27 goose's old lady's name was Sandy.
28 Q Do you know her last name?

1 A Jones, I believe.
2 Q I show you a photograph, and ask you
3 if you know who that is?
4 A Yes, that is Pam, Jim's old lady.
5 MR. GRIZZARD: Let the record show
6 that I showed him Commonwealth's exhibit number
7 "8"; a photograph of Pam Blair.
8 MR. GRIZZARD CONTINUING -
9 Q As to the operation of the Pagans
10 motorcycle gang as regards employment, who works; the men
11 or the women?
12 A Well it depends on the member himself;
13 whether he has a job or whether he doesn't. As a general
14 rule it is usually the women.
15 Q The women?
16 A Yes, sir.
17 Q As to the defendant, Jim Tolley, did
18 he work himself, or did his old lady, Pam, work?
19 A At times he worked and he was a
20 Volkswagen mechanic, but most of the time all of his old
21 ladies worked.
22 Q Do you recall the period of time
23 that Pam Blair was his old lady?
24 A Yes, sir, I do.
25 Q When was that?
26 A It was a little before; I'd say the
27 early part of May, and they broke up several times after she
28 was arrested, but they were still dating.

Q During the period of May, 1973, would you tell the Court whether or not you had any function or dealing with any police establishment?

A Yes, I did. I worked as an unpaid informant for the State Police, and also for the State Arson Investigator's Office in Norfolk.

Q You mentioned Sandra Jones as being the old lady of Mongoose. Do you recall when she was Mongoose's old lady?

A I can't tell you for sure, but I would say approximately about a month or so before she was killed.

Q I want to call your attention to May 24 of 1973, and ask you if you had occasion to see the defendant, Jim Tolley?

A Yes, sir, I did.

Q And what time did you see him?

A They must have gotten to my apartment approximately five-thirty in the evening.

Q You say they; who was with him?

A John Turnbull and Josie Green and Jim Tolley.

Q Where is your apartment?

A At the time I was living at 1121 Modock Avenue in Norfolk.

Q When they came to your apartment on the 24th of May last year at 5:30, what occurred?

A Well when they came in, it was two

1 fellows in the Coast Guard that I lived with, and they were
2 in the living room, and my wife, Bubber was there, and they
3 asked me to come into the back bedroom that they wanted to
4 talk to me about something, and so I went in the back bed-
5 room with them and Mongoose told me, or stated that this time
6 that I should have an airtight alibi for my whereabouts for
7 that night, and also told me that if anyone asked me about
8 Sandy, the girl that he had been dating, that I was to tell
9 them that she left town sometime that week with another girl
10 supposedly hitchhiking to Georgia to get a job dancing down
11 there.
12 Q Did you have any other conversation
13 at this time?
14 A Well, they stopped talking about that
15 time and Josie Green left the bedroom and he went back out and
16 there was no one left in the bedroom but Jim Tolley, and
17 John Turnbull and myself, and I asked him why they wanted me
18 to do what they told me, and what they had on mind and John
19 stated at this time that they were going to do away with
20 Sandy and that she had caused enough problems and that she
21 wasn't going to bother them any more or cause any more pro-
22 blems for them. I looked at Jim and asked him what they
23 planned on doing, and he stated to me at this time that they
24 were going to get rid of Sandy, and his words were that she
25 had screwed over her last Pagan. Then we all went back out
26 in the living room and they left.
27 Q About what time did they leave?
28 A Approximately 6:15.

Q Did you see how they left?

A Yes, they left in Jim Tolley's black Volkswagen.

Q What did you do after they left.

A Well I already had a prearranged meeting to meet with Investigator Smith of the State Police Narcotics Office, an undercover officer, at which time I didn't have any transportation and my wife had my car and she left for work so I had to get a ride up to Ocean View Avenue, where I was supposed to have met Jim Smith, and when I got up there I told him what they had told me, and we started trying to get a hold of some other officers to help us find her before they could leave with Sandy.

Q Did you stay with Smith that evening?

A Yes, I did until about one o'clock.

Q What were you all doing during that period of time.

A We were going every place that I knew that they hung out, where any of them living; anybody that I knew trying to find them. We also contacted the State Arson Investigator's Office because we couldn't get a hold of anyone at the State Police Office, and Mr. Catwell came out to the beach with some other officers to help us look for them.

Q After the defendant left you on the 24th about 6:15, when did you next see him?

A The morning of the 25th at approximately ten o'clock.

Q Where did you see him then?

A At the Sunoco Station on East Ocean View Avenue in Norfolk.

Q How did you happen to see him at that time at that place?

A At the time he was working there as a mechanic and I had gone by there to see if I could find out anything about what had happened.

Q Did you see the defendant and talk to him at that time?

A Yes, sir, I did.

Q What occurred at this time?

A When I first saw him, he had a black patent-leather pocketbook with a gold buckle on it and asked me if I would get rid of the pocketbook for him, and I told him I would with the intention of turning it over to the State Police as evidence, and he changed his mind for some reason, and wouldn't give it to me and asked me if I would give him a ride to another Pagan's house, Skip Adams, at which time I said I would.

Q Skip Adams, did he have an old lady?

A Yes, sir.

Q Do you know who that was?

A June, and I don't know what her last name is.

Q Then you went to Skip Adams house?

A Yes, sir. When we got to Skip's house, he took the pocketbook inside, and he had to wake Skip

1 up, he was still in bed and when he woke up, he asked Skip
2 if he would get rid of the pocketbook, and when he told him,
3 no, he didn't want to have anything to do with it, and he didn't
4 want to know anything about it and to get it out of the house.
5 Q What did you do at that time?
6 A Well, we all got back into the car,
7 and rode back to Dutch's Sunoco, and Skip went with us.
8 Q What happened when you got back to
9 the Sunoco station?
10 A We got back and I told Jim that I
11 would get rid of the pocketbook for him, and he said, no, he
12 would get rid of it right there, so he took a five gallon
13 gas can and went around to the side of the station and put the
14 pocketbook in there and dumped gasoline on top of it, and
15 threw a match on top of it and it started smoking real bad
16 so he picked up a metal sign to put on top of the garbage can
17 to put the fire out and he opened the pocketbook up and tore
18 everything up and threw it back in the can and when he did,
19 I saw what looked like a military card laying face down and
20 it was also some eye makeup and some other things inside of
21 the garbage can and I told him I would like to have the eye
22 makeup to give my old lady, and I reached down in the can and
23 I turned the I. D. card over and I saw Sandy's picture on it,
24 and I picked it up and the two things of eye makeup and he
25 reached down and picked up a gold crest ring with the bottom
26 part of the ring missing, and it was a necklace that appeared
27 to have a gold acorn type piece of metal on that, and he put
28 that in his pocket, and he poured some more gasoline on it and

1 lit the fire again.
2 Q Where was Skip Adams at that time?
3 A He was at the station. He came by
4 one time when we first went around by the garbage can and he
5 walked back around to the front of the station.
6 Q While the burning of the contents of
7 the pocketbook was going on, did you have any conversation
8 with the defendant, Jim Tolley, at that time?
9 A Yes, sir. I asked him why they had
10 done what they did to Sandy or if they had killed her, and I
11 was trying to find out what they had done and he told me at
12 that time that they hadn't done anything, that the old ladies
13 had taken care of it; Pam and June and Crazy Linda.
14 Q Do you recall exactly what you said
15 to him?
16 A No, sir. I asked him if they killed
17 Sandy, and if they killed her over $60.00 that Mongoose
18 supposedly thought she owed him, and that was when he stated
19 to me that, no, he hadn't killed her, that their old ladies,
20 and he didn't say the old ladies had killed her, but he said
21 the old ladies had taken care of it.
22 Q What did you do with the eye makeup
23 that you had gotten out of the trash can where he was burning
24 the things?
25 A I turned it over to Investigator Smith of the
26 State Police.
27 Q How long have you known Sandra
28 Harrell Jones?

1 A A little over a month.
2 Q When was the last time that you had
3 seen her alive?
4 A Approximately a week, maybe two
5 weeks before the 24th. This was when she was still going with
6 Mongoose.
7 Q You mentioned $60.00 that she was
8 supposed to pay Mongoose. Do you know what that was all
9 about?
10 A He had been up north some place on his
11 motorcycle, and coming back down his motorcycle broke down in
12 Richmond, and he had to put it in a shop there to be stored
13 until he could go back, and Sandy was working as a topless
14 dancer at the Jolly Roger at the time, and Tommy, the manager
15 of the place, owed her for three nights,I believe, $60.00, and
16 he figured $60.00 belonged to him, and I don't know how, and
17 he took her down to get her money, and she was supposed to
18 have been paid a certain night, and I don't know which night
19 it was, but he went down there with her, and he waited at the
20 back door, because the Pagans weren't allowed in the Jolly
21 Roger at this time, and she got her money and went out the
22 front door.
23 Q After May 24th, did you have occasion
24 to see Sandra Harrell Jones?
25 A Yes, sir, I did.
26 Q When was that?
27 A I believe it was the 26th on Saturday,
28 I identified her body in Norfolk City Morgue.

1 Q How did you happen to identify the
2 body?
3 A The State Police asked me if I would
4 identify it, and they took me over there to see it.
5 Q Subsequent or after you had identified
6 the body on the 26th, and had these conversations with Jim
7 Tolley on the 25th, did you have occasion to be in his company
8 again in which he made any statements concerning what happened
9 on the 24th?
10 A I was in his company several times,
11 but I never really heard him say that much. I tried to get
12 him to talk to me about it, and he never would. He was around
13 other people and would not talk about it.
14 Q Did he make any statements at those
15 times?
16 A The only time he ever said anything
17 was he told Pam and Crazy Linda to shutup one time when they
18 were talking about it.
19 Q When was that?
20 A They had a party out at the lake at
21 Virginia Beach the weekend after she was killed, and they had
22 run out of beer and we were supposed to be going to his car
23 to get some beer, and the two girls and Jim and myself, on the
24 way out it was a real dirty muddy road, and they were in his
25 Volkswagen and he was going through the mud holes pretty
26 fast, and Crazy Linda made the statement then that maybe if
27 we had had this car the other night we wouldn't have gotten
28 stuck, and Pam said, yes, I don't think we would have got this

one stuck either, and he turned around and told her to shutup.

MR. GRIZZARD: Answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q This is the most fantastic story I have ever heard, Mr. Wood, do you know that.

MR. GRIZZARD: He is on cross examination and this is not argument.

MR. KISSINGER CONTINUING -

Q You have testified to this Court that you knew that girl was going to get killed, and you didn't do anything about it, did you, is that right?

A No, sir, it is not.

Q When did you come to the police and finally say something about these people?

A About twenty minutes after he left and told me what they were going to do.

Q You had also been convicted of a felony?

A Yes, sir.

Q More than one?

A No, sir.

Q Have you been at this point sentenced?

MR. GRIZZARD: Your Honor, the proper question is has he been convicted of a felony. He has said yes, and that is as far as it can go.

