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SUPREME COURT OF VIRGINIA
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MAR 7 1978
RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 771273

RICKY KING,

.....Appellant

v.

COMMONWEALTH OF VIRGINIA,

.....Appellee

JOINT APPENDIX

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Rocky Mount, Virginia 24151

Counsel for Appellant

Jerry T. Slonaker, Esq.
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Counsel for Appellee

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TABLE OF CONTENTS

		APPENDIX PAGES
1.	INDICTMENT OF DECEMBER 20, 1976	1
2.	INDICTMENT OF DECEMBER 21, 1976	2
3.	INDICTMENT OF JANUARY 27, 1977	3
4.	ORDER "F" ENTERED MAY 24, 1977	4-5
5.	ORDER "F-160" ENTERED MAY 24, 1977	6-7
6.	ORDER "F-161" ENTERED MAY 24, 1977	8-9
7.	ORDER "F-161" ENTERED JUNE 24, 1977	10-11
8.	ORDER "F-160" ENTERED JUNE 24, 1977	12-13
9.	ORDER "F-159" ENTERED JUNE 24, 1977	14-15
	EXCERPTS FROM TRANSCRIPT OF HEARING	
10.	TESTIMONY OF PETER MOORMAN	16-50
11.	TESTIMONY OF TONY GILLISPIE	50-54
12.	TESTIMONY OF CHARLES R. GILLISPIE	55-58
13.	TESTIMONY OF WILLIAM JEFFERSON HALL	58-67
14.	TESTIMONY OF TONY MATTOX	67-72
15.	TESTIMONY OF EVERETT KENNETH LAW	72-87
16.	TESTIMONY OF KENNY COOPER	88-98
17.	TESTIMONY OF ALVIN STARKEY	99-111
18.	TESTIMONY OF PATTY KING	111-128
19.	TESTIMONY OF RICKY KING	129-148
20.	TESTIMONY OF PETER MOORMAN	149-154
21.	DISCUSSION BETWEEN COURT AND COUNSEL	154-157
22.	CLOSING STATEMENT BY THE COMMONWEALTH	158-170
23.	CLOSING STATEMENT BY MR. MELESCO	170-178
24.	REBUTTAL STATEMENT BY THE COMMONWEALTH	179-181

25. VERDICTS 182-184

26. NOTICE OF APPEAL 185

Commonwealth of Virginia:

COUNTY OF FRANKLIN, To-wit:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY:

The grand jurors of the Commonwealth of Virginia, in and for the body of the said County of Franklin and now attending the said Court at its April Term, 1977 upon their oaths do present that

on or about the 20th day of December, 1976, in the County of Franklin, Ricky King unlawfully and feloniously did sell and distribute a controlled substance, to wit: marijuana, a Schedule I controlled substance.

Va. Code Section 18.2-248

upon the evidence of Trooper Mike Childers

witnesses who were first sworn in open court to give evidence before the Grand Jury.

Commonwealth of Virginia:

COUNTY OF FRANKLIN, To-wit:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY:

The grand jurors of the Commonwealth of Virginia, in and for the body of the said County of Franklin and now attending the said Court at its April Term, 1977 upon their oaths do present that

on or about the 21st day of December, 1976, in the County of Franklin, Ricky King unlawfully and feloniously did sell and distribute a controlled substance, to wit: marijuana, a Schedule I controlled substance.

Va. Code Section 18.2-248

upon the evidence of Trooper Mike Childers.

witnesses who were first sworn in open court to give evidence before the Grand Jury.

Commonwealth of Virginia:

COUNTY OF FRANKLIN, To-wit:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY:

The grand jurors of the Commonwealth of Virginia, in and for the body of the said County of Franklin and now attending the said Court at its April Term, 1977 upon their oaths do present that

on or about the 27th day of January, 1977, in the County of Franklin, Ricky King unlawfully and feloniously did sell and distribute a controlled substance, to wit: marijuana, a Schedule I controlled substance.

Va. Code Section 18.2-248

upon the evidence of Trooper Mike Childers

witnesses who were first sworn in open court to give evidence before the Grand Jury.

VIRGINIA:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY May 24, 1977

COMMONWEALTH

VS: ORDER F

RICKY KING, Age 29, Date of Birth: July 9, 1947

This day came the Attorney for the Commonwealth, and Ricky King, who stands indicted for a felony, to-wit: unlawfully and feloniously did sell and distribute a controlled substance, to-wit: marijuana, a Schedule I controlled substance, as charged in the indictment, appeared according to the condition of his recognizance and came also David A. Melesco, his attorney.

Whereupon the accused was arraigned and after private consultation with his said counsel, pleaded not guilty to the indictment, which plea was tendered by the accused in person.

The Court then impaneled twenty qualified jurors, free from exception for the trial of the defendant, in the manner provided by law. Whereupon the Attorney for the Commonwealth and the Attorney for the defendant exercised their rights to strike names from the panel, as provided by law, and the remaining twelve jurors, to-wit: Betty Lou Sink, Florence (Holly) Hughes, Mary Emma Bonds, Estelle I. Jones, Benjamin (Ray) Stanley, Michael E. Arrington, Lula Evelyn Manns, Ruth P. Turner, Mattie Mattox, Beverly Larsen, Taylor Morris, and C. Howard Mitchell, constituting the jury for the trial of the defendant, were duly sworn.

After opening statements, the Court and the jury heard the evidence presented by the Commonwealth and the defendant. At the conclusion of the Commonwealth's evidence, the Attorney for the defendant moved the Court to strike the Commonwealth's evidence, which motion was overruled and exception was noted; at the conclusion of all the evidence, the attorney for the defendant renewed his motion to strike the Commonwealth's evidence, which motion was overruled and exception was noted.

After hearing the evidence, the instructions of the Court and argument of counsel, the jurors were sent to the jury room to consider their verdict. They subsequently returned their verdict in open court, reading: WE, THE JURY, find the defendant, Ricky G. King, guilty of selling marijuana on December 20, 1976 as, charged in the indictment and ascertain his punishment to be confinement in the penitentiary for a period of six years and a fine of $1,000.00.

Mattie W. Mattox, Foreman

The Court on motion of the defendant by counsel, before fixing punishment or imposing sentence, doth direct the Probation Officer of this Court to thoroughly investigate and report to the Court as provided by law, on the 24 day of June, 1977, at 9:00 o'clock A. M. and sentencing is set for the 24 day of June, 1977, at 9:00

o'clock A. M. to which time this case is continued.

At all times during the trial of this case the defendant and his counsel were present.

The Court ORDERS that the defendant be allowed credit for time spent in jail awaiting trial. It is ADJUDGED that the Commonwealth of Virginia recover from the defendant the sum of $ 66.50 costs, assessed in this proceeding.

The defendant is remanded to jail until June 24, 1977 at 9:00 A. M.

ENTER: May 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

A Copy, Teste:

Wm. J. Walker, Jr., Clerk

Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY May 24, 1977

COMMONWEALTH

VS: ORDER F 160

RICKY KING, Age 29, Date of Birth: July 9, 1947

This day came the Attorney for the Commonwealth, and Ricky King, who stands indicted for a felony, to-wit: unlawfully and feloniously did sell and distribute a controlled substance, to-wit: marijuana, a Schedule I controlled substance, as charged in the indictment, appeared according to the condition of his recognizance and came also David A. Melesco, his attorney.

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After hearing the evidence, the instructions of the Court and argument of counsel, the jurors were sent to the jury room to consider their verdict. They subsequently returned their verdict in open court, reading: WE, THE JURY, find the defendant, Ricky G. King, guilty of selling marijuana on December 21, 1976 as, charged in the indictment and ascertain his punishment to be confinement in the penitentiary for a period of six years and a fine of $1,000.00.

Mattie W. Mattox, Foreman

The Court on motion of the defendant by counsel, before fixing punishment or imposing sentence, doth direct the Probation Officer of this Court to thoroughly investigate and report to the Court as provided by law, on the 24 day of June, 1977, at 9:00 o'clock A. M. and sentencing is set for the 24 day of June, 1977, at 9:00

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The defendant is remanded to jail until June 24, 1977 at 9:00 A. M.

ENTER: May 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

VIRGINIA:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY May 24, 1977

COMMONWEALTH

VS: ORDER F 159

RICKY KING, Age 29, Date of Birth: July 9, 1947

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Whereupon the accused was arraigned and after private consultation with his said counsel, pleaded not guilty to the indictment, which plea was tendered by the accused in person.

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After opening statements, the Court and the jury heard the evidence presented by the Commonwealth and the defendant. At the conclusion of the Commonwealth's evidence, the Attorney for the defendant moved the Court to strike the Commonwealth's evidence, which motion was overruled and exception was noted; at the conclusion of all the evidence, the attorney for the defendant renewed his motion to strike the Commonwealth's evidence, which motion was overruled and exception was noted.

After hearing the evidence, the instructions of the Court and argument of counsel, the jurors were sent to the jury room to consider their verdict. They subsequently returned their verdict in open court, reading: WE, THE JURY, find the defendant, Ricky G. King, guilty of selling marijuana on January 27, 1977 as, charged in the indictment and ascertain his punishment to be confinement in the penitentiary for a period of six years and a fine of $1,000.00.

Mattie W. Mattox, Foreman

The Court on motion of the defendant by counsel, before fixing punishment or imposing sentence, doth direct the Probation Officer of this Court to thoroughly investigate and report to the Court as provided by law, on the 24 day of June, 1977, at 9:00 o'clock A. M. and sentencing is set for the 24 day of June, 1977, at 9:00

VIRGINIA:

IN THE CIRCUIT COURT FOR FRANKLIN COUNTY JUNE 24, 1977

COMMONWEALTH

VS: F 161

RICKY KING, AGE 29, Date of Birth: July 9, 1947

This day came again the Attorney for the Commonwealth and Ricky King, who stands convicted of a felony, to-wit: unlawfully and feloniously did sell and distribute a controlled substance, to-wit: Marijuana, A Schedule I controlled substance, was led to the bar in the custody of the Jailer of this County and came also David A. Melesco, his attorney.

And the Probation Officer of this Court, to whom this case has been previously referred for investigation, appeared in open court with a written report, which report he presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for accused.

Thereupon the defendant and his counsel were given the right to cross-examine the Probation Officer as to any matter contained in the said report and to present any additional facts bearing upon the matter as they desired to present. The report of the Probation Officer is hereby filed as a part of the record in this case.

Whereupon the Court taking into consideration all of the evidence in the case, the report of the Probation Officer, the matters brought out on cross-examination of the Probation Officer and such additional facts as were presented by the accused, and it being demanded of the defendant if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court in accordance with the jury verdict of May 24, 1977 that the defendant is hereby sentenced to confinement in the penitentiary of the Commonwealth for the term of six years, and that the Commonwealth of Virginia do recover against the defendant $1000.00 and $ 66.50 costs by it about its prosecution in this behalf expended.

The Court ORDERS that the 6 years sentence this day imposed shall run consecutively with the 6 years sentence this day imposed in Case # 159

After pronouncing sentence, the Court advised the defenant of his right to appeal to the Supreme Court of Virginia and of his right to proceed in forma pauperis and to have the assistance of court-appointed counsel.

And it is further ORDERED that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the jail of this Court to the Department of Corrections, therein to be kept, confined and treated in the manner provided by law.

o'clock A. M. to which time this case is continued.

At all times during the trial of this case the defendant and his counsel were present.

The Court ORDERS that the defendant be allowed credit for time spent in jail awaiting trial. It is ADJUDGED that the Commonwealth of Virginia recover from the defendant the sum of $219.75 costs, assessed in this proceeding.

The defendant is remanded to jail until June 24, 1977 at 9:00 A. M.

ENTER: May 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

The Court ORDERS that the prisoner be allowed credit for the time spent in jail awaiting trial.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorney was likewise personally present and capably represented the defendant.

And the defendant is remanded to jail to await transfer to the Department of Corrections.

ENTER: June 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

VIRGINIA:

IN THE CIRCUIT COURT FOR FRANKLIN COUNTY JUNE 24, 1977

COMMONWEALTH

VS: F 160

RICKY KING, AGE 29, Date of Birth: July 9, 1947

This day came again the Attorney for the Commonwealth and Ricky King, who stands convicted of a felony, to-wit: unlawfully and feloniously did sell and distribute a controlled substance, to-wit: Marijuana, A Schedule I controlled substance, was led to the bar in the custody of the Jailer of this County and came also David A. Melesco, his attorney.

And the Probation Officer of this Court, to whom this case has been previously referred for investigation, appeared in open court with a written report, which report he presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for accused.

Thereupon the defendant and his counsel were given the right to cross-examine the Probation Officer as to any matter contained in the said report and to present any additional facts bearing upon the matter as they desired to present. The report of the Probation Officer is hereby filed as a part of the record in this case.

Whereupon the Court taking into consideration all of the evidence in the case, the report of the Probation Officer, the matters brought out on cross-examination of the Probation Officer and such additional facts as were presented by the accused, and it being demanded of the defendant if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court in accordance with the jury verdict of May 24, 1977 that the defendant is hereby sentenced to confinement in the penitentiary of the Commonwealth for the term of six years, and that the Commonwealth of Virginia do recover against the defendant $1000.00 and $ 66.50 costs by it about its prosecution in this behalf expended.

The Court ORDERS that the 6 years sentence this day imposed shall run consecutively with the 6 years sentence this day imposed in Case # 159.

After pronouncing sentence, the Court advised the defenant of his right to appeal to the Supreme Court of Virginia and of his right to proceed in forma pauperis and to have the assistance of court-appointed counsel.

And it is further ORDERED that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the jail of this Court to the Department of Corrections, therein to be kept, confined and treated in the manner provided by law.

The Court ORDERS that the prisoner be allowed credit for the time spent in jail awaiting trial.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorney was likewise personally present and capably represented the defendant.

And the defendant is remanded to jail to await transfer to the Department of Corrections.

ENTER: June 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

VIRGINIA:

IN THE CIRCUIT COURT FOR FRANKLIN COUNTY JUNE 24, 1977

COMMONWEALTH

VS: F 159

RICKY KING, AGE 29, Date of Birth: July 9, 1947

This day came again the Attorney for the Commonwealth and Ricky King, who stands convicted of a felony, to-wit: unlawfully and feloniously did sell and distribute a controlled substance, to-wit: Marijuana, A Schedule I controlled substance, was led to the bar in the custody of the Jailer of this County and came also David A. Melesco, his attorney.

And the Probation Officer of this Court, to whom this case has been previously referred for investigation, appeared in open court with a written report, which report he presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for accused.

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Whereupon the Court taking into consideration all of the evidence in the case, the report of the Probation Officer, the matters brought out on cross-examination of the Probation Officer and such additional facts as were presented by the accused, and it being demanded of the defendant if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court in accordance with the jury verdict of May 24, 1977 that the defendant is hereby sentenced to confinement in the penitentiary of the Commonwealth for the term of six years, and that the Commonwealth of Virginia do recover against the defendant $1000.00 and $ 219.75 costs by it about its prosecution in this behalf expended.

The Court ORDERS that the 6 years sentence this day imposed shall run consecutively with the 6 years sentence this day imposed in Cases # 160 and 161.

After pronouncing sentence, the Court advised the defenant of his right to appeal to the Supreme Court of Virginia and of his right to proceed in forma pauperis and to have the assistance of court-appointed counsel.

And it is further ORDERED that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the jail of this Court to the Department of Corrections, therein to be kept, confined and treated in the manner provided by law.

The Court ORDERS that the prisoner be allowed credit for the time spent in jail awaiting trial.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorney was likewise personally present and capably represented the defendant.

And the defendant is remanded to jail to await transfer to the Department of Corrections.

ENTER: June 24, 1977

W. Carrington Thompson

W. CARRINGTON THOMPSON, JUDGE

1 job we can, but the end result is in your hands. And
2 in weighing this evidence my client and I are happy to
3 be part of the American system and leave it in your
4 hands. Thank you.
5 PETER MOORMAN
6 first witness for the Commonwealth, after
7 first having been duly sworn, testified as follows:
8 DIRECT EXAMINATION
9 BY THE COMMONWEALTH:
10 Q. Peter, would you state your name for the Court please.
11 A. Peter T. Moorman.
12 Q. And how old are you, Peter?
13 A. Twenty-eight.
14 Q. And what do you do?
15 A. I'm a special deputy for the Franklin County Police
16 Department.
17 Q. And did you work undercover for Sheriff Overton in
18 Franklin County?
19 A. Yes, I did.
20 Q. When did you first become employed by Sheriff Overton?
21 A. In September of 1976.
22 Q. And what were you employed to do?
23 A. I was employed to do undercover work and buy drugs
24 from people that were involved in the drug traffic in
25 Franklin County.

1 Q. All right now, how much were you paid for your job?
2 A. Seven hundred dollars a month.
3 Q. And you started in September?
4 A. Yes, I did.
5 Q. And you're still being paid. Is that correct?
6 A. Yes, sir.
7 Q. And all, did you receive anything else...or are you
8 going to receive anything else for your services?
9 A. No, sir.
10 Q. What about mileage?
11 A. Yes, sir. I will be compensated for the mileage.
12 Q. Is there anything else that you anticipate to receive?
13 A. No, sir.
14 Q. Now, Peter, prior to September of 1976 what did you do?
15 A. I worked for the G. C. Murphy Company.
16 Q. And how long did you work for the G. C. Murphy Company?
17 A. Approximately four years.
18 Q. And what did you do for them?
19 A. I was the chief security officer investigating external
20 and internal theft.
21 Q. And how, why did you leave the G. C. Murphy Company?
22 A. In order to take over my mother's estate.
23 Q. And who was your mother?
24 A. Mrs. Minnie Moorman.
25 Q. And is she from Franklin County?

1 A. Yes, she is.
2 Q. And when did she die?
3 A. She died in July of 1976.
4 Q. And when did you come to Franklin County?
5 A. In August of 1976.
6 Q. Now, did you have any employment between the time that
7 you came here and the time that you were employed by
8 Sheriff Overton?
9 A. No, I did not.
10 Q. Now, where do you live?
11 A. 107 Warren Street, Rocky...
12 Q. And where is that?
13 A. That's in Rocky Mount, Virginia, Franklin County.
14 Q. And what, can you...the people that might not know
15 about it, located in reference to, may I say Midway
16 Cleaners?
17 A. It is directly across from Midway Cleaners.
18 Q. You still live there?
19 A. Yes, sir.
20 Q. Now, do you know the defendant, Ricky King?
21 A. Yes, I do.
22 Q. Do you see him today?
23 A. Yes, sir.
24 Q. And is that Mr. King seated beside Mr. Melesco?
25 A. I would like to...Mr. King looks slightly different.

He's wearing a different hair style. However, there are two moles on his right collar and one on the left side of his nose and a three-inch scar on his right arm, right forearm.

MR. MELESCO: I'm going to object to that, Your Honor. I don't think he's seen my client's forearm today.

A. No.

Q. He can testify to what he's seen before, Mr. Melesco.

A. I'm, I'm saying what I've seen before.

Q. Your Honor, I think that's extremely relevant and I would ask Mr. King to stand and let these be pointed out.

MR. MELESCO: If it please the Court, in light of the earlier motions I can see no need for this. He's identified my client.

Q. All right, sir.

THE COURT: All right.

Q. Now, when did you first meet Mr. Ricky King?

A. I first met him on 12-19-76.

Q. And where did you meet him?

A. I met him at his trailer on Highway 693.

Q. Now, who went with you or did anybody go with you to Mr. King's trailer?

A. Yes, sir.

1 Q. Who went with you there?
2 A. A young white male by the name of Tony, approximately
3 fifteen years old.
4 Q. Do you know his last name?
5 A. No, I do not. He is supposed to be Mr. Gillispie's
6 brother.
7 Q. All right now, did you first meet him on December 19th
8 or December the 20th?
9 A. On December the 19th.
10 Q. And who was there when you went there on December the
11 19th?
12 A. There was a Mr. King, this young, young man I referred
13 to as Tony, and there was a gentleman, a white male,
14 approximately six foot two, blond hair, a hundred and
15 eighty pounds. Those were all the people...and myself.
16 Those were all the people that were present.
17 Q. Okay. How did you get to Ricky King's home?
18 A. We drove, drove to his home in my car.
19 Q. And where did you pick up Tony Gillispie?
20 A. I picked him up at the Gillispie's house.
21 Q. And where is Ricky King's home?
22 A. Ricky King's home is in Franklin County off of Highway
23 693.
24 Q. And what type of home is it?
25 A. It is a trailer, blue and white in color. In front of

his trailer there are dark railroad ties.

Q. Okay. Now, do you remember what time you went there on the 19th?

A. I'll have to refer to my notes to be exact.

Q. Please refer to your notes.

A. Uh, no, sir. I don't. I don't, I didn't mark the time that I met him on the 19th.

Q. All right now, when you got there, what happened?

A. I...excuse me, sir. I made a mistake.

Q. Okay. What?

A. Okay.

Q. Okay. Go ahead.

A. Okay. I, on the 19th I did not meet Mr. King.

Q. Okay.

A. We went by his trailer and I saw where his trailer was. The 20th was the day that I met Mr. King for the first time.

Q. Is this the day that you, the other blond person there was there?

A. Yes, sir.

Q. That was on the 20th?

A. Yes, sir, on the 20th.

Q. So the events that you've related happened on the 20th and not the 19th.

A. Yes, sir.

1 Q. Okay. All right now, do you know what time you went
2 there on the 20th?
3 A. Yes, sir. At 10:25 a.m.
4 Q. Okay. And Mr. Gillispie was with you.
5 A. Yes, sir.
6 Q. Okay now, when you went there ~~what happened?~~
7 A. When I went there Mr. King and I talked for a while and
8 I asked Mr. King if he had, had any marijuana for sale.
9 Mr. King said he was very short. Or rather I noticed
10 on a tray that there were several marijuana cigarettes
11 rolled up.
12 Q. Now, how did you know that these were marijuana ciga-
13 rettes? What made you believe they were marijuana
14 cigarettes rolled up?
15 A. Well, sir, in the course of my investigation I have, I
16 have seen marijuana many times. There was also some
17 loose marijuana on a tray beside them, so I assumed
18 that it was marijuana that was rolled up.
19 Q. Okay. After you saw the marijuana what you thought
20 was marijuana on the coffee table, what did you do?
21 A. I asked Mr. King if he would turn me on.
22 Q. And what did you mean by "turning me on"?
23 A. That means Mr. King and myself sit together and smoke
24 a marijuana cigarette.
25 Q. All right. What was Ricky King's reply?

A. "Sure."

Q. And what did you do as a result of that?

A. Mr. King and I sat around and smoked one of his marijuana cigarettes and B.S. In the conversation I gave Mr. King several names of several of my references that, people that were involved in the drug culture that I'd already made cases on

Q. All right. And after this what happened?

A. After, after that there came a time I asked Mr. King, told him I sure would like it if he would, you know, go ahead and fix me up. Mr. King then walked to the back of his trailer, came back with a brown paper bag in his hand.

Q. Okay. Did you see what was in...did you see inside the paper bag?

A. There came a time I did.

Q. And what did you see...what was in the bag?

A. Well, what happened, sir, as Mr. King came out with the brown paper bag he pulled out several smaller plastic bags containing a leafy material that he told me were quarter pound blocks of marijuana.