1 MR. KISSINGER: I want to know whether
2 or not the man has been sentenced.
3 THE COURT: It makes no difference to
4 me. Have you been sentenced?
5 A Yes, sir.
6 MR. KISSINGER CONTINUING -
7 Q Have you been charged with another
8 felony?
9 MR. GRIZZARD: The question is has he
10 been convicted of a felony.
11 THE COURT: I sustain the objection.
12 MR. KISSINGER CONTINUING -
13 Q Have you been promised anything by
14 the police to testify here today?
15 A No, sir, I have not.
16 Q You have no idea where that young
17 lady, Sandra, was killed, do you?
18 A No, sir.
19 Q Indeed you don't or by whom, do you?
20 A No, sir.
21 Q Or where?
22 A No, sir.
23 Q And yet you are a trusted friend, a
24 Pagan and all of this, and you told the Judge that the Pagans
25 all stick together and they talk about everything and they do
26 everything, and they have meetings, and you don't know nothing
27 about it, but you are sitting in here now, and you are saying
28 you don't know where she was killed, by whom she was killed or

1 nothing, and yet you expect us to believe that on this occasion..
2 MR. GRIZZARD: He has to ask the
3 questions one at a time. He is arguing his
4 case, and he can't argue with the witness.
5 THE COURT: Confine it to questions
6 and answers, gentlemen.
7 MR. KISSINGER CONTINUING -
8 Q Then you talk about old ladies and
9 you say Pam was this boy's old lady, and you mentioned several
10 other old ladies who were different people's old ladies, and
11 you named different names, and then when they asked about this
12 Mongoose, you didn't know about that.
13 A I stated that he changed a whole lot.
14 Q How do you know that Pam was his
15 old lady?
16 A Because she was wearing his property
17 colors.
18 Q Oh really, and it has his name on it?
19 A Yes, sir.
20 Q Now you talk about that pocketbook
21 and you said you were an unpaid informant, right?
22 A Yes, sir.
23 Q And you saw that identification and
24 you didn't take that thing out of that can?
25 A No, sir.
26 Q Why?
27 A Well it was four or five Pagans right
28 there, and if I tried to pick it up they would have wanted to

1 know what I was going to do with it.
2 Q You took the eye makeup.
3 A That didn't have Sandra Harrell's
4 name on it either.
5 Q But you could have used Sandra
6 Harrell's identification for certain things, couldn't you?
7 A I guess I could have.
8 Q Then you could have picked it up?
9 A No, sir.
10 Q And they could have let you get
11 away with it?
12 A No, sir.
13 Q Who told you John Turnbull was in
14 charge of all the chapters?
15 A He did.
16 Q He did, and you believed him?
17 A Yes, sir.
18 Q And most of the Pagans, as you have
19 indicated, their old ladies work, right?
20 A Yes, sir.
21 Q Jim worked at Dutch's Sunoco?
22 A Yes, sir.
23 Q Yet you are going to say that he is
24 a Pagan?
25 A Yes, sir.
26 Q Isn't that out of order?
27 A No, sir.
28 Q You have testified that the old

ladies normally worked?

A Yes, sir.

Q But he worked?

A Yes, sir.

Q And that is not unusual?

A I worked.

Q You did. When did they find out that you were an informer?

A I can't answer that; I don't know.

Q Are you sure you don't know, or you don't want to say.

A The only time I know they could have found out was when they started the narcotics bust.

Q You know that if they hadn't found out you were an informer, then whatever you are saying here today, they would have told you and you would have known where that girl was and the whole business.

A No, sir, I don't think so.

Q They knew you were an informer and you knew it.

A If they knew it, they would have killed me.

MR. KISSINGER: I don't have any further questions.

REDIRECT EXAMINATION

BY MR. GRIZZARD:

Q When did they start the narcotics bust?

1 A I can't say for sure, but it was
2 after all of this had taken place.
3 MR. GRIZZARD: Thank you.
4
5 RECROSS EXAMINATION
6 BY MR. KISSINGER:
7 Q You said you don't know; wasn't it
8 in January of '73?
9 A It could have been, but I am not
10 sure of the date.
11 Q I will refresh your memory. If you
12 are going to testify, I will testify it was in December of
13 '73, and that is when it was done, and we can ask Investigator
14 Smith to come in here. When they had that narcotics bust, you
15 busted about one hundred people, didn't you?
16 A Over one hundred.
17 Q And yet you were still like Batman
18 and Robin, and nobody knew that you were an informer?
19 A They knew I was a buster, because I
20 went on the bust with them.
21 MR. KISSINGER: I have no further
22 questions.
23
24 JAMES SMITH, being first duly sworn,
25 testified as follows:
26 DIRECT EXAMINATION
27 BY MR. GRIZZARD:
28 Q State your name, address and occupation

please.

A Trooper James Smith, Fifth Division Headquarters, Virginia State Police.

Q How long have you been with the Virginia State Police?

A A little over five years.

Q What is your assignment?

A I am in the Narcotics section of investigation.

Q Were you so employed the period of May, 1973?

A I was.

Q Do you know Billy Wood?

A Yes, sir.

Q Did you know him the period of May, 1973?

A Yes.

Q In what capacity?

A He was working with me on narcotics assignment in the Norfolk area.

Q How long did that assignment last?

A Through December of '73.

Q When were the arrests made under what you and Billy Wood were working on?

A In January.

Q Of what year?

A '74.

Q Now I want to call your attention to

1 the 24th day of May of 1973, and ask if you had occasion that
2 day to see Billy Wood?
3 A Yes, sir, I did.
4 Q What was the occasion for seeing him?
5 A I had an appointment with him to
6 meet him at Oscar's Bar and Grill in Ocean View at seven
7 o'clock that evening.
8 Q Did he keep that appointment?
9 A Yes, sir.
10 Q What occurred when he kept that
11 appointment?
12 A He came in at approximately seven-
13 fifteen P.M. and walked up to me in a hurried manner, and he
14 was very upset or excited, and advised me that he had to get
15 me alone to talk to me about something.
16 Q Then what occurred?
17 A He gave me information that led me
18 to believe that a crime was to be committed.
19 Q Involving any particular individual?
20 A Involving the death of the girl
21 known as Sandy.
22 Q After you talked to Billy Wood, then
23 what did you do?
24 A At that point we left Oscar's Grill
25 and rode down the road to a phone booth and I called State
26 Police Headquarters to get some help in handling the situation
27 and everybody in my group was busy and I could not contact
28 anybody, and so I contacted Investigator Cadwell, who is with

the State Arson Office, and the reason being that he was familiar with the situation I was in, and also the fact that this crime was supposed to involve the Pagans and he was very familiar with the Pagans.

Q What did you all do then?

A He sent out teams of arson investigators to try to locate the Pagans, and this was what Wood and I did too. We visited private residences and two public places where the Pagans either live or hang out, or associated and we didn't locate anyone at all, and then I checked all the bars in the East Ocean View area, or the Ocean View area.

Q What were you looking for during this period of time?

A Any Pagans we could find to try to get some information about this particular crime.

Q How long did you all do this?

A The entire night and into the morning.

Q After you ceased doing this, what, if anything, was done subsequent to the 24th?

A When I left the street, I went back the next morning, early the next morning, and informed my superiors of the information that I had, and they informed me that they would check and verify anything that they could, and this was on the 24th that this occurred, and on the 25th I went back and made contact with Wood, and we resumed investigation of this case.

Q Do you know whether or not Billy Wood has ever had occasion to go to the City Morgue in

Norfolk?

A Yes, sir, he did. The information we received on the 25th, was brought to the attention of my boss, my investigator, who coordinates my activities, which in turn was brought to the investigative branch of the criminal area, and I was asked to contact Wood as I was the only one that had any means to contact him, and ask him to come to our headquarters at the State Police to meet with the investigators with the intention of his identifying the body that they had found.

MR. GRIZZARD: Answer Mr. Kissinger.

CROSS EXAMINATION

BY MR. KISSINGER:

Q Trooper Smith, do you know where this young lady was killed?

A Pardon?

Q Do you know where she was killed?

A No, sir, not of my own knowledge.

Q Or by whom?

A Of my own knowledge, no, sir.

Q Are you the one that picked up Wood on the narcotics squad?

A No, sir, I was not.

Q When did he start working for you?

A He started working with me the early part of May.

Q Was this before he had been convicted

1 of a felony?

2 A I believe this was after.

3 Q Wasn't he convicted in June or July?

4 A I don't know offhand.

5 Q Do you know about the hand grenade

6 charge?

7 A No, sir, I do not.

8 Q I represented him on that, and he

9 was not convicted.

10 A He was not convicted of the drug

11 charges either?

12 Q He wasn't?

13 A No, sir.

14 Q Well what felony is he convicted of?

15 A The hand grenade.

16 Q This boy, Wood?

17 A Yes, sir.

18 Q Now you say you called the State

19 Police office that night. What record is there of that?

20 A It would be my telephone call to

21 the dispatcher, I assume.

22 Q Where would that be?

23 A In the log at State Police Head-

24 quarters.

25 Q But you didn't bring that with you

26 today?

27 A No, sir.

28 Q And you didn't know anything about my

client do you?

A I have seen him and that is all.

Q One more time, you don't know where the murder occurred; by who it was committed, and you don't know nothing about my client?

A Of my own knowledge, no, sir.

MR. KISSINGER: No further questions.

MR. GRIZZARD: That's the Commonwealth's case, Your Honor.

MR. KISSINGER: Your Honor, I have a motion to strike. The Commonwealth has not proved a prima facie case. They haven't even proved where the murder occurred by any witness, and I can go on if you would like.

THE COURT: Go ahead with all of your grounds.

MR. KISSINGER: I will have to go through all of the first witnesses that the Commonwealth put on; a man by the name of Edwards, he didn't know the date at the Jolly Roger and indicated that the girl was only afraid of Mongoose. The next one was Sergeant Cherry, who came on and said that he saw the girl on the 21st, and then he said he saw the girl on the 22nd, and then he said he meant the 23rd, and that she was only afraid of Mongoose. He couldn't remember what he had said before, as I have written down here, and we could go back

1 if we have to, but I asked him are you sure it
2 was the gang or Mongoose, and he said he
3 couldn't remember, but he knew Mongoose for sure,
4 so at that point still nothing. Officer Ross
5 gets on the stand, and he talks about Mongoose
6 and he indicates that Mongoose was putting the
7 heat on the girl, and not Jim Tolley. She was
8 trying to stay away from him and he didn't know
9 the address that he took her to, but he picked
10 her up again he says that the 22nd or the early
11 morning of the 23rd, and he doesn't know which
12 day, really, and the next time he saw her, she
13 was with three males, and he couldn't identify
14 them, and so again no James Tolley. We next
15 had W. A. Gibbs, who heard voices, and I asked
16 him on a couple of occasions, did you hear any
17 male voices and the man said, no, sir. I said
18 did you see any males, and he said, no, sir.
19 I said, do you know where the murder occurred,
20 and he said, no, sir. Again no James Tolley.
21 Then we put on George Edwards who was the farmer
22 who helped Mr. Gibbs, if it please the Court,
23 and he came to the house to help three girls,
24 and they got into a maroon Mustang when it left
25 with the window broke and all of this mess, but
26 again we ask, do you know where the murder was
27 committed and he said no, and do you know by
28 whom, and he said, no, and he says all he saw was

1 Linda Grant, Pam Blair and June Reed, and then we
2 had some kind of conflict on the $30.00; one
3 said $15.00, and the other man said $30.00, which
4 doesn't have a lot to do with it, but he doesn't
5 know anything, and had never seen my client and
6 again no James Tolley. Then we saw some pretty
7 horrible pictures that were taken, but again
8 none of the pictures point out Tolley anywhere,
9 and the girl was injured and conceivably the
10 injuries could have come from anything in the
11 world. She could have fallen off of a motorcycle,
12 because admittedly she was with the Pagans, and
13 no one at any time has testified here today that
14 those injuries could not have occurred while
15 falling off of a motorcycle. The doctor testified
16 it could have happened accidentally. He didn't
17 think it could, or that it possibly could, but
18 he admitted that conceivably it could have been
19 that way. Then Trooper Twine who said he had
20 been on the investigating end of it for a year,
21 and I asked him did he know where the murder was
22 committed, and he said, no, and did he know when
23 it was committed, and he said, no, and he couldn't
24 tell if the body had been moved from one place
25 to another, and at no time, and I asked him
26 could he connect my client, and I specifically
27 asked could he connect my client at the scene,
28 and he said, no, he could not. Again no James