Q. Did you see how many bags were in the bigger bag?

A. I could only say that there were more than four.

Q. And what happened after, after that?

A. After that I asked Mr. King how much does it cost. Mr.

1 King informed me that this was Colombian grass and it
2 sold for a hundred and twenty-five for a quarter pound.
3 I told Mr. King that I wasn't ready to buy that much
4 but I would like to buy an ounce right now. At that
5 time I gave, as Mr. King told me that a ounce would
6 cost thirty-five dollars. I gave Mr. King a twenty
7 dollar bill, a ten dollar bill and a five dollar bill.
8 Mr. King scooped out some of the leafy material, put
9 it into a smaller plastic bag, most commonly referred
10 to as a baggy, and I told him, "Thank you very much,"
11 and that I, I asked him could I...I'd be in the market
12 to buy a quarter pound the following day. He told me
13 I could. And then I left.
14 Q. All right now, you gave him what...what denomination
15 of bills did you give him?
16 A. One twenty dollar bill, one ten dollar bill and one
17 five dollar bill.
18 Q. All right. And what, were you in the habit, are you...
19 what does an ounce of grass normally, marijuana normally
20 cost?
21 MR. MELESCO: Objection, Your Honor. (1-2 words)
22 ...to conclusion on his part.
23 Q. I think he can testify to that.
24 THE COURT: Sir?
25 Q. I think he can testify to that. He was working as an

1 undercover agent and he's qualified as to having
2 purchased...
3 THE COURT: I think he can testify from his own
4 experience, not something else.
5 Q. All right. From your own experience, Peter, how much
6 did an ounce of grass normally cost?
7 A. If it's, it is of a Mexican variety it's usually
8 twenty dollars an ounce. If it is of the Colombian or
9 some other, other type it's usually about thirty-five
10 or forty dollars an ounce.
11 Q. And why did you pay thirty-five dollars an ounce for
12 this marijuana?
13 A. It was reported to me by Mr. King that this was
14 Colombian marijuana.
15 Q. Now, after you left when was the next time you saw Mr.
16 King?
17 A. The following day.
18 Q. What time did you go back to his trailer at that time?
19 A. I'd have to check my notes. (PAUSE) I, I arrived at
20 his trailer at 12:05 p.m.
21 Q. Who was with you?
22 A. No one was with me at that time.
23 Q. All right. Who was at the trailer when you got there?
24 A. There were several subjects at the trailer. One, the
25 blond haired individual I described earlier that drove

1 the Pinto. There was a white female there approximately
2 twenty-five years old. There was a white male there
3 approximately twenty-eight years old.
4 Q. Do you know any of these individuals by name?
5 A. Uh, no, I do not.
6 Q. Okay. After you got there what was the first thing
7 that happened?
8 A. After we got there Mr. King, sitting around, and Mr.
9 King always liked to talk a lot before the deal hap-
10 pened. But about five or ten minutes after I was there
11 a county deputy pulled in front of my car. I had to
12 go out and ask the county deputy what was the problem.
13 And he asked me to show, show my driver's license. I
14 showed him my driver's license then he said that he
15 was checking because there had been some people from
16 out of town...
17 MR. MELESCO: I'm going to object to anything the
18 deputy told him, Your Honor...
19 Q. Don't say what he said.
20 A. Okay. After a period of time the deputy said well,
21 it's fine, you check out...
22 Q. Don't say what he said. Just...
23 A. Oh, okay. After a time I returned to the trailer.
24 Q. All right now, when you returned to the trailer what
25 did you do?

1 A. I told Mr. King I was ready to do, to do the deal.
2 Q. Now, what, when you said that, what were you referring
3 to?
4 A. I was referring to the arrangement that we had made
5 earlier to buy a quarter pound of Colombian grass for
6 a hundred and twenty-five dollars.
7 Q. Okay. And what happened?
8 A. Mr. King said, "Well, let's wait a few minutes." Then
9 Mr. King asked me if I wanted to sample my product. I
10 told him all right. He rolled a couple of jades which
11 are marijuana cigarettes, sat around and then I told
12 Mr. King well, I, you know, I gotta go. Then came a
13 time I, Mr. King brought out the package that he said
14 contained a quarter pound of this Colombian grass and
15 I paid him one hundred and twenty-five dollars.
16 Q. Now, from your experience working, as you were working,
17 what did a, what have you paid in the past for a
18 quarter pound of marijuana?
19 A. Somewhere in between fifty and fifty-five dollars.
20 Q. And why did you pay a hundred and twenty-five dollars
21 for this marijuana?
22 A. Mr. King told me that it was Colombian grass. I felt
23 it was a rip-off, but I was making cases.
24 Q. All right. Now, what happened after you...where were
25 you in the trailer when you bought the, this marijuana?

1 A. I was in the front of the trailer when I made this buy.
2 Q. All right. And you said that he measured it out. How
3 did he measure it out?
4 A. Well, Mr. King just showed me a package and in my past
5 experience I normally know what a quarter pound of grass
6 looks like. By, by the look or by the volume it looked
7 to be about, approximately a quarter pound.
8 Q. Okay. Now, after you purchased it what did you do then?
9 A. Then I left. I put the, I put the marijuana in the
10 trunk of my car because of the particular time. Then
11 I drove directly home. After I arrived at home I
12 labeled the evidence, stored it in a stool that has
13 a, that's hollow on the inside and wrote up my notes on
14 it.
15 Q. Okay. Now, did you see Ricky King after December the
16 21st?
17 A. Yes, I did.
18 Q. When was the next date that you saw him?
19 A. I saw him one time in between then and 1-29-77.
20 Q. You saw him one time?
21 A. Yes, sir.
22 Q. Where did you see him between that?
23 A. I saw him at his trailer.
24 Q. And what day did you see him?
25 A. I, I can only say that, you know, in between that time

1 and between 1-29-77. I, that's as close as I can get,
2 get to it.
3 Q. Now, referring to your notes, on the next occasion
4 that you saw him.
5 A. That would be 1-27...excuse me.
6 Q. January the 27th?
7 A. Yes, sir. January the 27th?
8 Q. Okay. Now, where did you see him then?
9 A. I saw him at his trailer.
10 Q. And who was with you when you went to the trailer?
11 A. No one.
12 Q. Who was at the trailer when you went there?
13 A. Okay. There was, there was one...there was a white
14 male approximately twenty-two. There was a white male
15 approximately twenty years old. And that was it.
16 Q. Okay. What time did you go to the trailer?
17 A. I went to the trailer at 11:20 a.m.
18 Q. And why did you go to the trailer on January the 27th?
19 A. It had been pre-arranged that, that we set up a deal
20 to buy what he considered Moroccan grass.
21 Q. All right. And how much were you going to buy?
22 A. I was gonna buy a quarter pound.
23 Q. Okay. On that day what happened?
24 A. On that particular day I entered and then saw the sub-
25 jects were in there and Mr. King and I...this is usual

1 habit. We have to sit around and talk and B.S. some.
2 And there came a point when I told Mr. King that I just
3 had to go. At that particular point I, Mr. King and
4 myself walked to the rear of his trailer. Mr. King
5 produced what I would consider sort of a beat up pair
6 of scales...
7 Q. What, describe the scales. What type of scales were
8 they?
9 A. They were the type that are used in chemistry, balance
10 type with the plate on this end and with the bars
11 that slide down, like three. And he put what he said
12 was a quarter pound of Moroccan grass on it. I had
13 very little faith in the scales because of their condi-
14 tion, but I went on ahead and accepted it. And at
15 that time I gave Mr. King one hundred and fifteen
16 dollars for what he said was Moroccan marijuana.
17 Q. Now, what bills did you give the hundred and fifteen
18 dollars in?
19 A. I gave Mr. King six twenty dollar bills. At that point
20 Mr. King reached into his pocket and pulled out a lot of
21 money, thumbed through some tens and twenties and gave
22 me a five back in change.
23 Q. Okay. After that, after you got your change, what
24 happened?
25 A. I thanked him.

1 Q. What did you do then?
2 A. Then I put the, put the marijuana in my glove compart-
3 ment and I brought it home, labeled it and wrote up my
4 notes and stored the evidence until it was turned over.
5 Q. Now, excuse me.
6 A. Could I...I'd like to correct myself.
7 Q. Correct yourself. Go ahead.
8 A. Yes, sir. I said that the next...you asked me to read
9 from my notes and I glanced at my notes hastily and I
10 used 1-27-77 as the next time meeting him when I met
11 him at 1-26-77. That's when the deal was set to do
12 on 1-27-77.
13 Q. All right. Let me clarify this. Let me ask you the
14 question again. After December the 21st of 1977 when
15 was the next time you saw Ricky King?
16 A. On 1-26-77.
17 Q. And at that time what did you do when you saw him?
18 A. A deal was set to buy one-quarter pound of Moroccan
19 grass.
20 Q. And then after the 1-26-77 when was the next time that
21 you saw him?
22 A. 1-27-77.
23 Q. And that's, and what happened on 1-27 is what you've
24 just described.
25 A. Yes, sir.

1 Q. Now, Peter, I think, back on 12-20-76, what did you do
2 with the one ounce that you purchased after you pur-
3 chased it?
4 A. I put it in my glove compartment, took it home, labeled
5 it with my name, with my initials, whom I bought it
6 from, where it was bought and that date.
7 Q. Okay.
8 A. And then I wrote up my notes.
9 Q. Now, in each of these three transactions after you had
10 purchased the marijuana and after you had labeled it
11 as you've testified to, who did you turn it over to?
12 A. I turned it over to Trooper Childress.
13 Q. All right. Do you remember either one of these three
14 days or all of the three days after these purchases
15 when you turned it over to Trooper Childress?
16 A. I'm not sure. I think it was the next day though.
17 Q. On each time?
18 A. Yes, sir.
19 Q. Okay. Now, prior to December the 20th of 1976, had
20 you ever met Ricky King before?
21 A. No, sir.
22 Q. To your knowledge had you ever seen Ricky King before
23 that day?
24 A. No, sir.
25 Q. Now, did the sale, did all three sales take place in

1 Franklin County?
2 A. Yes, they did.
3 Q. Do you know how close Ricky King's trailer is to the
4 home of Tony Gillispie?
5 A. Mm, I'd say approximately a half a mile...
6 Q. Did you ever have any...half a mile. All right. And
7 you've testified you've seen Ricky King on four occa-
8 sions. Have you ever talked with him on the telephone
9 on any other occasion?
10 A. No, sir.
11 Q. Answer Mr. Melesco's questions.
12 CROSS EXAMINATION
13 BY MR. MELESCO:
14 Q. Peter, you don't mind if I call you Peter, do you?
15 A. No, not at all.
16 Q. You first got with Ricky King on December 20th. Correct?
17 A. Yes, sir.
18 Q. And you'd gone down to George Gillispie's house and
19 got with his little brother Tony?
20 A. Yes, sir.
21 Q. And you and Tony went up to Ricky's house.
22 A. Yes, sir.
23 Q. No doubt in your mind Tony Gillispie went with you?
24 A. The subject that went up to the house identified himself
25 as Tony.

1 Q. Gillispie.
2 A. As being Gillispie's brother.
3 Q. And he was in Gillispie's house.
4 A. When I saw him he was not in Gillispie's house. He
5 was standing in the front yard of his house.
6 Q. Well, he was down where Gillispie lives. Correct?
7 A. Yes, sir.
8 Q. And he rode up there with you? Correct?
9 A. Yes, sir.
10 Q. And whose car were you in?
11 A. My car.
12 Q. And what kind of car was that?
13 A. A 1976 brown Maverick.
14 Q. And who was at the house when you got there?
15 A. Uh, Mr. King and another white male with blond hair.
16 Q. Just one other white male?
17 A. Yes, sir.
18 Q. Do you remember talking to me about this case in the
19 Commonwealth Attorney's office?
20 A. Yes, sir.
21 Q. You didn't tell me two white males?
22 THE COMMONWEALTH: Your Honor, I object to that
23 as to Mr. Melesco's testifying.
24 Q. I can ask him if he told me two white males.
25 THE COMMONWEALTH: No, sir. Can ask what he told.