1 Tolley. Then we had James Thorpe, the service
2 station operator, who indicated, and I think this
3 is pretty strong, and he indicated there were
4 three girls, and it was a girl in the back seat
5 who was covered up and her hair was hanging
6 down and at no time did he see that body move,
7 and he said he heard some voices while he was
8 messing with the car, servicing it, but at no
9 time did he say he saw that body or that person
10 underneath that sheet, or whatever the covering
11 was move, and at no time did he say that this
12 boy was anywhere near that vehicle, and again
13 no Jim Tolley, and again, though this time we
14 have got what appears to be a girl, who is dead
15 and not in Southampton County, but this is in
16 Hampton. I submit to Your Honor that that is
17 pretty strong evidence to that fact anyway.
18 Then Dr. Springate, we went through some things
19 talking about the autopsy and it wasn't given
20 until the following day, and he implied that he
21 would like to get home at 6:30, but he wasn't
22 in any hurry that night, but implied that he
23 would like to get home at 6:30 when this girl
24 came in between five and six and he took three
25 smears and went on home, and he indicated further
26 he didn't know where the girl was killed, or if
27 she was killed, and it could have been accidental
28 or when; other than he said twelve to twenty-four

1 hours, and then I said it could have been more
2 than twenty-four hours, and he admitted that it
3 could have been depending on if it is cold and
4 I submit the girl was killed somewhere else if
5 she was killed, and we don't concede this at
6 this point, and once again is there anything to
7 connect my client. Again, no James Tolley. The
8 one thing that I thought was the most interesting
9 thing in his entire testimony was the fact; the
10 question that I asked or that Your Honor asked,
11 and it taught me something, and I am never too
12 young or too old to learn, and it taught me
13 something awfully strong, Your Honor, when you
14 asked about the bleeding and the Doctor testi-
15 fied that bleeding could occur five minutes,
16 an hour, two hours or up to twenty-four hours
17 which would indicate again conceivably that the
18 girl's body was moved from somewhere else into
19 here, and again no James Tolley. Then finally
20 we get to the most damaging of all; we get to
21 a convicted felon, a Benedict Arnold, if it
22 please the Court, and he says that the Pagans
23 are really strong, and that they are all to-
24 gether, and they tell each other everything,
25 and that they run the women and that all the
26 women work and all of this mess, but he testifies
27 my client worked, and I say that this man, as a
28 convicted felon, his testimony is unworthy of

1 belief. You have this as opposed to this boy,
2 sitting right there with the presumption of
3 innocence, and I asked him, do you know whether
4 Jim Tolley did anything to that girl, and he said,
5 no, he doesn't know. I said do you know where it
6 happened, and he said, no, I don't know, so all
7 you have got at this point; the most incrimina-
8 ting evidence in the whole thing is that he says
9 that they came over to the bedroom and they said
10 they were upset with this girl; that she has
11 got to go. I will see if I can find it in my
12 notes exactly what he said. I asked him the
13 following questions just as he got off the stand.
14 I asked him, do you know who killed, where killed,
15 or when killed, and all of which he answered, no.
16 Therefore, he doesn't know anything again, no
17 James Tolley. Finally we got Trooper Smith, who
18 I asked again do you know where this girl was
19 killed and he said no; I asked him, do you know
20 when and he said, no. I asked him if he could
21 implicate James Tolley, and he said, no. Again,
22 Your Honor, no James Tolley. I submit to Your
23 Honor that the Commonwealth has fallen so far
24 short of proving a prima facie case that it is
25 almost ridiculous and that is a drastic state-
26 ment to make, but I respectfully submit to
27 Your Honor, that this boy is no more guilty of
28 her murder than I am. I would move Your Honor

at this point to strike the Commonwealth's evidence.

MR. GRIZZARD: If it please the Court, it is all interesting on a motion to strike that under the law the motion says that it is admitting everything that the Commonwealth says as true, and then defense counsel proceeds to say what the Commonwealth has said, and I think Mr. Kissinger and I listened to a different testimony because I don't recall what he was talking about. It is not in the testimony in this particular case. We started with Judy Edwards, Sergeant Cherry and Officer Ross. We are dealing with abduction and we are dealing with murder. There is testimony by Judy Edwards that Sandra Harrell Jones had expressed a fear of Mongoose and that he was after her for her money, and that she went out of the back door or the front door to avoid Mongoose on a Tuesday or Wednesday before she was killed on Thursday. She was trying to get away from him and hide from him. Sergeant Cherry testified that on the early morning of May the 21st at the Jolly Roger, that Sandra Harrell Jones came over to his police cruiser and told him she was afraid of Mongoose, and that she was afraid that Mongoose, or the motorcycle gang were going to kill her. We went through a big rigmarole about

1 what he might or might not have said, and Mr.
2 Kissinger was trying to testify by his notes,
3 but Sergeant Cherry said, these are my notes and
4 this is what I have got in my notes, and this
5 is what she said on the 21st, that she was afraid
6 of Mongoose or she was afraid of the motorcycle
7 gang. You are talking about six of one and a
8 half a dozen of another. Billy Wood said Mon-
9 goose is the motorcycle gang's president, and
10 he gives the orders. Again she was seen on the
11 22nd and actually it was two A.M. on the 23rd;
12 the morning of the 23rd, and we are still talking
13 about six of one and a half a dozen of the other.
14 She was at the Sea King and he could only re-
15 cognize Sandra Harrell Jones. She stated to
16 him on the 21st that she was not working any
17 more and giving all of her money from her job
18 to Mongoose, and that is why Mongoose or the
19 motorcycle gang was after her, and she was
20 afraid of Mongoose and the motorcycle gang, and
21 relating that to Billy Wood's testimony that is
22 the rule of the club. You work and you give the
23 money to the man and these are strict rules and
24 they are enforced by internal discipline and that
25 is testimony from a member of the Pagans, the
26 president of the Portsmouth Chapter, and who
27 would know more about the rules with all due
28 respect to Mr. Kissinger than a member. Officer

1 Ross stated that she was in fear that Mongoose
2 was putting the heat on her for her money, and
3 he saw her on the 21st, and he saw her at four
4 o'clock in the morning on the 23rd, and at this
5 point it is within thirty-six to forty-eight hours
6 of the time at which she was killed. We know
7 that she is afraid of the Pagans and we know that
8 she is afraid of Mongoose, and she is avoiding
9 them, and trying to stay away from them. Now
10 William Gibbs and George Edwards, they testify
11 as to the events that occurred on the night of
12 May 24th in Southampton County, and the morning
13 of May 25th. They testify as to the three old
14 ladies of the motorcycle gang; Pam Blair, the
15 old lady of James Tolley and Linda Grant, the
16 old lady of Josie Green and June Reed, the old
17 lady of Skip Adams, and Sandra Harrell Jones, the
18 ex-old lady of Mongoose. They are in Southampton
19 County and they are in the area stuck, and they
20 are scared and they are cold and wet and muddy,
21 and then we have the fact there is a black purse
22 inside the car, and the description of the auto-
23 mobile, the maroon Mustang, '67 with a busted
24 left vent and description of the automobile by
25 William Gibbs, and the names of the three girls
26 that they saw in Southampton County. George
27 Edwards tells us that he found the body on the
28 morning of the 25th. Trooper Twine tells us that

as you go in there you could see where a vehicle had gone by the mud hole on the way in down to the second mud hole where the body was found and the tire tracks were within twenty-nine feet six inches of the body. Footprints or a barefoot print was within fifteen feet of the body. This is the section there where the vehicle was turned around and where the tires came back out leading into the place where the vehicle was stuck in the mud hole. This is the same vehicle that was pulled out of the hole involving Linda Grant, Pam Blair and June Reed, and that vehicle was at the mud hole where the body of Sandra Harrell Jones was found. James Thorpe testifies on the night of May 24th between six and eight-thirty, I believe, before dark, an old dilapidated redish Mustang with two stickers on the windshild; one Norfolk and one Virginia Beach stopped in his station. There were four girls in the car; three in the front seat and one laying in the back seat. In the conversation he heard the girls say they were going to South Carolina or Florida. The girls all appeared young; they aroused his curiosity. Two of the girls left and went to the restroom, and while he was working on the car, there was a conversation with the girl in the car making some comment in the front seat and

he thought it was concerning about where they were going, and at this point in time he thought the girl in the back seat said something about taking them all the way to Florida, and he said he can't be positive, and he can't swear to it, because he was busy doing his job cleaning the vehicle, but it is his impression that the girl in the back seat is the one that made some comment while they were in Hampton, and that puts that girl alive in Hampton, and Sandra Harrell Jones was not dead in Norfolk, but alive in Hampton some hour and a half or two hours after Billy Wood had talked to Jim Tolley and John Turnbull and Joe Green. Dr. Springate has testified that he puts the time of death between twelve and twenty-four hours from the time he viewed the body between five and six P.M. on the night of May 25th. He bases this on his physical examination at that time and the condition of the body and his subsequent autopsy on the 26th. Going back twelve to twenty-four hours, you are talking about some time between five and six on the afternoon of the 24th, and five and six on the 25th. She was dead at 7:30 when George Edwards found her, and in answer to Mr. Kissinger's question in trying to extend the time beyond twenty-four hours, he said that he put the time at twelve to twenty-four hours and

1 twenty-four is the upper probable limits. Dr.
2 Springate is a man of science. He deals with
3 life and death in the human body. All things
4 are possible. People who have incurable cancers
5 all of a sudden are cured overnight for some
6 reason and it is possible that the sun won't set
7 today, and it is possible it might not rise
8 tomorrow, but we are not dealing in ultimate
9 possibilities. He said that outer probable limits
10 by his best medical expert testimony the outer
11 probable limits places death inside of twenty-
12 four hours, which is sometime between five and
13 six on the 24th, and five and six on the 25th.
14 You combine that with James Thorpe and his state-
15 ment which is consistent with that period of time
16 that he thinks the girl in the back seat made a
17 statement in Hampton, and that still places her
18 alive as they left Hampton coming to Southampton
19 County, and, in fact, the statement places it
20 after five or six o'clock, and we went through
21 the rigmarole about rigor mortis and how long
22 it takes to set in and so forth, and whether or
23 not these bruises could have come from an
24 accident, and so forth, and Dr. Springate couldn't
25 think of anything that would leave those bruises
26 on her body. He was shown pictures of her
27 upper torso; her arms; her face, and he could
28 not think of anything that would leave that type

1 of injury on her, and there might be some possi-
2 bilities that a motorcycle accident could have
3 happened as Mr. Kissinger suggested, and there
4 are many possibilities, but he can't think of a
5 thing that could have produced those bruises
6 accidentally. The meat in the coconut is Billy
7 Wood. Billy Wood is a convicted felon. He has
8 been charged, convicted and sentenced, and he
9 has paid his due to society, and he owes society
10 nothing. At that particular point in time he
11 was working with an undercover trooper; Trooper
12 Smith, and Trooper Smith knows Billy Wood, and
13 Billy Wood has told his story to Trooper Smith.
14 Billy Wood first details the setup; the disci-
15 pline of the organization of the Pagans, and he
16 ties up the defendant with Pam Blair. He ties
17 up Josie Green with Linda Grant and Skip Adams
18 with June Reed, and Mongoose with Sandra Harrell
19 Jones. He tells this Court that females are
20 treated as property, and that they make no
21 decisions for themselves, and they do exactly
22 what they are told to do by their owners. They
23 are the old ladies, and they do what the old men
24 tell them to do. How do we know that. Pam
25 Blair was his old lady because she was wearing
26 his property colors, that had his name on it, and
27 you only wear those colors when you are the
28 property of someone, and when you are the property

1 of James Tolley, you do what James Tolley tells
2 you to do. On the night of May 24th, Billy
3 Wood was at his home minding his own business,
4 and he has given the names of the people with
5 him; his wife and two men from the Coast Guard
6 that stayed there with them. Mongoose, Jim Tolley
7 and Josie Green come to his apartment. They
8 call him into the back room away from the out-
9 siders and away from the people who are not
10 members of the motorcycle gang. The instructions
11 from the president or from the leader are get your-
12 self an airtight alibi tonight. Make certain
13 you can explain where you are and what you are
14 doing, and who you are with. Get yourself an
15 airtight alibi. If anybody asks about Sandy,
16 Mongoose's ex-old lady, she left town hitch-
17 hiking a few days ago on the way to Georgia.
18 Josie Green leaves the room and the natural
19 question is why; why do I need an alibi? What
20 is up? John Turbull, known as Mongoose, says
21 we are going to do away with Sandy. I am tired
22 of her and we are not going to have any more
23 problems with her. Jim Tolley says we are going
24 to get rid of Sandy. She has screwed over her
25 last Pagan, and she didn't follow the leader's
26 orders or Mongoose's orders, and so they are
27 going to teach her something, and they are going
28 to get rid of her, and at that particular time

1 Mongoose and Jim Tolley leave, and Jim Tolley
2 is driving in his black Volkswagen. About six-fif-
3 teen on the night of May 25th, within an hour,
4 Billy Wood has notified Trooper Smith of what
5 has occurred, and they have a meeting and this is
6 what he tells Trooper Smith as to what occurred
7 and he said I told Smith what they told me, and
8 we immediately started looking for her, and it
9 wasn't just Investigator Smith, and not just
10 Billy Wood, but they called the State Police
11 and they called the fire arson squad, and the
12 State Fire Marshall's Office, who sent out teams
13 and for the next six or seven hours they are
14 combing Ocean View going to all the known Pagan
15 homes, public and private, going to bars, going
16 to everywhere the Pagans might be located to try
17 to find some Pagans to try to find out something
18 about Sandra Harrell Jones, but they can't, and
19 the reason they can't is because Pam Blair,
20 Linda Grant and June Reed are following the
21 orders of the old men, and they have taken Sandra
22 Harrell Jones and they have left Norfolk, and
23 they go through Hampton and they come down and
24 end up in Southampton County, where she is
25 strangled to death and that is the testimony,
26 and he can ask Dr. Springate this way and that
27 way about what is the cause of death, and it is
28 still strangulation. What does Jim Tolley do

once the 24th is over with. Jim Tolley takes it upon himself to destroy the evidence, and to destroy any connection between any of the Pagans and Sandra Harrell Jones; that is her pocketbook and he first tells Billy Wood to get rid of it, and that would have been a blessing indeed to the Commonwealth if we had been able to get a hold of that pocketbook, but he changed his mind, and decides to let Skip Adams get rid of it. Skip Adams didn't want to have anything to do with it, and he is starting to show some sense, and James Tolley tries to burn it himself, and he tries to burn the whole pocketbook as it is and it won't burn, so he put out the fire and dumps the contents and it is at this point in time that Billy Wood flips over the military identification card of Sandra Harrell Jones under the pretense of getting the eye makeup, and he sees the identification card, and it is that of Sandra Harrell Jones. The defendant takes the gold crest ring and some other items, personal items of jewelry and items out of the container that had fallen out of the pocketbook, and they have a conversation, and Billy Wood says why did you all get rid of Sandy, and the defendant said, we didn't do it, our old ladies, Pam, June and Linda, took care of it. They followed our orders. These are the same three old ladies that

were found in Southampton County within four hundred feet of the body, and in an automobile that had been down to where the body was finally left after she had been killed and returned back to Norfolk. Mr. Kissinger makes what he calls a drastic statement because the Commonwealth hasn't proved the case. When you are in a drastic situation, I reckon you do make drastic statements. The Commonwealth has proved the case and we have shown the relationship between Jim Tolley and Pam Blair, and between the rest of the Pagans and Linda Grant and June Reed, and Sandra Harrell Jones. We have shown the defendant, by his own statements before the murder, and this is unique in that before the murder is actually committed the police know about it and are looking for the victim. That is how she is finally identified. The word filters up, and you have got a body or they say when you find a body we will let you know who it is. The word filters back down and Billy Woods goes within thirty-six hours after the body had been found and identifies it as that of Sandra Harrell Jones, the one they spent all night trying to protect from Jim Tolley and the rest of the Pagans. The Commonwealth has more than established first that Jim Tolley is responsible for her death as an accessory before the fact through his relation-

1 ship with Pam Blair and the organization of the
2 Pagans. Secondly that Sandra Harrell Jones would
3 not have voluntarily have gone with any member
4 of the Pagans. The reason she was avoiding the
5 Pagans was because they were trying to exercise
6 authority and to get her money from her and once
7 she was picked up with the intent of extorting her
8 money, and anything and anybody that has any-
9 thing to do with it thereafter becomes equally
10 guilty. Just as much as the person who finally
11 strangled the life out of Sandra Harrell Jones.
12 I respectfully ask the Court to overrule the
13 motion to strike.
14 THE COURT: Do you gentlemen
15 want to take a short recess while I review my
16 notes?
17 MR. KISSINGER: I would like to
18 say a few things going back to William Wood's
19 testimony. He has indicated that at his apartment
20 that day there were two sailors that he lived
21 with and his wife. Why didn't the Commonwealth
22 bring them in here to prove that instead of
23 bringing in a felon to prove that these people
24 were in that apartment.
25 MR. GRIZZARD: If it please
26 the Court, they did not hear the conversation.
27 MR. KISSINGER: Well, he has
28 put them in the apartment and we are not talking

1 about the conversation. I am talking about him
2 ever being in that apartment. The next thing,
3 if it please, Your Honor, on Trooper Smith, it
4 would be easy to bring the report in here of that
5 night, but he sure didn't bring it in here, and
6 they could have brought somebody in here and
7 have them testify that this report was made that
8 evening, and it wasn't brought in and at no time
9 has anybody connected this boy with killing that
10 girl. They don't know where, who or how she was
11 killed, and the Commonwealth has not put it on.
12 MR. GRIZZARD: I could bring
13 in the man who took the telephone call from
14 Trooper Smith, and I could bring in the immediate
15 supervisor to say he was on duty, and we could
16 go all the way up to Mr. Burgess in Richmond, and
17 we could go beyond him and have Governor Godwin
18 come down and say that it was his job, and we
19 have presented the evidence and we have put Jim
20 Tolley involved in this murder, and I ask the
21 Court to overrule the motion to strike.
22 THE COURT: On the motion to
23 strike as far as the charge of murder is con-
24 cerned, of course, the Court is bound by the
25 evidence that has been brought out in this
26 courtroom today. There has been no testimony
27 in court today and no evidence to prove where
28 the murder occurred. We know where the body was

found and we know where the thing started, but the Commonwealth has the burden of proving where death occurred. I am going to sustain the motion to strike with regard to the murder charge. As far as the abduction charge is concerned that is a continuing offense, which began in Norfolk and ended in Southampton County. I am going to overrule the motion with regard to the abduction charge.

MR. GRIZZARD: For the record note the Commonwealth's exception.

LINDA GRANT, being first duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. KISSINGER:

Q Linda, would you state your name please to the Court?

A Linda Grant.

Q And Linda, how old are you?

A Twenty-four.

Q Would you tell this court what happened and how it happened? No, I am going to rephrase that; you were found guilty of murder, is that correct?

A Yes, sir.

Q And abduction?

A Yes, sir.

1 Q Now I want you to think very hard
2 about what I am getting ready to ask you because this is very,
3 very important. Now who gave you the order to kill that girl,
4 if you did, or what did, in fact, happen, to that girl, and
5 would you tell his Honor.
6 A Your Honor, like I really don't know
7 what happened. See like I wasn't there when it happened, and
8 I was there to carry the girl off, and like I was to do as I
9 was told, but I didn't see her, and see when I came to Court
10 here I tried to tell what I thought may have happened, and
11 that is where I was wrong, but really I know the main man, and
12 I do know that we were all guilty, and I know this fact.
13 Q Who was the main man?
14 A Mongoose, John Turnbull.
15 Q Did James Tolley have anything to do
16 with this?
17 A Not the murder, no.
18 Q What, if anything, did James Tolley
19 have anything to do with?
20 A Like when we came; like all of this
21 happened and we came back, and he had her pocketbook and
22 Mongoose told me to give it to him, and like when I said, what
23 has he done with it, and it was burned. That's all that was
24 said.
25 Q And Mongoose told you to give the
26 pocketbook to James Tolley?
27 A Right.
28 Q But James Tolley didn't tell you to

take that girl anywhere or do anything with that girl, or anything else, is that correct?

A Yes, sir.

MR. KISSINGER: Answer the Commonwealth.

CROSS EXAMINATION

BY MR. GRIZZARD:

Q Is this the fifth different statement you have given, Linda?

A Yes, sir, I think so from what I understand.

Q You want me to go back through all of these statements to find out which one is the truth?

A Well, if you want to.

Q Well, let's go to the first question. Who found Sandra Harrell Jones in Norfolk; you were looking for her, who found her?

A I wasn't looking for her, sir.

Q How did you get her?

A At her house.

Q Whose house?

A A girl named Wish is all I know.

Q And the Pagans had been trying to find her for several days because Mongoose was looking for her?

A That's right.

Q The Pagan club?

A No, Mongoose. It was Mongoose that

1 wanted her.

2 Q And the Pagans were on the lookout

3 for her?

4 A That I can't tell you.

5 Q Do you know this man here?

6 A Yes, I know him.

7 Q Was he a Pagan?

8 A I guess that is what you call him.

9 Q Was he a member of the motorcycle

10 club?

11 A Yes.

12 Q Now who went to pick up Sandra

13 Harrell Jones?

14 A Me.

15 Q And who else?

16 A And Pam and June and Mongoose.

17 Q And where did you all take her?

18 A To my house.

19 Q And what happened to her there?

20 A I don't know. I left and went back

21 to the gas station.

22 Q Who did you leave her with there?

23 A I didn't leave her with nobody but

24 myself.