1 THE COURT: Yeah. Not what, not to whom he told
2 now.
3 Q. All right. At that time did you state that there were
4 two white males?
5 A. Yes, sir. I stated that there were two white males
6 on...I think the 21st is when, when I stated that there
7 were two white males.
8 Q. Not on the 20th?
9 A. No, sir. In reference to my notes.
10 Q. Well, on the 21st didn't you say that there was a
11 party going on?
12 A. No, sir.
13 Q. You did not.
14 A. No, sir.
15 Q. You did not make that statement in the Commonwealth
16 Attorney's office.
17 A. To my knowledge and the best I can recall there was
18 not a party going on at that time.
19 Q. I'm not asking you what you recall. I'm asking you
20 what you stated.
21 A. No, sir. I did not state that.
22 Q. All right. Who was there on the 21st?
23 A. I don't know them by name. I can read you the descrip-
24 tion of them if you want me to.
25 Q. Well, was there more than one person?

1 A. Yes, sir.
2 Q. And how did you get up there on the 21st?
3 A. I drove my car.
4 Q. By yourself.
5 A. Yes, sir.
6 Q. Went in by yourself.
7 A. Yes, sir.
8 Q. Did you smoke any marijuana with them on the 21st?
9 A. Yes, I did.
10 Q. Had you had any before you got there?
11 A. No, sir.
12 Q. Have any alcohol before you got there?
13 A. No, sir.
14 Q. How much marijuana did you smoke while you were there?
15 A. I think...well, sir, amongst the four of us, I think we
16 smoked probably two jades.
17 Q. All right. Was there a female there at the time on
18 the 21st?
19 A. Yes, there was.
20 Q. So there was two other white males, Ricky and a female?
21 A. Yes, sir.
22 Q. Nobody else.
23 A. No one else.
24 Q. And that's when you paid the quarter pound. You bought,
25 you allegedly bought the quarter pound.

1 A. Yes, sir.
2 Q. And the next time you saw my client was on the 26th of
3 January?
4 A. Yes, sir.
5 Q. And how did you get to his house then?
6 A. I drove my car.
7 Q. Did Alvin Starkey go with you?
8 A. No, sir.
9 Q. Who were you with?
10 A. I was with myself.
11 Q. Just by yourself.
12 A. Yes, sir.
13 Q. Who was at his house then?
14 A. On the 26th?
15 Q. Yes.
16 A. To my knowledge there was no one else there except Mr.
17 King.
18 Q. Just you and Mr. King?
19 A. Yes, sir.
20 Q. And the buy didn't go down then.
21 A. No, sir.
22 Q. Went down on the 27th, the next day.
23 A. Yes, sir.
24 Q. And how did you get up to his house that day?
25 A. I drove my car.

1 Q. Alvin Starkey wasn't with you then?
2 A. No, sir.
3 Q. Did you ever go up there with Alvin Starkey?
4 A. I, let me see. No, sir.
5 Q. You're sure?
6 A. Yes, sir.
7 Q. Who did you go up there with? Was Tony Gillispie the
8 only boy that you ever went up to Ricky King's house
9 with?
10 A. Yes, sir.
11 Q. You don't remember on the 27th of January having Alvin
12 Starkey and another black male drive you up there?
13 A. Uh, no, sir. It would not...it's not my habit to have
14 anyone else with me when I'm doing a deal.
15 Q. You do admit that you know Alvin Starkey.
16 A. Yes, I do.
17 Q. And you do admit that he rode around with you often.
18 A. He rode around with me sometimes.
19 Q. Drove you to D. C. a number of times, didn't he?
20 A. Not a number of times, sir. He drove me to D. C. on
21 one occasion.
22 Q. One occasion. But Alvin wasn't with you on the 27th
23 either.
24 A. No, sir.
25 Q. Did you see Ricky...Tony Gillispie's father back on

1 December the 20th?
2 A. No, sir.
3 Q. When you picked up Tony?
4 A. No, sir.
5 Q. And this pre-arrangement that happened on the 26th of
6 January where did that happen?
7 A. That happened at Mr. King's trailer.
8 Q. At what time?
9 A. I don't know what time it was.
10 Q. You mean those extensive notes...
11 A. Oh, yes...excuse me. On the 26th you say?
12 Q. Yes.
13 A. I did write down the time.
14 Q. What time is that?
15 A. It's 2:45 p.m.
16 Q. All right. Now, on the next day when you went back
17 there were a number of people there. Correct?
18 A. Yes, sir. Wait, on that...on the twenty...
19 Q. Seventh.
20 A. Twenty-seventh.
21 Q. The day that the alleged buy took place.
22 A. Yes, sir.
23 Q. Were any of those people people that you had seen in
24 December there?
25 A. No, sir.

1 Q. It was the same woman, wasn't it?
2 A. I don't remember stating that I saw a woman on December.
3 I'll take a look though.
4 Q. You just told me five minutes ago that there was a
5 woman and two white males there on December 21st.
6 A. Oh, yeh, the 21st. I thought you were referring to
7 the 20th.
8 Q. All right. So there was a woman there on the 21st.
9 A. Yes, sir.
10 Q. Was that same woman there on the 27th of January?
11 A. No, sir.
12 Q. No woman was there.
13 A. No, sir.
14 Q. No female person at all?
15 A. No, sir.
16 Q. How about a little girl? Was a little girl there on
17 the 27th?
18 A. I said no female persons, sir.
19 Q. What time did all this happen on the 27th?
20 A. On the 27th?
21 Q. Mm huh.
22 A. It happened in between 11:20 a.m. and 11:40 a.m.
23 Q. You're sure it didn't happen later in the afternoon?
24 A. I'm positive.
25 Q. Were you ever at Ricky King's house with Alvin Starkey

1 late in the afternoon when a number of people were
2 there?
3 A. No, sir.
4 Q. Are you sure?
5 A. Positive, sir.
6 Q. The truth of the matter is you tried to get Ricky to
7 sell you some PHP, didn't you?
8 A. Tried to sell me what?
9 Q. To, PCP?
10 A. I asked him if he had any available.
11 Q. You tried to buy that from him but he turned you down,
12 didn't he?
13 A. Yes.
14 Q. And he never sold you any marijuana, did he?
15 A. Yes, he did.
16 Q. He did. On the days that you've described.
17 A. Yes, sir.
18 Q. In front of all these people that you've described.
19 A. Yes, sir.
20 Q. And you admit that there was somebody else in the room
21 each time that these sales went down.
22 A. Yes, sir. No one...
23 Q. And all the sales happened out in the open in front of
24 other people.
25 A. No, sir. One sale was not done in the open.

1 Q. Which one was that?
2 A. That was the last one when I supposedly bought some
3 Moroccan marijuana.
4 Q. And where did that happen?
5 A. That happened to the back of his trailer.
6 Q. And you're sure that on the 26th when you went up
7 there the day before there was nobody there but you and
8 Ricky.
9 A. Yes, sir.
10 Q. And the only thing you talked about was buying it.
11 Nothing actually happened.
12 A. Yes, sir.
13 Q. I just want a yes or no question. That Sheriff Overton
14 told you to try to make a buy from Ricky King, didn't
15 he?
16 THE COMMONWEALTH: Your Honor, I object to that.
17 THE COURT: I think that's relevant.
18 Q. Yes or no?
19 A. Did Sheriff Overton tell me to buy from Ricky King?
20 Q. Yes.
21 THE COURT: Attempt to.
22 Q. Attempt to.
23 A. Attempt to? After I ran across him, yes.
24 Q. Sheriff Overton asked you to try to set up Ricky King.
25 Correct?

1 A. No, sir, he didn't.

2 THE COURT: Now, that's a different question, Mr.

3 Melesco.

4 Q. All right. But your answer was yes, that you talked

5 to the sheriff about this. Correct?

6 A. I talked to the sheriff about him after I had made my

7 initial contact with him.

8 Q. That's all.

9 REDIRECT EXAMINATION

10 BY THE COMMONWEALTH:

11 Q. Peter, on the 19th of December when you went to the

12 Gillispie home did you know Tony Gillispie before you

13 went there on that day?

14 A. No, I did not.

15 Q. How did you happen to go to Tony?

16 A. Well, he was standing out in the front yard, and I

17 asked him where, where his brother was. His brother...

18 Q. And who did you go there to see?

19 A. I went there to see his, his brother, see...his alias

20 is George Rondy and his name is Charles Gillispie.

21 Q. All right. And did you see his brother there on that

22 day?

23 A. Yes, I did.

24 Q. And how did you happen to get with Tony rather than

25 Charlie Gillispie?

1 A. Well, I asked Tony where his brother was and Tony said
2 he didn't know, he was out somewhere. So, we shot the,
3 you know, I said, "Well, what's going on?" you know.
4 Said, "I'd like to cop some pretty good herb." Then...
5 Q. Don't say what Tony might have said. Okay. Well, how,
6 how did you happen to get with Tony rather than Charlie?
7 A. Charlie wasn't there.
8 Q. He wasn't there.
9 A. Right.
10 Q. Okay. And had you...you'd never seen Tony before?
11 A. Not to my knowledge.
12 Q. How did you know he was approximately fifteen years
13 old?
14 A. Uh, well, by his size and weight, and he told...I was
15 surprised that he was out of school at the time.
16 Q. Okay. Now, Mr. Melesco has asked you about Al Starkey.
17 How do you know Al Starkey?
18 A. I know Al Starkey because I've purchased some drugs
19 from him.
20 Q. And what type of drugs did you purchase from Al Starkey?
21 MR. MELESCO: That's irrelevant, Your Honor.
22 Q. Your Honor, it's not...Mr. Melesco opened this up.
23 MR. MELESCO: Mr. Starkey hasn't testified yet,
24 Your Honor...impeach a witness that may or may not be
25 called?

1 THE COURT: Well, you asked him how he knew him.
2 Q. All right, sir. I withdraw the question. Now, you
3 had testified from some notes there. Is that correct?
4 A. Yes, sir.
5 Q. Those notes that you have in your hand, when were they
6 made?
7 A. These notes were made a couple of weeks ago from field
8 notes.
9 Q. All right now, I want you to explain to the Court and
10 to the jury what, when you made notes on the buys that
11 you have talked about today.
12 A. Each, each, the notes on each buy that I've talked
13 about today was made directly after the buy and they
14 were made on a yellow legal pad. Prior to coming to
15 court by a few weeks because each day is listed from
16 the first to the second to the third, each date that
17 involves a particular person is pulled out. Say, if
18 I have someone that I have a case on the third of a
19 month, then on the twentieth of a month, I'll have to
20 take the notes, extract them from the first. And then
21 I have to thumb through my notes and extract them from
22 the twentieth.
23 Q. All right. So these are the notes that you extracted
24 from the notes that you took on the day of the buy?
25 A. Yes, sir.

1 Q. Okay. That's all. Thank you.

2 RECROSS EXAMINATION

3 BY MR. MELESCO:

4 Q. Peter, let me ask you something. You made the determi-
5 nation that the Gillispie boy was fifteen. Was that
6 because he was not particularly large or...is he taller
7 than you or shorter than you?

8 A. He was shorter than I. I made the determination that
9 he was approximately fifteen. I think that I, in my
10 experience in working with the G. C. Murphy Company,
11 I was involved with quite a few youths. I knew that
12 he, I knew that he wasn't...

13 Q. You knew (few words)...

14 THE COMMONWEALTH: Let him answer the question, Mr.
15 Melesco.

16 Q. How tall was he?

17 THE COMMONWEALTH: Your Honor, I object. This man
18 was about to tell how he made the determination that
19 this man was fifteen years old and Mr. Melesco didn't
20 like that answer so he started talking...

21 THE COURT: Have you finished your previous answer,
22 Mr. Moorman?

23 A. No, sir, I have not.

24 THE COURT: All right. Finish the first answer.

25 A. When I was working with G. C. Murphy Company, when

1 working with shoplifting, it involves a great deal of
2 youths, and I've written down many descriptions on
3 youth. And by that, four years of that I determined
4 that Tony was approximately fifteen years old.
5 Q. How tall is the boy that you went to Peter...Ricky
6 King's house with?
7 A. I think uh...well, he was over three feet.
8 Q. I'm glad you think this is funny, Mr. Moorman.
9 A. I don't think it's funny, sir.
10 Q. How tall was he? With the vast experience of yours,
11 tell me.
12 A. Well, sir, I was sitting in the car at the time.
13 Q. Well, you, you got a good look at him. With this vast
14 experience of yours surely you can tell this jury.
15 A. Well, sir, the thing about it is I was not concerned
16 with getting but so much of description of Mr. Gillispie
17 because he was not that relevant to the case.
18 Q. Well, you've just sat here and told us that you made a
19 determination of his age. You couldn't make the same
20 determination of his height? Friend detective that
21 you are?
22 A. Well, sir, I would have to guess that he was approxi-
23 mately four feet tall.
24 Q. Four feet tall?
25 A. A little bit taller perhaps.

1 Q. Four feet tall? You realize I have a three and a half
2 year old that's almost four feet tall?
3 A. Well, sir, we can go in between four feet and five
4 feet. I cannot, I'm not gonna lie and perjure myself
5 and give you a false answer if that's what you want.
6 Q. I think...do you mean between five and six feet, Mr.
7 Moorman?
8 A. Sir, I don't know how tall he was.
9 Q. That's all.
10 A. I'll have to leave it at that.
11 RE-REDIRECT EXAMINATION
12 BY THE COMMONWEALTH:
13 Q. Peter, can you indicate on your own...stand up and
14 indicate on your body how, approximately how tall you
15 think he was.
16 A. I think the person to me come somewhere around in here.
17 MR. MELESCO: And how tall are you?
18 A. I'm six feet tall.
19 Q. What part of your body did you indicate?
20 A. I indicated just below my chin.
21 Q. All right. Okay.
22 THE WITNESS STANDS ASIDE.
23 MR. MELESCO: May I see the Court for a few seconds?
24 Maybe we can speed this up.
25 THE COMMONWEALTH: Judge, if I can have just one

1 minute to get this evidence together. (PAUSE) ...as
2 Commonwealth's exhibit number one containing twenty-one
3 point one grams of marijuana, and also the lab report
4 as Commonwealth's exhibit number two, identifying the
5 substance in the envelope as marijuana. I would move
6 for introduction as Commonwealth's exhibit number four
7 an envelope containing eighty-two point four grams of
8 marijuana and a lab report by a Cheryl Metzler indicat-
9 ing that the substance in the envelope is marijuana.
10 And I would also move to introduce as Commonwealth's
11 exhibit number five another envelope containing ninety-
12 two point one grams marijuana and a lab report also
13 signed by Cheryl Metzler as Commonwealth's exhibit
14 number six, indicating that the substance in the bag
15 is indeed marijuana. These three packs of marijuana
16 are the ounce purchased on December the 20th, the
17 amount purported to be a quarter pound that was pur-
18 chased on December the 21st, and the purported quarter
19 of pound that was purchased on December the...I mean
20 January the 27th. Mr. Melesco has stipulated that
21 these are the items that Peter Moorman says he pur-
22 chased from Ricky King. And these are the same packs
23 that were turned over to Trooper Childress and turned
24 over to the lab through Trooper Childress.
25 MR. MELESCO: If it please the Court, the stipula-

1 tion is those are the, that's the marijuana that he
2 said, not to be admitting that he sold him any...
3 THE COMMONWEALTH: Right, sir. That's...
4 THE COURT: Right. Very well. Proceed.
5 THE COMMONWEALTH: Your Honor, the only other
6 question I have is the...I'm pretty sure Metzler also
7 intended to get into evidence how many grams are in
8 one ounce.
9 MR. MELESCO: Twenty-nine, I believe.
10 THE COMMONWEALTH: Twenty-eight.
11 THE COURT: All right.
12 THE COMMONWEALTH: All right, sir. Your Honor,
13 that's the Commonwealth's case.
14 AFTER A RECESS REQUESTED BY MR. MELESCO, OPEN
15 COURT RESUMED AS FOLLOWS:
16 TONY GILLISPIE
17 first witness for the Defense, after first
18 having been duly sworn, testified as follows:
19 DIRECT EXAMINATION
20 BY MR. MELESCO:
21 Q. Tell the Court and the jury your name.
22 A. Tony Gillispie.
23 Q. And your given name is Anthony?
24 A. Mm huh. (Yes.)
25 Q. And how old are you, Tony?

1 A. Fifteen.
2 Q. And I take it you're over three feet tall.
3 A. Mm huh. (Yes.)
4 Q. And where do you live?
5 A. Boones Mill.
6 Q. Here in Franklin County?
7 A. Mm huh. (Yes.)
8 Q. Do you know Ricky King?
9 A. Yes, sir.
10 Q. And do you know where he lives?
11 A. Yes, sir.
12 Q. And I believe you have an older brother that's a friend
13 of Ricky's.
14 A. Yes, sir.
15 Q. All right now, Mr. Alexander's going to ask you this
16 so I'll just go ahead. Your older brother has been
17 tried and convicted by testimony of Peter Moorman.
18 Correct?
19 A. (Answer not audible.)
20 Q. On December 20th when school was in session, did you
21 go to school that day, a Monday in December 1976?
22 A. No, sir.
23 Q. At my request you checked this out, haven't you?
24 A. Mm huh. (Yes.)
25 Q. Why didn't you go to school that day?

1 A. I had the flu.
2 Q. And what school did you attend?
3 A. Franklin County Junior High School.
4 Q. And what did you do that day as best you can remember?
5 A. Stayed in bed.
6 Q. Who was home with you?
7 A. My daddy and my mamma.
8 Q. All right. Your daddy was home with you? Did you see
9 Peter Moorman at all that day?
10 A. Not, not that I know of. I was in bed.
11 Q. Did you ever go with Peter Moorman to Ricky King's
12 house?
13 A. No, sir.
14 Q. Did you visit Ricky King often yourself?
15 A. No, sir.
16 Q. When was the last time that you've been in Ricky King's
17 house?
18 A. Mm, three or four months ago I reckon it was. The woods
19 caught on fire, I went (2-3 words).
20 Q. All right. Had you ever, did you go to his house on
21 the 20th of December?
22 A. No, sir.
23 Q. Did Peter Moorman come by your house and pick you up?
24 A. No, sir.
25 Q. Answer Mr. Alexander's questions.

1 CROSS EXAMINATION

2 BY THE COMMONWEALTH:

3 Q. Now, Tony, when were you fifteen?

4 A. December the 12th.

5 Q. Do you know how tall you are?

6 A. Five foot six, something like that.

7 Q. And do you know what you were doing on December the 21st?

8 A. The 21st?

9 Q. Yeh.

10 A. I had to go to school that day. Had to take something

11 up there.

12 Q. What day was December the 20th on?

13 A. The 20th was Monday I reckon or something like that.

14 Q. What?

15 A. A Monday.

16 Q. A Monday? And do you know what you were doing on

17 December the 19th?

18 A. 19th.

19 Q. Don't know what you were doing. Now, it is true as

20 Mr. Melesco has asked you that your brother was convict-

21 ed on the testimony of Peter Moorman. Is that right?

22 A. Mm huh. (Yes.)

23 Q. Does that have anything to do with the way you're

24 testifying today?

25 A. No, sir.

1 Q. Have anything to do with your memory?
2 A. No, sir.
3 Q. You, you and your brother are good friends of Ricky
4 King, are you not?
5 A. Well, I'd (not clear) say so.
6 Q. Your brother was pretty close to Ricky King.
7 A. Yes, sir.
8 Q. Stayed over at his trailer a lot, didn't he? And you
9 used to go over to his trailer a lot, didn't you?
10 A. No.
11 Q. You didn't.
12 A. Never. I'd...
13 Q. When was the last time you went over there?
14 A. When I, what I just told him. When the woods caught
15 on fire below his house.
16 Q. But you don't know when that was.
17 A. No. It was back during the summer sometime.
18 Q. Okay. Thank you. That's all.
19 REDIRECT EXAMINATION
20 BY MR. MELESCO:
21 Q. Tony, just to get it straight. Did you ever go there
22 with Peter Moorman?
23 A. No, sir.
24 Q. That's all.
25 THE WITNESS STANDS ASIDE.

1 CHARLES R. GILLISPIE

2 second witness for the Defense, after first

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MELESCO:

6 Q. Tell the Court your name.

7 A. Charles R. Gillispie.

8 Q. And is that your young boy that just testified?

9 A. Yes, sir.

10 Q. Do you have any other children?

11 A. Yes, sir.

12 Q. And what other children do you have?

13 A. I have Ronnie Dale, and I have Lillian, Gene, it's (one

14 word) Alice and...

15 Q. Well, what other boys do you have?

16 A. Robert, Charles Jr., and Anthony and Ronnie.

17 Q. Are any of them close to Anthony's age or size?

18 A. No, sir.

19 Q. So he's the only one that would be in the age of

20 fourteen and about that size.

21 A. Yes, sir.

22 Q. All right. On December the 20th, a Monday, of 1976,

23 where was Tony?

24 A. He was at home with the flu.

25 Q. Was he up and about or in bed or what?

1 A. He was in the bed.
2 Q. Do you know Peter Moorman?
3 A. I've seen him. I, I don't know him at all.
4 Q. Had Peter been to your house before?
5 A. Yes, sir.
6 Q. To your knowledge did Anthony leave on December 20th
7 with Peter Moorman?
8 A. No, sir.
9 Q. Were you there?
10 A. Yes, sir.
11 Q. Your son, one of your oldest sons has been convicted
12 by the testimony of Peter Moorman. Correct?
13 A. Yes, sir.
14 Q. But Anthony was home on the 20th all day with you.
15 A. He was.
16 Q. Answer Mr. Alexander's questions.
17 CROSS EXAMINATION
18 BY THE COMMONWEALTH:
19 Q. Now, Mr. Gillispie, I'm confused. You said in answer
20 to Mr. Melesco's questions that he was home all day
21 on the 19th and all day on the 20th.
22 MR. MELESCO: I didn't mention the 19th, Mr.
23 Alexander.
24 Q. Your Honor, I'd like to have the record read back.
25 MR. MELESCO: Be fine.

1 THE COURT: Well, let's ask him.
2 Q. Could I have the court reporter...
3 THE COURT: Well, it isn't that important, Mr.
4 Alexander.
5 Q. All right, sir. On the 20th is the day that you were
6 home and you, and you're saying that Peter Moorman
7 didn't come to your house. Is that correct?
8 A. No, sir.
9 Q. What day are you saying?
10 A. That Peter Moorman came to my house?
11 Q. That he didn't...what day was your son home sick?
12 A. He didn't come to my house on the 20th.
13 Q. On the 20th.
14 A. He didn't come on the 19th, and he didn't come on the
15 18th, and he didn't come on the 21st. I can answer
16 those questions.
17 Q. All right. How do you know that, Mr. Gillispie?
18 A. Cause I'm retired and I keep my grandson.
19 Q. And you were there?
20 A. I was there. Yes.
21 Q. You're a little bit irritated at Peter Moorman, aren't
22 you?
23 A. No, sir.
24 Q. Not irritated at all?
25 A. None whatever.

1 Q. Are you friendly towards him?
2 A. I'm not...I don't know the man that well to be friendly
3 or unfriendly towards him.
4 Q. Well, do you feel kindly towards him after he convicted
5 your son?
6 A. I have no feelings for Peter Moorman one way or the
7 other.
8 Q. All right, sir. That's all.
9 THE WITNESS STANDS ASIDE.
10 WILLIAM JEFFERSON HALL
11 third witness for the Defense, after first
12 having been duly sworn, testified as follows:
13 DIRECT EXAMINATION
14 BY MR. MELESCO:
15 Q. State your name please.
16 A. William Jefferson Hall.
17 Q. And where do you live, Bill?
18 A. Route Six, Rocky Mount, Virginia.
19 Q. Speak straight ahead.
20 A. Route Six, Rocky Mount, Virginia.
21 Q. You know the young man sitting next to me?
22 A. Yes, I do.
23 Q. And it's Ricky King.
24 A. It is.
25 Q. And how long have you known Ricky?