25 Q Did you leave her at the house with

26 Pam and June?

27 A And Mongoose was there.

28 Q What time of day was this?

1 A I don't know; I can't remember.
2 Q Was it after dinner?
3 A I can't remember. I was emotionally
4 upset all that day, and all that night and like I was a drug
5 addict and I was all messed up, and like I can't remember a
6 lot of things.
7 Q Who killed her?
8 A Well I am a witness to it. I wasn't
9 a witness rather because I didn't see it.
10 Q Who killed her?
11 A I really don't know. I am not a
12 witness because I didn't see who did it.
13 Q Your statement of June the 5th, in
14 which you said you killed her is in error?
15 A Yes, sir.
16 Q Your statement to Dr. Roebuck in
17 which you said you killed her is in error?
18 A Yes, sir.
19 Q And your statement to Investigator
20 Marshall in which you said you killed her is in error?
21 A Yes, sir, to save my own life.
22 Q When you say they are in error, do
23 you mean they are lies?
24 A Right.
25 Q You have lied three times; now are
26 you telling the truth today?
27 A Yes, sir.
28 Q What are you telling us today, that

1 makes you more worthy of belief than the other three times?
2 A Like I don't care whether you believe
3 me I haven't got anything to lose. I have got my time and I
4 don't care, I am telling you the truth, but I don't want to
5 get killed. I am trying to save my own life too. I under-
6 stand that you do have innocent people in here for the crime.
7 Q Yes, we do. We have a courtroom
8 full of them. All right let's go to when you picked her up
9 and left Norfolk. Was she alive?
10 A When we left Norfolk, no, she wasn't.
11 Q How do you know she wasn't?
12 A She just laid there.
13 Q Did you check her?
14 A No, she just lay there like when we
15 pulled her out of the car, she was real heavy.
16 Q How did you pull her out of the
17 car?
18 A I took her by her feet and like we
19 got her head and stuff and pulled her out like that.
20 Q Did her feet ever touch the ground?
21 A Yes.
22 Q How did they touch the ground?
23 A I don't know. It was dark in the
24 woods and it was in the middle of the night.
25 Q Were the headlights of the car on?
26 A No, I tried to keep them off.
27 Q Which side was her head on? The
28 driver's side or the passenger's side?

1 A The passenger side.
2 Q Her head was on the passenger side?
3 A Uh-huh.
4 Q Which side did you take her out of
5 the car?
6 A This way.
7 Q The passenger side or the driver
8 side?
9 A The passenger side.
10 Q You took her out head first?
11 A Her head facing the other way.
12 Q You took her out head first?
13 A No, feet first.
14 Q You took her out feet first. Who
15 walked her out there?
16 A Nobody, she couldn't walk. She was
17 just laying there like she was dead or out, you know, and
18 we drug her and they went on Pam and June and took her on, and
19 I got in the car to try to move around because the way I was
20 if somebody come, I couldn't have gotten out.
21 Q Pam and June took her over there and
22 dropped her?
23 A Uh-huh.
24 Q Did they leave her in the position the
25 body was found?
26 A Uh-huh.
27 Q How about the Negro male that is
28 supposed to have had relations with her that you all got paid

1 for?

2 A Well, see, something like that happened

3 but it wasn't with her.

4 Q All right tell me what happened?

5 A Well nothing really happened.

6 Q You said something sort of like that

7 happened, but it wasn't with her.

8 A We had a proposition, but it wasn't

9 really her; like if I said he propositioned me, my old man

10 would have killed me.

11 Q Well you said it in two or three

12 statements.

13 A Yes.

14 Q You said instead of you, you gave him

15 Sandra Harrell Jones?

16 A Yes, because see I didn't want my

17 old man to know.

18 Q You gave them a dead person?

19 A No, not there. See like we told my

20 old man a different story, than what we have told you.

21 Q That is what I am trying to get at.

22 A We didn't want to tell him the truth

23 because we were on the street with him and I figured if I come

24 in here and didn't tell the same thing then he would know that

25 I lied to him, and when I got out of here he would kill me for

26 sure, and that is what I am trying to say. It is not true but

27 the statement, that last one. . .

28 Q Well let's go back to the day you got

her and what occurred, and you took her to the apartment; when did you next see her?

A When I took her to the apartment, it was just about dark. It was still daylight, I guess, about four or five maybe, when they come up there to pick me up.

Q Who came up where and picked you up?

A At Pat's house behind the gas station; Mongoose, Pam and June and Josie and Jim Tolley, but they were not together like they were at the gas station, you see, and like Mongoose was there, and it was a whole bunch involved, but see like they are more involved in the murder crime, like you understand, I stayed at Pat's house and like I don't know what happened, or how they drove up, or if they walked up or what. All I know is when I seen what was happening, and I seen Sandy laying in the backseat and they told me there is the car, and Pam and June went to talk to Mongoose and they wouldn't let me over there so I told them when I went to the back seat and I looked at Sandy and I said, Sandy, and she didn't answer or nothing and I screamed for my old man to come over there and I asked him to come over there and Mongoose said I want none of you all to go near the car, and you all carry her to Georgia, and he wanted us to burn the body and knock her teeth out so that she couldn't be identified, and I cried and asked my old man to please not to make me drive the car, and like Mongoose said you are going to unless you want to go where Sandy is going, and I looked at my old man and said, is she dead, tell me that, and Mongoose said, don't worry about nothing, Dingbat, she ain't dead and she ain't

her and what occurred, and you took her to the apartment; when did you next see her?

A When I took her to the apartment, it was just about dark. It was still daylight, I guess, about four or five maybe, when they come up there to pick me up.

Q Who came up where and picked you up?

A At Pat's house behind the gas station; Mongoose, Pam and June and Josie and Jim Tolley, but they were not together like they were at the gas station, you see, and like Mongoose was there, and it was a whole bunch involved, but see like they are more involved in the murder crime, like you understand, I stayed at Pat's house and like I don't know what happened, or how they drove up, or if they walked up or what. All I know is when I seen what was happening, and I seen Sandy laying in the backseat and they told me there is the car, and Pam and June went to talk to Mongoose and they wouldn't let me over there so I told them when I went to the back seat and I looked at Sandy and I said, Sandy, and she didn't answer or nothing and I screamed for my old man to come over there and I asked him to come over there and Mongoose said I want none of you all to go near the car, and you all carry her to Georgia, and he wanted us to burn the body and knock her teeth out so that she couldn't be identified, and I cried and asked my old man to please not to make me drive the car, and like Mongoose said you are going to unless you want to go where Sandy is going, and I looked at my old man and said, is she dead, tell me that, and Mongoose said, don't worry about nothing, Dingbat, she ain't dead and she ain't

1 going to die, and she will be all right. She is just out, and
2 that's all I know.
3 Q According to your statement to In-
4 vestigator Marshall, reading from that, do you remember
5 talking to Mr. Marshall?
6 A Huh?
7 Q Do you remember talking to Investi-
8 gator Marshall?
9 A Uh-huh.
10 Q Do you remember telling him in
11 answer to a question, you are telling me you killed this girl
12 because Mongoose told you to, is that what you are telling
13 me? "Yes, that's part of it, but it is not all because you
14 see she was dying from whore June had beat her and we
15 had to carry her to Georgia, and the police would have caught
16 us and I would have been in the middle of it because I was
17 driving; yes, I killed her because she was dying and Mongoose
18 was going to kill me if we got caught, and he was holding me
19 responsible because I didn't do what he wanted me to do. In
20 other words, I messed up again and I was in the trick bag, and
21 that is what they called it".
22 A Well it's like, it's sort of right
23 because he was going to kill me if I didn't come out and really
24 tell that, and I couldn't tell that he did it, and I was scared
25 and I tried to do what was right, like see, I never really came
26 out and said but right now I don't care. I am locked up and I
27 am not over there and I have got twenty-three years, and I
28 worried about nothing else and I am telling the truth now.

1 Q And when you said again to Investi-
2 gator Marshall that this Negro man went to bed with her out
3 there near where the body was dumped, that is not true either?
4 A No, sir.
5 Q And June didn't kick her in the throat?
6 A Well I was told little things that I
7 have heard, but see like what I told you is something I
8 heard.
9 Q You were told enough to make a
10 thirty-three page written statement; little things and all of
11 this. Are you telling us this is all a fabrication?
12 A Some of it; the way I felt I would
13 say ninety per cent of that paper is just what I felt.
14 Q Who all was present when the order
15 was said, get her out and get her down to Georgia and get rid
16 of her?
17 A Mongoose said that.
18 Q Was Jim Tolley there?
19 A See he took us over to the side and
20 talked to us, and we were all there, but see like he worked
21 at the gas station, and like Mongoose had us over to the side
22 and Josie was beside me. See Jim was working at the gas
23 station.
24 Q All right, do you recall talking to
25 Investigator Marshall on the dates in September when you gave
26 this statement to him; again talking about the particular point
27 in time when the people that were present were there, and you
28 were told to take her to Georgia and get rid of her, and Joe,

speaking of Joe Green, Jim Tolley and Skip, and I can't remember all of this, and Mongoose was there and Lizard wasn't there, but it was Jim, Skip, Mongoose and Joe.

A Let me see, there was a confederate there and his name was Bill and he was a prospect to be a Pagan.

Q It was Jim, Skip, Mongoose and Indian Bill?

A I can't think of anybody else.

Q How many girls?

A Me, Pam, June and Sandy.

Q Where was the meeting?

A At the gas station; the Sunoco station.

Q So you all had a meeting on the outside of the gas station, and Jim, Skip, Mongoose and Joe Green and you and Pam and June and everybody was outside and you were told that the girl had been beaten?

A Yes, sir.

Q This was when Mongoose told you you should burn her?

A Oh, no; he told me when I went to pick the girl up.

Q After they brought her back their plans were made, and all these people were participating and they were all there at the time?

A No, they just talked together. They all agreed and everybody leaves it up to Mongoose.

1 Q Everybody agreed to what?
2 A To carry her to Georgia.
3 Q And do what?
4 A And burn her if she hadn't died.
5 MR. KISSINGER: I object to this.
6 The fact that the girl made statements; she said
7 that she did and they are inconsistent and she
8 said that she has made five of them and she has
9 testified what she did, and she is now in jail
10 and she is telling the truth, and to read back
11 through all these statements after she said she
12 made them, and she's not denying that she made
13 the statements.
14 MR. GRIZZARD: Are you admitting that
15 she is a liar?
16 MR. KISSINGER: I am admitting that
17 those statements are lies.
18 MR. GRIZZARD: You are admitting that
19 she has lied in it before, and she may lie on
20 the witness stand today? That's all I have.
21 MR. KISSINGER: I do.
22
23 REDIRECT EXAMINATION"
24 BY MR. KISSINGER:
25 Q I want you to think about this, Linda.
26 Have I ever spoken to you prior to today when I subpoenaed you
27 into this courtroom?
28 A No, sir.

1 Q Did I come up to see you at jail and
2 talk to you or anything like that?
3 A No, sir.
4 Q I subpoenaed you at Mr. Tolley's
5 request, did I not?
6 A Yes, sir.
7 Q And I haven't asked you to say any-
8 thing about what you have said, and what you are telling now,
9 and that is what you told me this morning?
10 MR. GRIZZARD: If you will let him
11 take the stand, I will cross examine him.
12 THE COURT: Well, I don't want to
13 go into that.
14
15 RECROSS EXAMINATION
16 BY MR. GRIZZARD:
17 Q Mr. Kissinger orginally was going to
18 represent you in this case, was he not? The Pagans sent him
19 to you to represent you on the murder charge?
20 A He did not.
21 Q Did you tell that to this Court in
22 Southampton County Court?
23 A I have never had no Pagan get me no
24 lawyer; they got Pam and June a lawyer, but I had to get a
25 State appointed lawyer, Richard E. Railey, and nobody got me
26 a lawyer.
27 MR. GRIZZARD: That's all.
28

1 JUNE REED, being first duly sworn,
2 testified as follows:
3
4 DIRECT EXAMINATION
5 BY MR. KISSINGER:
6 Q Would you state your name to the
7 Court please?
8 A June Reed.
9 Q And how old are you?
10 A Seventeen.
11 Q And recently you were convicted of
12 murder in this Court?
13 A Yes, sir.
14 Q And abduction?
15 A No, murder.
16 Q Just murder?
17 A Uh-huh.
18 Q You got twenty years, is that correct?
19 A Yes, sir.
20 Q And now would you tell his Honor
21 whether or not James Tolley had anything whatsoever to do with
22 the murder of that girl?
23 MR. GRIZZARD: I object to the
24 question. Let her tell him what happened and
25 let the Court decide that.
26 THE COURT: You can rephrase it.
27 MR. KISSINGER CONTINUING -
28 Q What, if anything, does the defendant

here have to do with the murder you were convicted of?