1 A. Two years.
2 Q. And do you know where he lives?
3 A. I do.
4 Q. And where is that?
5 A. Boones Mill.
6 Q. Were you at Ricky's house on the 21st of December 1976?
7 A. Yes.
8 Q. And how are you sure about that date?
9 A. Because Mrs. King was there. She was off from work.
10 Q. All right. Who were you with?
11 A. Tony Mattox.
12 Q. And did anything unusual happen that day?
13 A. No.
14 Q. Did, did a young black male named Peter Moorman come
15 there?
16 A. He did.
17 Q. Had you ever seen Peter Moorman before?
18 A. No.
19 Q. Were you at Ricky King's house the day before that the
20 best you can remember?
21 A. No.
22 Q. All right. Just tell in your own words and very slowly
23 so the jury can hear it, exactly what happened the best
24 you can remember on December 21st, 1976.
25 A. Well, about 10:30 or quarter till eleven in the morning

1 Mr. Mattox and I went over to Ricky's.
2 Q. Speak up.
3 A. All right. About 10:30 in the morning or quarter till
4 eleven...I'm not exactly sure of the time...Mr. King,
5 Mr. Mattox and I went over to Mr. King's.
6 Q. Were you employed at the time?
7 A. I was drawing unemployment. It was winter and rough
8 weather and we didn't have anything to do.
9 Q. And who do you work for?
10 A. My brother.
11 Q. Doing what?
12 A. Construction.
13 Q. So it was just a bad time of year for construction
14 workers?
15 A. Right. Well, and it was Christmas too.
16 Q. All right. So you went over to Ricky's house. What
17 happened?
18 A. Well, we fixed...Patty fixed us some coffee and we were
19 sitting there talking. Mr. Moorman came in. And he
20 sat down and I don't know, we sit there and talked a
21 few minutes. And he tried to buy some pot off of Mr.
22 King.
23 Q. What did he say?
24 A. He said, "Do you have any sh-moke for sale?" and Mr.
25 King told him no.

1 Q. All right. Then what happened?
2 A. Well, then he tried to buy some PHC I think is what it
3 was. I think what he asked for. Ricky told him that
4 he didn't like it and he didn't want it in his house.
5 Q. And what did Peter say then?
6 A. Uh, okay or something like that.
7 Q. Was there any marijuana in the house that day?
8 A. Yes, there was.
9 Q. Who had it?
10 A. Mr. Moorman.
11 Q. Did y'all have any of your own?
12 A. I didn't.
13 Q. Did Ricky or anybody else?
14 A. If they did I didn't see it.
15 Q. What happened with the marijuana that Mr. Moorman had?
16 A. We smoked it.
17 Q. Who offered it to you?
18 A. Uh, well, I...Mr. Moor...I believe Mr. Moorman is the
19 one that handed it to me. I don't know. It's going
20 around the table.
21 Q. Okay. Did Mr. Moorman and Ricky ever get out of your
22 sight? Together?
23 A. Not together.
24 Q. Did any transaction take place or any sale of marijuana
25 happen that day?

1 A. Not that I saw.
2 Q. All right. Who left first, you or Ricky...you or Peter
3 Moorman?
4 A. Uh, Moorman.
5 Q. So you were there when he came and there when he left.
6 A. Yes, sir.
7 Q. During that time did Ricky King sell him any marijuana?
8 THE COMMONWEALTH: Your Honor, he's already an-
9 swered that question once.
10 Q. Well, just state your answer, yes or no.
11 THE COMMONWEALTH: Your Honor, he's already
12 answered the question. He said, "Not that I saw."
13 THE COURT: All right. I think he has too, Mr...
14 Q. All right.
15 THE COURT: Another question.
16 Q. Who else was there now?
17 A. Mrs. King.
18 Q. And who else?
19 A. Mm, I believe Mr. King's daughter was there.
20 Q. Okay. And the Mattox boy.
21 A. And Tony, yeh. He came over with me.
22 Q. Answer Mr. Alexander's questions.
23 CROSS EXAMINATION
24 BY THE COMMONWEALTH:
25 Q. Now, you were there only on December the 21st. Is that

1 correct?
2 A. Correct.
3 Q. You weren't there on the 20th. You weren't there on
4 January 27th.
5 A. No.
6 Q. How often did you go to Ricky King's house, Bill?
7 A. I don't know. I go over there occasionally.
8 Q. Are you a pretty good friend of Ricky?
9 A. Fairly good friend, yeh.
10 Q. How long...and you've known him I think what, two years?
11 A. About two years, yeh.
12 Q. And you didn't see Ricky King sell any marijuana, did
13 you?
14 A. No, I did not.
15 Q. You don't know whether or not he sold any, do you?
16 A. I don't see how he could have.
17 Q. Well, you...okay. You don't see how he could have, but
18 you don't know of your own knowledge whether or not
19 he sold it or not, do you?
20 A. Well, I, I didn't stay in Ricky's pocket the whole
21 time, but I was in the trailer.
22 Q. Ricky had marijuana that day, did he not?
23 A. Not to my knowledge.
24 Q. Not to your knowledge?
25 A. No, sir.

1 Q. Do you know that he didn't have it?
2 A. No, I don't know that he didn't have it, but...
3 Q. Have you been there on other occasions and smoked
4 marijuana also?
5 A. Yes, I have.
6 Q. Have you been there and smoked marijuana of Mr. King's
7 before?
8 MR. MELESCO: Your Honor, I don't see the rele-
9 vance of this. He's not on trial.
10 Q. Mr. Melesco opened it up.
11 MR. MELESCO: The specific offenses are three
12 sales on the dates in question, not smoking marijuana
13 or...
14 THE COURT: I think that's right, Mr. Alexander.
15 Q. All right, sir. How do you establish the date as being
16 December the 21st, Bill?
17 A. Because Mrs. King was there and she was off from work
18 and she normally works everyday.
19 Q. Well, how did that, how do you establish that as being
20 December 21st?
21 A. Because that's the day that she was off from work.
22 Q. From what Mrs. King has told you?
23 A. Right. Yeh.
24 Q. So you don't have any independent recollection other
25 than what somebody else has told you of what date that

1 that was, do you?
2 A. Well, I know it was the week before Christmas.
3 Q. Do you know which day of the week it was before Christ-
4 mas?
5 A. No, whatever the 21st is on.
6 Q. Well, how do you know then...of your own knowledge
7 how do you know that it was the 21st?
8 A. Well, if Mrs. King was there and off from work...
9 Q. It had to be the 21st.
10 A. Yes, sir.
11 Q. And that's because Mrs. King told you that it was on
12 the 21st. Right?
13 A. Well, I saw her there and she said she'd gone back and
14 checked her work record.
15 Q. Well, let me just ask you that. That she had told you
16 it was the 21st. Isn't that right?
17 A. That she told me?
18 Q. She is the one that told you it was December the 21st.
19 Isn't that right?
20 A. Well, yes.
21 Q. Okay. So you don't have any independent recollection
22 of the day that you were there, of the date that you
23 were there.
24 A. Not the actual date.
25 Q. All right. That's what I'm asking. Mrs. King told you

1 it was December the 21st. Right?
2 A. That's not exactly right.
3 Q. Well, you said she checked her work records and told
4 you it was the 21st.
5 A. Well, I also Mister...
6 Q. Mr. Melesco told you also it was the 21st?
7 A. Right.
8 Q. Okay. Did Ricky King also tell you it was the 21st?
9 A. No.
10 Q. But Mr. Melesco and Mrs. King told you it was the 21st.
11 A. Right.
12 Q. Okay. And also, is...Mrs. King is not Ricky King's
13 wife, is she?
14 A. Yes, she is.
15 Q. It's his, it's Ricky's wife, not his mother?
16 A. Uh, yes, his wife, not his mother.
17 Q. It's his wife.
18 A. Right.
19 Q. Okay. Thank you.
20 REDIRECT EXAMINATION
21 BY MR. MELESCO:
22 Q. Bill, assuming that Peter Moorman testified that he
23 was only at Ricky King's house two days in December
24 prior to Christmas, were you there at least one of
25 those days?

1 A. I was, yeh.
2 Q. And Peter Moorman was there.
3 A. He was there.
4 Q. And the exact day you're not sure, but it was the day
5 he was there.
6 A. Right. I...
7 Q. That's all.
8 THE WITNESS STANDS ASIDE.
9 TONY MATTOX
10 fourth witness for the Defense, after first
11 having been duly sworn, testified as follows:
12 DIRECT EXAMINATION
13 BY MR. MELESCO:
14 Q. Tell the Court and the jury your name.
15 A. My name is Tony Mattox.
16 Q. And where do you live, Tony?
17 A. I live, Scuffling Hill in Rocky Mount.
18 Q. And how long have you lived in Franklin County?
19 A. All my life.
20 Q. Do you know Ricky King?
21 A. Yes, I do.
22 Q. Do you know where he lives?
23 A. Yes, I do.
24 Q. Were you at Ricky's trailer in Boones Mill prior to
25 Christmas last year?

1 A. Yes, sir.
2 Q. All right. Can you remember what day it was?
3 A. The day of the week, I think it was Tuesday, the 21st.
4 I believe it was Tuesday morning.
5 Q. All right. Who did you go there with?
6 A. Bill Hall.
7 Q. And who was there when you got there?
8 A. Mr. King, his wife and Peter Moorman.
9 Q. Was Peter there when you got there?
10 A. I think, yes, I think he was.
11 Q. You're sure about that?
12 A. Pretty sure.
13 Q. All right. What time did you get there?
14 A. I'd say between ten and ten thirty or eleven, something
15 around there.
16 Q. Just tell what happened when you got there to when you
17 left.
18 A. Uh, didn't much really take place. It was just a
19 casual greeting. I've knowed Rick for a while. I go
20 see him quite often. The only thing was...
21 THE COMMONWEALTH: Your Honor, I can't understand
22 this witness. I don't know what he's saying and can't
23 hear him and can't understand him.
24 Q. Tony, talk straight ahead.
25 THE COURT: Talk to me and as loud as I'm talking

1 to you.
2 A. Yes, sir.
3 Q. Tony, when you got there just tell the Court in your
4 own words what happened as best you can remember.
5 A. Ricky, Mr. King was sitting at his coffee table. The
6 other guy, I found out his name was Peter Moorman. I
7 didn't know him at the time. It was the first time I'd
8 ever met him and the last time I've ever seen him.
9 Q. Was he white or black?
10 A. He was black.
11 Q. What happened? Was there any conversation between the
12 two of them?
13 A. Uh, it was a lot of talk, you know, flowing around the
14 room. I didn't really pay that much attention to what
15 Mr. Moorman was saying because he was talking a lot
16 about his previous experiences, like when he was in the
17 Army or something like that, you know. He was just
18 talking.
19 Q. Was there any discussion of a sale?
20 A. Sale?
21 Q. Of drugs?
22 A. No.
23 Q. Did Peter ask to buy some drugs?
24 A. Uh, I...there was no sale. I didn't see any money or
25 sale of anything.

1 THE COURT: Well, that's not what he asked you.
2 Q. Was there a discussion of a sale? Not that there was
3 a sale. Did Peter try to buy some drugs?
4 A. No.
5 Q. He didn't try to buy drugs from Ricky.
6 A. Not in front of me. Not while I was talking to him,
7 while I was sitting at the table.
8 Q. Did the two of them ever get out of your sight together?
9 A. At the time I was there neither one of them got out of
10 sight until they left.
11 Q. All right. Who left first as best you can remember?
12 A. Peter Moorman left first I...
13 Q Did you see any sale of marijuana change hands?
14 A. No, sir.
15 Q. Did you see any money change hands?
16 A. No, sir.
17 Q. Was any money produced?
18 A. I didn't see any money.
19 Q. Answer Mr. Alexander's questions.
20 CROSS EXAMINATION
21 BY THE COMMONWEALTH:
22 Q. Tony, there was, there was no discussion of the sale
23 of drugs at all. Is that correct?
24 A. No, sir. Not, not in my...
25 Q. Not in your presence.

1 A. Not in my presence.
2 Q. Were you smoking grass that day?
3 A. No, I wasn't.
4 Q. Anybody smoking grass?
5 A. No.
6 Q. Nobody smoking grass at the, at Ricky King's trailer?
7 A. Not while I was there.
8 Q. Not while you were there.
9 A. Not while I was there.
10 Q. Peter, Peter Moorman was there when you got there.
11 A. Yes.
12 Q. Peter Moorman left before you left.
13 A. He left before I...
14 Q. Right. He left before you did.
15 A. Yes, sir.
16 Q. And nobody was smoking any marijuana.
17 A. No, sir.
18 Q. Or drinking.
19 A. Not in my, not in my...
20 Q. Not in your presence.
21 A. Not in my presence.
22 Q. And Ricky King was there.
23 A. Yes, sir.
24 Q. Ricky King's wife was there.
25 A. Yes, sir.

Q. Bill Hall was there.

A. Yes, sir.

Q. Peter Moorman was there.

A. Yes, sir.

Q. You were there.

A. Yes, sir.

Q. Five people.

A. Yes, sir.

Q. And that's all that was there.

A. Yes, sir.

Q. And nobody was smoking grass in your presence.

A. No, sir.

Q. Okay. Thank you, sir.

THE WITNESS STANDS ASIDE.

EVERETT KENNETH LAW

fifth witness for the Defense, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MELESCO:

Q. Tell the Court your name.

A. Everett Kenneth Law.

Q. And where do you live, Kenny?

A. Rocky Mount.

Q. And how old are you?

A. Twenty.

1 Q. And are you working?
2 A. I work for my father.
3 Q. What do you do?
4 A. Paint houses, put roofs and things on them.
5 Q. All right. Do you know Ricky King?
6 A. Yes, sir.
7 Q. Do you know where he lives?
8 A. Uh, yes, sir.
9 Q. And where is that?
10 A. Boones Mill.
11 Q. Did you have an occasion to visit his house in January
12 of this year?
13 A. Ah, yes, sir.
14 Q. Can you remember the exact date if at all possible?
15 A. It was around the end of the month.
16 Q. You can't be more sure than that?
17 A. Ah...
18 Q. If you can, can't, don't worry about it.
19 A. I'm not for sure exactly.
20 Q. All right. Who was there?
21 A. When I got there just Rick, his old lady, his wife.
22 Q. All right. Who came after that?
23 A. Kenny Cooper.
24 Q. Okay. And who else?
25 A. Some colored dude come in.

1 Q. Did you catch his name?
2 A. He said his name was Pete Moorman.
3 Q. All right. Had you ever seen him before?
4 A. No, sir.
5 Q. And how many times were you at Ricky's house in January?
6 A. Just a couple of times. I drive up there and sometimes
7 me and Rick go to Roanoke and places.
8 Q. How many times in January did you see Peter Moorman
9 at his house?
10 A. I've just seen him once.
11 Q. That one day?
12 A. Yeah.
13 Q. All right. What happened that one day the best you can
14 remember between Peter and Ricky?
15 A. Well, Ricky and his wife and them was eating when Pete
16 come in. Three or four of us sat around on the couch.
17 Pete was asking could he buy any drugs. And Rick told
18 him he didn't have anything. He pulled out some joints,
19 Pete did, and lit them up and passed them around. Asked
20 me did I know anything about any kind of guns or any-
21 thing, and I told him I didn't fool with it. He started
22 talking about some pills and things and Rick told him
23 if anybody in his trailer or anything had any pills
24 that he knew of he would run them out. He sat around
25 a little while, and he started...we asked him was he

1 driving any kind of car. He said somebody dropped him
2 up on top of the hill and he walked down it. It was
3 a little too suspicious for him to park his car there.
4 Q. He said somebody dropped him off.
5 A. Dropped him off and he walked down. I stayed there
6 ten or fifteen minutes or so and Pete got up and left.
7 Q. At any time did Peter and Ricky get out of your sight
8 together?
9 A. Rick stayed in the kitchen the time I was there.
10 Q. And you were there before Peter got there and after he
11 left.
12 A. When I come in I went over to the kitchen and Rick told
13 me he didn't think that Pete was right. I said, "What
14 do you think?" He said, "I think the man is a cop."
15 Q. He told you he thought Rick...Peter was a cop.
16 A. Yes.
17 Q. Now, who got there first, you or Peter?
18 A. Me.
19 Q. And he told you this when Peter came in.
20 A. Well, yeh, I was already...we were standing over in the
21 kitchen. Rick and his wife and his kid was eating.
22 Q. What time did all this happen as best you can remember?
23 A. Five, five thirty, something. Six o'clock. It was
24 around then.
25 Q. And once again this was the only day in January you saw

1 Peter Moorman up there.
2 A. Yes, sir.
3 Q. And Ricky never left the kitchen as best you can
4 remember.
5 A. No, sir.
6 Q. All right. Answer Mr. Alexander's questions.
7 CROSS EXAMINATION
8 BY THE COMMONWEALTH:
9 Q. Kenny, how old are you?
10 A. Twenty.
11 Q. And where do you work?
12 A. For my father and 'em.
13 Q. And who's your father?
14 A. Everett Law.
15 Q. And what do you do?
16 A. Uh, well, we just put the roofing on Mr. Davis' office
17 about a month ago.
18 Q. Right. And how long have you worked with your father?
19 A. Ten or twelve years.
20 Q. Is that all you've done?
21 A. Mostly.
22 Q. Now, what day in January did you say that you were
23 there?
24 A. It was at the end, close to the end of the month.
25 Q. And how do you know it was in January?

1 A. Well, I go over and see Rick sometimes, you know. We
2 go to Roanoke. go to the King's Inn and places.
3 Q. Y'all pretty good friends?
4 A. Real good friends.
5 Q. Okay.
6 A. I knew him for a long time.
7 Q. Right. Go to school with him?
8 A. No, sir.
9 Q. All right. You went over there at the end of January,
10 but now how do you know it was in January that you went
11 there?
12 A. Well, I can keep up with months but I can't keep up
13 with days.
14 Q. Well, that still doesn't help me out too much. How do
15 you know it was January? How do you keep up with the
16 months?
17 A. Well, I can remember that.
18 Q. Well, how do you know it was end of January and not
19 the end of December?
20 A. Well, I don't know, sir.
21 Q. Has anybody told you it was end of January?
22 A. Well, I've heard them talking about it.
23 Q. Who have you heard talking about it?
24 A. Just my lawyer and a couple of people.
25 Q. Your lawyer?

1 A. Rick's lawyer, and a couple people.
2 Q. Who's your lawyer?
3 A. I don't have one.
4 Q. All right. Who's Rick's...you mean Mr. Melesco?
5 A. Yes, sir.
6 Q. About the end of January? You talked with Rick about
7 it being the end of January?
8 A. No.
9 Q. You hadn't talked with Ricky King about this at all,
10 have you?
11 A. Rick...no, not for a while. Not till, a couple of days
12 after they come and got him.
13 Q. After he was arrested you talked to him? Okay. And
14 you hadn't talked to him since he was arrested.
15 A. No, sir. All of us met over in Melesco's office about
16 a week ago.
17 Q. And that's when you talked about it.
18 A. Right.
19 Q. And who all met over there at that time?
20 A. Most of the people that got summonsed.
21 Q. Most of the people that are here today?
22 A. Yeah.
23 Q. Did y'all all talk about it together?
24 A. Well, we was sitting there in his office and he called
25 us in one at the time and talked to us.

1 Q. One at the time. And then that's when you talked about
2 it. Okay. Had you ever seen Peter Moorman before that
3 day?
4 A. Yes, sir.
5 Q. Where had you seen him before?
6 A. He stayed over at the Raceway Restaurant all time.
7 Q. He did now?
8 A. That's right.
9 Q. Did you see him any place other than the Raceway
10 Restaurant?
11 A. Yeah. I've seen him everywhere.
12 Q. Do you know Charlie Gillispie?
13 A. No, sir.
14 Q. You don't know Charlie Gillispie?
15 A. I don't think so.
16 Q. Do you know Tony Gillispie?
17 A. Yeah, I think I do.
18 Q. But you don't know Charlie Gillispie.
19 A. No, sir.
20 Q. You never seen Charlie Gillispie at Ricky King's
21 trailer?
22 A. Is his name George?
23 Q. Do you know George Rondy?
24 A. I know George...what you say Gi...
25 Q. Rondy?

1 A. Rondy, whatever. I know George but I don't know
2 Charles.
3 Q. You know George Rondy though, don't you?
4 A. Yeah.
5 Q. Well, describe the man that you're talking about.
6 MR. MELESCO: Mr. Alexander, I think he knows
7 George Gillispie.
8 A. The boy I'm talking about his, his hand is crippled,
9 crippled like, his hand is. I know him. Is that who
10 you're talking about?
11 Q. That's who I'm talking about.
12 A. Well, I know him.
13 Q. How long have you known him?
14 A. Uh...
15 MR. MELESCO: What's the relevance of this, Your
16 Honor?
17 THE COURT: I don't know.
18 Q. Your Honor, the relevance is that this man George
19 Charlie Gillispie is a friend of Ricky King's, is over
20 there all the time. Charlie Gillispie's been brought
21 up today by Mr. Melesco.
22 MR. MELESCO: Not through this witness.
23 Q. No. Not from this witness but I just want (1-2 words)
24 all these people.
25 THE COURT: I think he can show his relationship

1 with the parties but not, not being drug beyond that.
2 Q. All right, sir.
3 THE COURT: The fact that they know each other
4 and have associated with each other.
5 Q. Okay, sir. You do know the man, the crippled man by
6 the name of George.
7 A. Yes, sir.
8 Q. Okay. You seen him over at Ricky's apartment...I mean
9 over at his trailer?
10 A. Not in a long time.
11 Q. Not in a long time.
12 A. Most of time I seen him he was walking.
13 Q. Okay. And you say Pete pulled out the joints.
14 A. Yeah.
15 Q. Where did he pull them out from?
16 A. I don't know. I mean I wasn't, I didn't have anything
17 to do with him, you know.
18 Q. Okay. You didn't have anything to do with him but you
19 said that he pulled them out.
20 A. They, they were sitting on the couch and I was sitting
21 over at the chair.
22 Q. Well, you say pulled them out, where did he pull them
23 out from?
24 A. It must've been his shirt pocket because they was
25 already rolled out.

1 Q. Well, did you see him pull them out?
2 A. No.
3 Q. Well, you saw that he had them.
4 A. It was about four of us in the living room and it was
5 going around. He kind of offered to hand it over my
6 way and I didn't take it.
7 Q. All right. Everybody was smoking pot.
8 A. Yeah.
9 Q. And he had offered to hand it to you.
10 A. I told him I didn't want it.
11 Q. Well, you don't know whether it was Peter Moorman's
12 pot or not, do you?
13 A. Well, he was sitting over on the couch and that's where
14 it come from.
15 Q. Well, how many other people were sitting on the couch?
16 A. Just him and Kenny Cooper.
17 Q. Kenny Cooper was sitting on the couch. So you, well,
18 it couldn't have been Kenny's pot, could it?
19 A. It could've been.
20 Q. It could have been Ricky King's pot, couldn't it?
21 A. He was in the kitchen. I don't see how it could've been.
22 Q. Oh, it couldn't have been his.
23 A. He was in the kitchen...
24 Q. Could it have been Ricky's wife's?
25 A. I didn't see her tote it in there and give it to him.

1 Q. But...okay. You're sure it's Peter Moorman's pot
2 though.
3 A. I say he pulled it out.
4 Q. All right. Well now, I'm asking you. And you said
5 that. I want to know where he pulled it from.
6 A. But I didn't, I didn't see it.
7 Q. Well, you said he pulled it out. Where did he pull it
8 from?
9 A. Out his shirt pocket.
10 Q. Did you see him pull it out of his shirt...
11 A. No.
12 Q. Well, how do you know he pulled it out of his shirt
13 pocket?
14 A. I just, I just say...I think he's the one that pulled
15 it out.
16 Q. Well, you think that. That's what I'm getting at. You
17 think he was, but...
18 A. I didn't see it.
19 Q. You didn't see Kenny Cooper pull it out either, did you?
20 A. No, I didn't.
21 Q. Could he have pulled it out of his shirt pocket?
22 MR. MELESCO: Your Honor, he's answered...Your
23 Honor, he's answered his question.
24 Q. Your Honor, I think we have a right to cross examine...
25 MR. MELESCO: He said he thinks (2-3 words) out

1 of...shirt.