A The only thing Jim had to do with it, he tried to stop Mongoose when we were leaving the station. That's all he had to do with it. The girl was already dead then.

MR. KISSINGER: Answer the Commonwealth.

CROSS EXAMINATION

BY MR. GRIZZARD:

Q How long have you been at Goochland?

A A little bit over three months.

Q Have you been studying some law?

A I have been reading some law books.

Q Hoping that you will get a new trial?

A I would like to.

Q You plead guilty?

A Yes, sir.

Q And if you can switch the murder out of Southampton County down to Norfolk, you would be in better shape for a new trial?

A That's true.

Q Does that have anything to do with your testimony?

A No, I was called up here to testify. I did not ask to.

Q Do you recall the conversation with me Friday afternoon of this week?

1 A Yes.
2 Q Can you tell the Court whether or not
3 you mentioned the fact that Jim Tolley tried to stop Mongoose
4 when you were leaving the station at that time?
5 A Yes, I told you that.
6 MR. GRIZZARD: Your Honor, I am
7 surprised by this.
8 THE COURT: All right, go ahead.
9 MR. GRIZZARD CONTINUING -
10 Q Let's go into the details of when
11 Sandy Harrell Jones was picked up on the 24th; what do you
12 know about that?
13 A I don't remember too much.
14 Q Had you seen Sandra Harrell Jones on
15 the 24th of May?
16 A No, sir.
17 Q When was the last time you had seen
18 her?
19 A The night of the 23rd of May.
20 Q Where did you see her then?
21 A Between the Jolly Roger and Wing
22 Ding's.
23 Q Who was she with at that time?
24 A I don't know who the people were she
25 was with. It was some friends.
26 Q On the 24th, the first time you saw
27 her, what time of day was that?
28 A Late afternoon.

1 Q Four o'clock or five o'clock?
2 A I can't be sure.
3 Q Was it dark?
4 A No, sir.
5 Q Where did you first see her?
6 A At the Sunoco station.
7 Q Where was she at the Sunoco station?
8 A In the parking lot inside of the
9 car.
10 Q What kind of car was she in?
11 A A Mustang.
12 Q And who was she with?
13 A When I saw her, she won't with no-
14 body because Mongoose had already got out of the car.
15 Q Who all was at the service station?
16 A I can't remember who all was there.
17 Q Was Jim Tolley there?
18 A Yes.
19 Q Was Mongoose there?
20 A Yes, Mongoose was.
21 Q Was Joe Green there?
22 A I think he was.
23 Q How about Indian Bill?
24 A No.
25 Q How about Beef.
26 A I don't recall seeing Beef.
27 Q How about Pam?
28 A Yes, Pam was there.

Q And I assume you were there and Linda Grant?

A Yes, Linda was there.

Q What occurred at the station?

A Mongoose had told Linda first he wanted us to take the girl to Georgia and burn her face and hands so she wouldn't be recognized, and we didn't want to do it, and he started threatening everybody.

Q Go on.

A So we took the girl and Jim jumped in and had a good hassle with Mongoose.

Q What did he say?

A I don't recall his exact words. I mean that has been over a year ago, and I can't remember what words were said.

Q He tried to stop Mongoose. What did he do to stop Mongoose?

A It was a verbal hassle. I don't remember what was said.

Q You said this was as you were leaving?

A This was before we left.

Q Then Sandra Harrell Jones was in the back seat of the car or on the front seat of the car?

A In the back of the car.

Q Where was she in the back of the car?

A She was laid down on the seat, and she was mostly covered up, or partially covered up with a jacket; a blue jacket.

Q Where was her head?

A I can't remember.

Q Was she on her back?

A I can't remember for sure.

Q Was she in the car?

A Yes. I just told you she was.

Q Was her head on the passenger side or the driver's side?

A I don't remember.

Q She was covered up?

A Yes, sir.

Q Was any part of her body showing?

A The lower part of her body. Her head and stuff was covered up with a jacket.

Q Where did you go from there?

A From the station to Newport News and got some gas, and drove on out in the country, and we stopped at a place to eat and then we went here in Southampton County.

Q You got yourself in the car with the dead girl in the back seat and you had something to eat?

A Yes.

Q And you came on into Southampton County?

A That's where I presume it was; I didn't know where it was then.

Q That is where you claim that you dropped the body?

A Yes.

1 Q Tell us how you did that?
2 A I don't remember everything about
3 that. Be more specific.
4 Q You don't remember? How did you
5 get her out of the car? Who got her out of the car?
6 A Me and Pam drug her out of the back
7 seat.
8 Q Which side did you take her out; on
9 the passenger side or the driver's side?
10 A I don't remember.
11 Q Did you take her out feet first or
12 head first?
13 A I don't remember.
14 Q Are you certain you and Pam took her
15 out?
16 A I think so.
17 Q Are you certain Linda Grant didn't
18 have something to do with it?
19 A All I remember; I remember like with
20 Linda, we were getting ready to go and Linda was sitting in
21 the car listening to the radio in the front seat.
22 Q Did you all drag her or tote her to
23 where you left her?
24 A We toted her; we didn't drag her.
25 Q No part of her body touched the
26 ground?
27 A I wasn't looking to see if any part
28 of her body touched the ground.

1 Q How did you have her; by her shoulders
2 or by her feet?
3 A By her feet.
4 Q And they didn't touch the ground?
5 A Her feet didn't touch the ground.
6 Q How did she get mud between her toes?
7 A I don't know if she had mud between
8 her toes. I didn't see her when she was found. I don't know.
9 Q Did the dead girl walk from the car
10 to where you finally placed her down, or did you drag her, or
11 did you tote her?
12 A No, she did not walk.
13 Q She did not walk, and you did not
14 drag her; how did you get her feet on the ground and get mud
15 between her toes?
16 A I don't know.
17 Q Why did you tell Investigator Marshall
18 that back there must have been where Sandra Jones was killed?
19 A I don't know.
20 Q Was that just a slip of the tongue?
21 A No.
22 Q Why did you make that statement to
23 him, or did you make that statement?
24 A Yes, because I was scared of Mongoose.
25 I mean, you know, he has threatened to kill me.
26 Q Do you know that Jim Tolley has made
27 the statement that Pam and Linda and June Reed took care of
28 Sandra Jones in killing her?

A No, I don't.

MR. KISSINGER: Wait a minute, I have an objection. What are you talking about?

MR. GRIZZARD: About his statement to Billy Wood, and I will ask that this witness be taken out of the courtroom while we argue it.

THE COURT: Restate the question.

MR. GRIZZARD CONTINUING -

Q Did you know that in answer to a question from Billy Wood to Jim Tolley, talking about killing Sandy for $60.00, the defendant was asked why did you do what you did to Sandy, and the answer was, we haven't done anything, the old ladies, Pam, June and Linda took care of it.

A I wouldn't believe anything Billy Wood said anyway. I am not bothered about that.

Q He was in undercover work with the police officers, and that is why you would not believe him?

A Yes, that is why.

Q And you are more worthy of belief than he is?

MR. GRIZZARD: Stand aside.

MR. KISSINGER: The defendant rests, Your Honor.

THE COURT: All right, gentlemen.

MR. GRIZZARD: If it please the Court, we stand at this particular moment talking strictly about the abduction charge. This is under 18.1-38, which is abduction with intent to

1 extort money for pecuniary benefit and with intent
2 to defile in regard to the person of Sandra Harrell
3 Jones. I will not rehash the argument that was gone
4 through or advanced on the motion to strike by
5 defense counsel. I will just reiterate the Court is
6 as familiar with the evidence as either counsel, and
7 as to what the witnesses have testified to. When
8 we look at the abduction statute, the Court has
9 correctly pointed out in this ruling on the motion to
10 strike that abduction is a continuing offense from
11 the time that any victim is picked up against their
12 will and by force, and the abduction is in process
13 until such time as it is concluded by the release of
14 the party or through the death of the party. It is
15 clear from the evidence that Sandra Harrell Jones
16 would not voluntarily go with the Pagans. It is
17 equally clear from the evidence that on the night of
18 May 24th, she was brought to Southampton County by
19 Pam Blair, Linda Grant and June Reed. In defense
20 to the abduction charge, the defendant has placed
21 on two witnesses who were with the victim in
22 Southampton County, who testified to this Court that
23 the defendant, or from Linda Grant's testimony, that
24 the defendant had nothing to do with the murder.
25 June Reed's testimony was that he tried to stop
26 Mongoose and it was a verbal hassle. Defense counsel
27 has admitted to this Court that Linda Grant is a
28 confirmed liar, and that she has made five different

1 statements. Now the question is which one [illegible] are
2 going to believe. Are any of them truly believable?
3 The one statement she made referred to on June [illegible]
4 5th; the one to Dr. Roebuck, and the one to Investi-
5 gator Marshall, which I read most of the transcript
6 from it, and the one she made to [illegible] the
7 room, the question is which one are you going to
8 believe. You can't put any weight or any credibility
9 whatsoever in her testimony in any respect. June
10 Reed comes to the courtroom today and says that she
11 is thinking about filing for a new trial, and she
12 admits that she knows enough law since she has
13 served three months in Goochland that if she can
14 move the murder out of Southampton back to Norfolk
15 she would have grounds for a new trial. That
16 naturally would color her testimony. June Reed does
17 admit one truth, and that is that she voluntarily
18 told Investigator Ralph Marshall, at the scene in
19 Southampton County, that is where Sandy was killed.
20 That is the end of the abduction. That was where
21 Sandy was killed, in Southampton County, so the
22 abduction is continuing into Southampton County and
23 anyone that was a party at any stage of the game from
24 the time she was first picked up to the conclusion
25 of the abduction is equally guilty as a person who
26 first physically took possession of Sandra Harrell
27 Jones. Now we go back to the testimony of Billy
28 Wood, the one that June Reed would not believe anything

1 he said because he worked undercover with the police
2 and she says she wouldn't believe any police officer,
3 Billy Wood says that on May 24th, this man knew
4 Sandra Harrell Jones was being transported or delivered
5 out of Norfolk, and he told Billy Woods, let's get
6 the alibi. We are getting rid of Sandy. She has
7 screwed over her last Pagan. On the 25th, as this
8 man disposes of the evidence; the pocketbook and the
9 identification card and other personal effects by
10 burning after he takes the rings and other jewelry
11 that was left in the pocketbook, he asks him why
12 did you do away with Sandy, and he says we haven't
13 done anything, our old ladies took care of it,
14 speaking of Pam, June and Linda, and the one truth
15 that June Reed spoke from that witness stand was
16 that Sandra Harrell Jones was killed back there at
17 the scene in Southampton County. When we look at
18 the credibility of the witnesses, Billy Wood has
19 got nothing to gain from this case. He was working
20 undercover in the narcotics section, and would have
21 been happy if this had never happened, because it
22 wouldn't have put his life in fear, but from this
23 man's mouth he tells Billy Wood, get your alibi and
24 how does this boy react. He called the state police
25 undercover agent and they called the state fire
26 arson office, and for the next six or seven hours
27 from seven o'clock until one o'clock in the morning,
28 they combed Ocean View looking for the victim. It

1 is through knowledge that he passes on to the state
2 police investigator and the criminals division that
3 we have got a body somewhere, and when you find it
4 we can probably identify it. It filters back down
5 through the narcotics to Investigator Smith, and they
6 say, get your man in here and let him look and see
7 if he can identify the body. This is less than
8 thirty-six hours or within thirty-six hours after
9 the body is discovered, and it is identified long
10 before anybody knows about it, or knows about it
11 publicly. That is credibility. That tells you that
12 Billy Wood knows from which he speaks. June Reed
13 knows that if she can get away from her guilty
14 plea of murder, and put it back in Norfolk, she gets
15 another crack at the cherry, and that is why she is
16 in here today lying from that witness stand, and
17 there is no more fear today than there was before.
18 You saw that witness, and you don't get any harder
19 than June Reed; to sit there in that automobile,
20 as she testified, with that dead body in the back
21 seat, and we just all happened to be going down the
22 road to dump off a body and we eat supper and they
23 don't bat an eye, but the girl was alive Mr. Thorpe
24 said, and the girl was alive, and June Reed acknow-
25 ledged that Sandra Harrell Jones was killed in
26 Southampton County relating that fact to the events
27 that started this whole ball of wax rolling. Jim
28 Tolly is in it up to his neck. I would ask the Court

1 to find him guilty of abduction as charged in the
2 indictment, and would ask the Court to sentence him
3 to forty years in the penitentiary.
4 MR. KISSINGER: If it please the
5 Honorable Court, I think the most remarkable thing,
6 if it please the Court, that I have heard here
7 today is when Linda Grant sat on the stand, and in-
8 dicated to your Honor that her life had been threaten-
9 ed and so did the other girls, and regardless of
10 how callous this other girl may have been, both of
11 their lives had been threatened by this Mongoose.
12 Now both of these girls are in prison, and both now
13 cannot be touched by Mongoose, who throughout this
14 entire trial, and throughout almost every witness
15 they talked about him and mentioned Mongoose, and
16 the other thing when the girl was speaking, Grant,
17 she indicated, or pardon me, it was June Reed that
18 Tolley tried to stop this man as best he could. Now
19 this man, Mongoose, is reputed to be a killer. At
20 this point he is not on trial here today, and my
21 client is, and there is no evidence here and the
22 Commonwealth has got the burden of proof to bring
23 it in beyond a reasonable doubt, and one of the
24 greatest jurist in the whole world, I thought, was
25 W. W. Woodbridge, Dean of Law at William and Mary,
26 and that man said, a reasonable doubt, gentlemen,
27 is that doubt within a moral certainty, and I say
28 to Your Honor to believe a convicted felon; this

1 Billy Wood, who we know was a Pagan, and who we know
2 is a convicted felon, his testimony has got to be
3 taken with some sense of stepping back a little bit
4 and looking at it and scrutinizing it pretty close,
5 because he didn't say what the Commonwealth's
6 Attorney said that he did. He didn't say that my
7 man said he was going to do something with them, and
8 he didn't say that at all. The only thing that Tolley
9 said, by virtue of Wood, was that she is not going
10 to screw over the Pagans any more. What has that
11 got to do with abduction on the part of my client.
12 Not one thing. There has been no evidence here to
13 say that this man said, do it. The only evidence
14 before this Court, and it is uncontroverted, is that
15 he had nothing to do with anything or any of this
16 and it is uncontroverted, and neither one of those
17 witnesses were impeached, not once. They gave other
18 statements, I submit to Your Honor, and they admitted
19 it and I stipulate, certainly, they did, and they
20 were so scared, and I saw these girls months ago,
21 and they were so scared they couldn't even hold
22 their hands steady, and they don't even look like
23 the same girls now. Now they can't be killed, and
24 I submit to Your Honor what difference does it make
25 to them that this boy goes free. None whatsoever.
26 None at all. They could care less. Frankly, if
27 you get right down to it, it means nothing to them
28 and they have got their twenty years, and one has

1 got twenty and three concurrent, and when a person
2 is in prison then they have a tendency to finally
3 come to the conclusion that they had better tell
4 the truth, and probably for the first time, and more
5 than probably I believe that you have heard the
6 truth in this courtroom here today. I submit to
7 Your Honor that those witnesses were telling the
8 truth. I think Linda was the best of the two
9 witnesses, and the other one did look a little hard
10 and a little callous, and I don't understand how she
11 could do that, and how she could sit there and eat a
12 sandwich while the body was in the back seat, if she
13 did that. What has that, again, got to do with my
14 client? There has been no evidence by anybody ex-
15 cept Wood, and that is just a statement about them
16 being at the Pagans, and that's all, Judge, and you
17 have his statement standing alone, and that is it.
18 We have the two girls, which he didn't go with either
19 one of them on no occasions, and no evidence has
20 been submitted here today that he did go with either
21 one of those girls that took that stand today, and
22 I purposely did not call the other one that I
23 subpoenaed, which he did go with, so that we could
24 get to the truth, and so the Commonwealth's Attorney
25 could not stand there and say, well, that one said
26 so and so, and that was his old lady. I purposely
27 did not do that, Judge. I put on the two girls that
28 I have not talked to, or anything else and the records

1 will show that I haven't written them, and even
2 they didn't even know I was going to call them, and
3 the first time I saw them other than when I had seen
4 them before at the trial the last time, I saw them
5 this morning. That is what they said, and they sat
6 there and said we are in prison, and our lives have
7 been threatened, and they can't get at me now, and
8 Mongoose wanted to kill us, but he can't get to us
9 now, and I submit to Your Honor that evidence, un-
10 controverted, is the crux of this case and nothing
11 else in the whole case other than that one statement
12 has mentioned anything about abduction taking place,
13 and if it please the Court, with intent to extort
14 money for pecuniary benefit, or with intent to defile
15 such person, what evidence has been put on here to-
16 day that this boy intended to get any benefit from
17 this, or intended to defile this person, or to get
18 money from this person. I submit to Your Honor that
19 the Commonwealth has not borne the burden, and
20 there is no guilt beyond a reasonable doubt in this
21 courtroom, and I would respectfully move, Your Honor,
22 to dismiss the charge.
23 MR. GRIZZARD: Your Honor, Mr.
24 Kissinger and I have finally found one point that
25 we agree on, and that is the legal expertise of
26 Dean Woodbridge of William and Mary. I am sure it
27 was an oversight on Mr. Kissinger's part, but in
28 citing the testimony of Billy Wood as he was

1 questioning Mongoose and Jim Tolley, after Joe
2 Green had left the room, as to why they needed an
3 alibi, the answer is John said, we are going to do
4 away with Sandy. She is not going to cause us any
5 more problems. Jim said, we are going to get rid
6 of Sandy. She has screwed over her last Pagan. We
7 are going to get rid of Sandy. She has screwed over
8 her last Pagan. In context, again, repeating the
9 statement made the following day by the defendant as
10 he is burning the pocketbook, when he is asked by
11 Billy Wood why did you do what you did to Sandy,
12 he says, we haven't done anything, our old ladies
13 took care of it; Pam, Linda and June took care of
14 it. Now we can go into the state of mind of Sandra
15 Harrell Jones, and we have got the testimony of
16 three witnesses showing the fear that she had of
17 Mongoose and the Pagans. Under Sergeant Cherry's
18 testimony, she had expressed her fear. There is no
19 question that she would not voluntarily go with them,
20 and you have the testimony of Billy Wood that in the
21 conversation with the defendant on the 25th, con-
22 cerning why they had done it, or why did they do it
23 for $60.00, and we are talking about the same $60.00
24 that the evidence shows that Mongoose claims was his
25 money, because Sandy worked for it, and it belonged
26 to Mongoose. She wasn't paying him and that is why
27 she ran out the other door when Mongoose came to the
28 Jolly Roger to force the money out of her. That is

why she was picked up, and that is why she was beaten and that is why to quote, "they were going to get rid of Sandy", because she had screwed over her last Pagan, and because she was not complying with the rules of the club. Jim Tolley was present when she was gotten rid of, and we know that she left Norfolk, and we know that she ended up in Southampton County, and you take proven facts, and you draw inferences from them, and there can only be one inference from Jim Tolley's statements that he knew what was going on, and he was a part of what was going on, and he is responsible for what went on. That is the law, and the Commonwealth calls on this Court to hold him responsible to the law and find him guilty of abduction as charged in the indictment, and again I would ask the Court to sentence him to forty years in the penitentiary.

THE COURT: Gentlemen, I am of the opinion that under the evidence in the case the defendant would be guilty as an accessory before the fact, which would make him guilty of abduction as charged in the indictment. I am going to order a presentence report in the case and remand the defendant to jail pending the report.

CERTIFICATE OF COURT REPORTER

I, Joyce Gray Harrell, do hereby certify that I, having been duly sworn, was the court reporter in the Circuit Court of Southampton County on June 4, 1974, at the time of the trial herein.

I further certify that I have transcribed the proceedings faithfully and accurately, to the best of my ability.

Given under my hand this 29th day of October, 1974.

Joyce Gray Harrell

Joyce Gray Harrell - Court Reporter

PRESENTENCE HEARING, HEARD ON JANUARY 21, 1975, BEFORE THE HONORABLE JAMES C. GODWIN, JUDGE:

PRESENT: Mr. Richard C. Grizzard,
Attorney for the Commonwealth

Mr. M. Theodore Kissinger, Jr.,
Counsel for defendant

Mr. James Leroy Tolley,
The defendant

MR. GRIZZARD: The Court will recall, this was the case tried on June 4, 1974 on two charges, charged at that time with murder and abduction. The Court struck the evidence as to muder at the conclusion of the Commonwealth's case on the basis there had been no evidence to indicate the murder took place in Southampton County. I understand the Court found the defendant guilty of abduction at the conclusion of all the evidence, and a presentence was ordered, and we are here today on the presentence hearing.

THE COURT: Are you ready, Mr. Kissinger?

MR. KISSINGER: Yes, I am.

THE COURT: Have you had an opportunity to go over the report with the defendant.

MR. KISSINGER: Yes, sir, I have had an opportunity to go over the report that was sent to me sometime ago. I have been over it thoroughly myself, and

I have been over it with my client for about thirty minutes, and he has been looking over it since he has been up here, and we are ready to proceed.

THE COURT: Let the record show Mr. Mills E. Bradshaw, probation and parole officer is present. Do you gentlemen have any questions that you want to ask Mr. Bradshaw?

MR. GRIZZARD: The Commonwealth has none.

MR. KISSINGER: I have none, Your Honor.

THE COURT: Do you have any evidence you want to present at this time?

MR. GRIZZARD: The Commonwealth has none.

MR. KISSINGER: I don't have any evidence, Your Honor. Of course, I would like to speak at the proper time.

THE COURT: All right.

MR. GRIZZARD: If it please the Court, the Court will recall this was the case where the defendant, in conjunction with others, was charged with the murder and abduction of Sandra Harrell Jones. Very briefly, the evidence in the case was that on the 24th day of May, 1973, Sandra Harrell Jones was picked up in Norfolk and was brought to Southampton County, and her body was found on the morning of May 25th, 1973. During the evidence in the trial, the Commonwealth put on Billy Woods, who testified that on the 24th of May the defendant and John Turnbull and Josie Green came to his apartment in Norfolk and

1 told him at that time to have an air-tight alibi for
2 the night of May 24th; that if anyone asked the where-
3 abouts of Sandy, they were to tell them that she had
4 left town sometime that week with another girl on the
5 way to Georgia to get a job dancing. Billy Woods also
6 testified that Josie Green left the bedroom, and that
7 left Tolley, himself and Turnbull in the room, and he
8 asked what was going on and John Turnbull stated that
9 they were going to do away with Sandy, that she had
10 caused enough problems, and she wasn't going to cause
11 any more problems for them, and he stated he looked
12 at Jim and asked him what they were planning to do,
13 and he stated Jim Tolley told me at that time that
14 they were going to get rid of Sandy, and his words
15 were that she had screwed over her last Pagan. They
16 all went out in the living room and they left. Sub-
17 sequent to that date on May 24th Billy Woods also
18 testified that he asked Jim Tolley directly if they
19 were going to kill Sandy, and if they killed her over
20 $60 owed Mongoose, and the defendant in this case
21 stated that, no, they hadn't killed her, that their
22 old ladies had done it. He said the old ladies had
23 taken care of it. The abduction started in Norfolk,
24 and the body was eventually found in Southampton
25 County, Virginia, where on the night of May 24th
26 several farmers observed three girls stuck in a field
27 in Southampton County. The next morning they found
28 the body of Sandra Harrell Jones. The Court, in any

event, found the defendant guilty of abduction in this particular case. The recitation of the facts were made to refresh the Court's memory with the facts in this particular case, to show the defendant's overall involvement in the situation as regards Sandra Harrell Jones. The Commonwealth would recommend to the Court that the defendant in this particular case be sentenced to the penitentiary, and my personal preference, which is of no consequence, would be life, but in any event, no less than twenty years in the penitentiary.

MR. KISSINGER: Your Honor, I am very mindful of the trial and what took place on June 4 in this courtroom when we did try this defendant. At that time, as Your Honor will recall, not one person would testify in the case indicating to the Court that the girl was killed in this county. For that reason the Court struck the evidence of the Commonwealth, which I think was proper at the time, and I still think so. The evidence by the Commonwealth, I think, was extremely weak for an abduction conviction. I thought so on that occasion, and I do now . If it please the Court, the only witness that the Commonwealth brought forward and indicated to this Court that he was even involved in this thing, is a former Pagan, who was charged at that time when he testified here with a felony in Portsmouth, and

who knew when he testified that if he testified for the Commonwealth that the Commonwealth would go light on him. He knew this, and I suggest to Your Honor that he stretched the truth considerably on that occasion, although on cross examination I couldn't break the man down. With all the witnesses that came before Your Honor, no one tied this man in that at all, and then when they finally indicated to Your Honor that my client was involved, the involvement was that he was over at this particular boy's house, Woods, who was a president of the Pagans himself on this occasion, and indicated then by what the Commonwealth just read, that they were going to get rid of Sandy. I suggest to Your Honor to get rid of does not mean to kill. It does not mean kill. Just like many of the girls who took the stand have indicated to Your Honor, they were to take her to Georgia, and that's getting rid of her from the general area, and I suggest to Your Honor that this boy didn't know anything about whether that girl was going to be killed or not, and we don't know that, and we don't know that the girl was killed, because Dr. Springate in this Court would not testify with a reasonable amount of certainty that the girl was killed. Your Honor will remember when I cross examined him I asked him could he be absolutely certain that these injuries did not take place by that girl falling off a motorcycle,

which was a part of the Pagan's at that time, and they did ride around on motorcycles, and he could not tell Your Honor on that occasion that the injuries that she did suffer were part and parcel of an accident, and therefore he contradicted his own medical report given to the Court on that occasion. I suggest further to Your Honor that this boy is a man of limited education, although by the probation report you will note he did go to school, and he went in the Marine Corp and got a honorable discharge, and then after that he went to school to become a mechanic, and to become a comparatively good one, and his history of any criminal record, as such, really is between '72 and '74, which frankly, running with the Pagans, it's a wonder to me and probably to the Court, that he wasn't involved in a lot more. However, in October he left and went back to Kentucky. He severed any relationship with the Pagans, and he was not a member of the Pagans when this trial took place, or when he was picked up. Further, if it please the Court, this boy called me to give himself up when he heard a grand jury had indicted him, and he was making provisions to leave the job to come here the day after, and I know this of my own knowledge, they picked him up on a Thursday and he was leaving on a Friday to come here to meet with me, and he was going to turn himself in to Joseph Campbell, Commonwealth's Attorney in Norfolk, and if Mr.

1 Campbell were here he could verify that, and I ask
2 you to believe what I am saying in that regard, sir.
3 I did speak to Mr. Grizzard relative to that. Since
4 he has been incarcerated here in the Courtland jail
5 he was instrumental in helping the Commonwealth in a
6 case, one Gattice Smith, and the boy had some infor-
7 mation, and he tried to flush it down the toilet, and
8 the defendant picked up that information and turned
9 it over to the Sheriff, and the Commonwealth was able
10 to get a conviction that he would not have been able
11 to get without the help of this boy here. I would
12 suggest that the Commonwealth would like to have the
13 twenty years that they have asked, Your Honor, but I
14 speak to you, sir, as a jurist, and I speak to you as
15 a man, and I think, sir, that justice would be served
16 in this matter and in this instance, certainly with
17 a sentence well less than any twenty years. The
18 people who have been to this Court previously who
19 were convicted of murder only got twenty years, and
20 all of them got three years on the abduction, and to
21 do any more than that because he got off the murder
22 charge, which there was no evidence that the boy was
23 involved in the murder at all before this Court, and
24 then for the Commonwealth to get mad and say, I want
25 twenty years because he got off this, isn't right.
26 I ask Your Honor, in your wisdom, to look at the full
27 spectrum here, and keep in mind he went to school
28 after he got out of the Marine Corp, and he does have

an honorable discharge, which is a cut above most Pagans. He did sever himself from the Pagans, and he did go back to his home and he was working at the time, and tried to give himself up, but they went out and got him. Since being incarcerated, he has helped the Commonwealth, and I would ask the Court to take all of this into consideration and give him no more than three years, which has been given to the other people involved in this case for the charge of abduction.

MR. GRIZZARD: Very briefly, Your Honor, in reply to Mr. Kissinger. Mr. Kissinger tells the Court that Dr. Springate said it could have happened from a fall from a motorcycle, the injuries or the death. Dr. Springate on about four or five pages of testimony, indicates that all things are eventually possible. I think his final answer was that it is possible, after having been asked the question about six or seven times by Mr. Kissinger, but entirely unlikely and extremely rare, that in all of his years in his field he had never seen anybody breaking the cricoid cartilage by falling from a motorcycle, and what have you. The number of bruises to her face and body, and all of that, it could have not occurred in any one particular incident. Dr. Springate also put the time of death within twelve to twenty-four hours. He said it is possible it

could have been longer, it could have been forty-eight hours, but the further away he gets, the more less likely, but in his opinion between twelve and fourteen hours from the time the body was found. Billy Woods, in reply to one other point, the evidence is clear that the defendant was involved in the murder in the case, and involved from the very beginning, during and afterwards. The Court's ruling was that there was no evidence at that particular point in time from which the Court could absolutely conclude that the murder occurred in Southampton County, which under the law of the State of Virginia it had to be proved at that particular point in time. There was evidence he was involved in it, but we did not have evidence, in the Court's view, to place it in Southampton County. Therefore, the Court dismissed that. If The Court wants me to, I will read the words of the Court in making that ruling.

MR. KISSINGER: We will stipulate that.

MR. GRIZZARD: The defendant is involved in this whole abduction from the very beginning, and his involvement, from the testimony of Billy Woods, is not that of someone just following orders, but someone giving orders. This is what we are going to do. You have an alibi. No, we didn't kill her, we had the old ladies take care of it. That is why

the Commonwealth recommends twenty years. His involvement is greater than the ones who have been convicted of murder in some instances in this case, and that is why the Commonwealth is recommending atleast twenty years in this particular case. And I am not really angry.

THE COURT: What did the jury do with Turnbull on the abduction?

MR. GRIZZARD: They gave him thirty years on the murder and thirty on the abduction. They came back first with fifty, not less than twenty, and I think it is clear what they wanted, and then they came back with a total of sixty.

THE COURT: Well, gentlemen, in this case, this is a matter in which after our legislature convenes, it will be a capital offense. It is a very serious situation, a situation where a young girl is dead. The case, of course, turned on the abduction in this particular case, and there was not sufficient evidence to prove that the actual murder took place in Southampton County, where the defendant was charged with murder. It makes it no less serious, and of course, the Court would not attempt to sentence a man and double up on the penalty because one charge was dismissed. The crux

of these cases go back to Norfolk where the abduction was planned and carried out, but it was a continuing offense on into Southampton County, where the girl's body was found. It is a case the Court cannot treat lightly, and I am sure counsel for the Commonwealth, and counsel for the defendant, and the defendant himself has not treated it lightly. It is a matter of grave concern to the Commonwealth of Virginia. Now, Tolley, you have been found guilty of abduction. Do you know of any reason, other than those previously stated, why you should not be sentenced at this time for the crime of abduction?

DEFENDANT TOLLEY: Well, Your Honor, I don't really feel guilty of this crime, Your Honor, because like I say,---

THE COURT: Are you satisfied with the services of your lawyer in this case?

DEFENDANT TOLLEY: Pardon me.

THE COURT: Are you satisfied with your lawyer's actions in this case?

DEFENDANT TOLLEY: Yes, I am.

THE COURT: Has he represented you fairly in this matter?

DEFENDANT TOLLEY: Yes, sir.

THE COURT: Do you have any complaint to make about any officer of this Court in connection with your arrest, or otherwise?

DEFENDANT TOLLEY: No, sir, Your Honor.

THE COURT: Now, for this offense of abduction, that you have been found guilty of, I am going to sentence you at this time to twenty years in the state penitentiary. Now, I want to advise you that you have a right to apply for an appeal in this matter. Mr. Kissinger will have an opportunity to discuss this with you, and to explain it fully to you.

MR. KISSINGER: My client desires an appeal, and I would indicate to the Court that he wishes to note an appeal. I also want to indicate to the Court that I am not going to be able to handle that appeal, and I am doing so at his wishes, noting an appeal, and the Court will have to appoint an attorney. He doesn't have any money, and that is going to have to be done for this man.

THE COURT: Well, since you have handled the case, Mr. Kissinger, I will appoint you to perfect the appeal, or to attempt to perfect the appeal for the defendant, and represent him in this matter in the Supreme Court.

MR. KISSINGER: Judge, respectfully, it is an awful long way from Norfolk up here. I think it would be best for the defendant to have counsel locally, someone that can get to him.

THE COURT: You have been involved in the case from the very beginning, and are familiar with it. It is a matter that is going to turn on questions of law, and I think you are better able and better situated to represent him than some stranger coming into the case at this point.

MR. KISSINGER: I would be glad to work with anybody, Judge.

THE COURT: You started with it, and I think it should be finished on that basis.

MR. KISSINGER: All right, sir.

I, Joyce Gray Harrell, do hereby certify, that I, having been duly sworn, was the court reporter in the Circuit Court of Southampton County on January 21, 1975, at the time of the hearing herein.

I further certify that I have transcribed the proceedings faithfully and accurately, to the best of my ability.

Given under my hand this 12th day of February, 1975:

Joyce Gray Harrell