2 THE COURT: I think he's got a right to pursue

3 this. Proceed.

4 Q. Couldn't Kenny Cooper just as easily pulled it out of

5 his shirt pocket?

6 A. Yes. He probably could of, but Kenny told me that he

7 done it.

8 Q. Now, I just...wait a minute. What Kenny told you. You

9 don't know what happened, do you?

10 A. No, I don't.

11 Q. As far as grass.

12 A. I just seen, you know, it come from over on the couch.

13 Q. And there were two people sitting on the couch. And

14 you didn't see Peter bring anything in, did you?

15 A. No, he didn't bring anything in.

16 Q. And as far as you're testifying, he didn't take any-

17 thing with him either, did he?

18 A. I didn't see him get anything.

19 Q. Didn't see him get anything?

20 A. I was there when he left.

21 Q. Was any marijuana in the trailer that day?

22 A. Just what they were passing around.

23 Q. You didn't see any other?

24 A. No.

25 Q. Did you smoke any marijuana that day?

1 A. No. He offered to hand it to me and I turned it down.
2 Q. Why did you turn it down?
3 A. I'd already heard that he was a cop.
4 Q. Is that why you turned it down?
5 A. Mm huh. (Yes.)
6 Q. Because you heard he was a cop.
7 A. Yes.
8 Q. Okay. That's all.
9 REDIRECT EXAMINATION
10 BY MR. MELESCO:
11 Q. Kenny, you told Mr. Alexander you're pretty good on
12 months. The day this happened was before or after
13 Christmas?
14 A. Well, if it was January, I guess it was after.
15 Q. You're sure about that?
16 A. Yeah.
17 Q. That's all. Step down.
18 RECROSS EXAMINATION
19 BY THE COMMONWEALTH:
20 Q. How close to Christmas was it, Kenny? I mean, you know,
21 can...
22 A. I don't know. My birthday's in December and it was
23 quite a ways from my birthday.
24 Q. What day is your birthday?
25 A. December the 8th.

1 Q. Okay. Well, how many days from Christmas or how close
2 to Christmas if you can't say how many days? How close
3 to Christmas?
4 A. I'd just say a few weeks after. How about that?
5 Q. Well, how about that? Would that be two weeks, three
6 weeks, four weeks?
7 A. Three or four weeks.
8 Q. Three or four weeks afterwards.
9 A. Yeah.
10 Q. Okay. Pete left before you left.
11 A. Yes.
12 Q. Is that right?
13 A. He left walking.
14 Q. He left walking? Did you see him leave walking?
15 A. Yeah.
16 Q. Did you see him leave...
17 A. We'd asked him where was his car at.
18 Q. We or you had?
19 A. Well, me and Kenny and all of us had asked him.
20 Q. Every, everybody went around the room asking, "Where
21 is your car?"
22 A. When the man knocked on the door we hadn't heard any
23 vehicles pull up, so.
24 Q. Now, don't say "we." "I," you hadn't heard any. Is
25 that right?

1 A. I hadn't heard any. I hadn't heard a vehicle. No.
2 Q. Okay. And then he came in the door and you asked him.
3 A. That's right.
4 Q. Where was his car?
5 A. That's right.
6 Q. He said somebody let him off. Did he tell you...
7 A. ...dropped him off.
8 Q. Did he tell you Al Starkey left him, let him off?
9 A. He said a man dropped him off and he walked down to
10 the trailer because it looked suspicious parking his
11 car in the front of it.
12 Q. Okay. And you, he left then before you left.
13 A. Yes.
14 Q. How long did Peter stay there?
15 MR. MELESCO: Your Honor, this is way beyond the
16 scope of redirect. I only asked him as to the relation-
17 ship to the day to Christmas.
18 Q. All right.
19 MR. MELESCO: It's got nothing to do with...there
20 when he left.
21 Q. I, I withdraw the question. It doesn't make any dif-
22 ference.
23 THE COURT: All right.
24 Q. That's all.
25 THE WITNESS STANDS ASIDE.

1 KENNY COOPER

2 sixth witness for the Defense, after first

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MELESCO:

6 Q. Tell the Court your name.

7 A. Kenny Cooper.

8 Q. And where do you live, Kenny?

9 A. Box 289-A, Rocky Mount.

10 Q. And are you employed?

11 A. Yeah, at Cooper Lumber.

12 Q. And how long have you been there?

13 A. About ten months.

14 Q. Were you there in January of this year?

15 A. Yes.

16 Q. Did you have an occasion...do you know Ricky King?

17 A. Yes.

18 Q. Do you know where he lives?

19 A. Yes.

20 Q. Did you have an occasion to visit in his trailer late

21 in January of this year?

22 A. Yes.

23 Q. Just tell who was there when you got there and what

24 happened and how you can set the date as best you can.

25 A. Well, I was working overtime and I got off at five

1 thirty for supper, so on my way home I go by his trailer
2 about a quarter till six. So I stopped and went inside
3 and...
4 Q. Who was there?
5 A. Rick and his wife and Kenny Law, Michael Townsend, his
6 wife and Peter Moorman.
7 Q. Was a Foster man there?
8 A. What, Foster?
9 Q. Mr. Foster from Boones Mill?
10 A. I don't remember any Foster.
11 Q. What happened while you were there as best you can
12 remember? Was Peter Moorman there before you got there?
13 A. Yeah, he was there. Everybody was there.
14 Q. All right. Just tell what you saw involving Peter and
15 Ricky while you were there.
16 A. Well, I come on in and sat down, edge the couch and
17 Peter Moorman come over and sat down beside of me and
18 started rolling up joints. He had a bag of reefer.
19 And passed them around there. All smoked it.
20 Q. Did you smoke some?
21 A. Yeah. And I stayed till about six o'clock, a little
22 before six maybe, got up and left.
23 Q. All right. Who left first, you or Peter?
24 A. I did.
25 Q. Was there any discussion of buying or selling marijuana

1 or other drugs while you were there?
2 THE COMMONWEALTH: Your Honor, I object to that.
3 He can ask what the discussion was.
4 Q. What was...discussion on...
5 THE COMMONWEALTH: He's leading his witness.
6 THE COURT: I think he is.
7 Q. It's heart of the issue, Your Honor. I don't think
8 (few words).
9 THE COMMONWEALTH: Well, you're trying to put
10 words in the witness' mouth to get right to the heart.
11 THE COURT: All right. Go ahead.
12 Q. Go ahead and answer the question.
13 THE COMMONWEALTH: Your Honor, I thought you
14 sustained the objection.
15 THE COURT: No, I didn't.
16 THE COMMONWEALTH: Oh. I'm sorry.
17 Q. Go ahead and answer the question.
18 A. It was talk about pot but I don't think they said any-
19 thing about buying or selling. I don't remember it.
20 Q. What did Peter say as best you can remember?
21 A. He talked a lot about being up in D. C., partying. I
22 remember he said something about he could take a Satur-
23 day night special and sell it for fifty bucks on the
24 street up there and stuff like that. But I don't, I
25 don't think he said anything about buying any drugs.

1 Q. Did Ricky sell him any while you were there?
2 A. No, definitely not.
3 Q. Why do you say "definitely not?"
4 A. Well, I just know it wasn't no, wasn't no transaction
5 while I was there. I didn't see anything change hands.
6 Q. No drugs change hands? No money?
7 A. No, it was no money.
8 Q. All right. How do you know this happened in January?
9 A. Uh, it's just about when it was. It was sort of cold,
10 getting dark early. Cause I know it was five thirty
11 when I got off. It was, you know, starting to get dark.
12 Q. Was it before or after Christmas?
13 A. After.
14 Q. Answer Mr. Alexander's questions.
15 CROSS EXAMINATION
16 BY THE COMMONWEALTH:
17 Q. You've seen the scales at Ricky King's trailer, haven't
18 you?
19 A. Huh?
20 Q. You've seen the scales at Ricky King's trailer, hadn't
21 you?
22 A. No.
23 Q. Never seen the scales there?
24 A. What kind of scales?
25 Q. Any scales for weighing anything?

1 A. No.
2 Q. Never seen any there. Ever used the bathroom at Ricky
3 King's house, trailer?
4 A. Yeah.
5 Q. Never seen the scales in the bathroom?
6 A. Uh, there might be scales in the bathroom. I don't
7 know.
8 Q. But you've never seen any scales other, that you can
9 recall.
10 A. (Answer not audible.)
11 Q. All right. And this all happened about five thirty?
12 A. About a quarter till six.
13 Q. And you're pretty positive of the time, aren't you?
14 A. Yeah.
15 Q. And how do you relate the time?
16 A. Well, I get off at five thirty to six for supper, and
17 go back to work. Well, I was doing that then at that
18 particular time.
19 Q. All right. Peter Moorman came after you got there.
20 A. No, he was already there.
21 Q. He was there when you got there? Had you seen Peter
22 Moorman before?
23 A. I don't think so. I don't, don't recall.
24 Q. You'd been to Ricky King's house a number of times
25 before, had you not?

1 A. Yeah.
2 Q. You and Ricky are pretty good friends?
3 A. Yeah.
4 Q. And you said he didn't sell any "while I was there."
5 Did you see Ricky King the whole time?
6 A. Yeah.
7 Q. And when you were smoking grass you were watching
8 Ricky King too, weren't you?
9 A. Well, watching everybody in the room.
10 Q. Watching everybody and make sure that nobody sold any
11 grass?
12 A. No. I was just sitting there.
13 Q. What, were you watching Ricky King every minute of the
14 time that you were there?
15 A. No.
16 Q. Well, you don't know what Ricky King was doing the
17 whole time then, do you?
18 A. Well, everybody was sitting the whole time I was there
19 just about.
20 Q. Ricky King was seated with you in the living room of
21 the trailer?
22 A. Yeah.
23 Q. Mrs. King, where was she?
24 A. She was there too.
25 Q. Now, where was she in the trailer?

1 A. I don't know. Either the couch or one of the chairs
2 there.
3 Q. All right. You were seated on the couch. Peter Moor-
4 man was seated on the couch.
5 A. Yeah.
6 Q. Who else was seated on the couch?
7 A. Maybe his wife.
8 Q. Well, if you don't,..do you know that she was seated
9 there?
10 A. No.
11 Q. Why else that you know was, if there was anybody else
12 there?
13 A. Well, I remember Kenny Law was sitting beside of me
14 in a chair to the right, and Peter Moorman was on the
15 left. And everybody else was just scattered out in
16 the room.
17 Q. And Ricky King was, was out there in the living room
18 part of it.
19 A. Yes.
20 Q. His wife was out there.
21 A. Yeah. Either there or on the couch.
22 Q. Either there or on the couch, but Ricky and his wife
23 were not in the kitchen, were they?
24 A. Naw, I don't think so.
25 Q. Okay. And everybody was smoking a joint of grass.

1 A. (Answer not clear)
2 Q. Ricky was smoking a joint of grass.
3 A. Yeah.
4 Q. He passing it around?
5 A. Yeah.
6 Q. His wife was smoking grass.
7 A. Yeah.
8 Q. Kenny Law was smoking grass. Peter Moorman was smoking
9 grass.
10 A. Right.
11 Q. So all five of you were smoking grass.
12 A. Yeah.
13 Q. Isn't any question in your mind about that, is it?
14 A. Well, no.
15 Q. All right. And I take it you saw Peter Moorman take
16 the grass out?
17 A. Yeah.
18 Q. And what pocket did he take it out of?
19 A. What pocket?
20 Q. Yeah.
21 A I think he was wearing it's like bib overalls. I believe
22 he had it up here.
23 Q. You believe he had it up there. Now, is that...
24 A. Yeah.
25 Q. Did you see him take it out?

1 A. Yeah, I saw him take it out.
2 Q. And took it out of what? A zip pocket in the bib
3 overalls?
4 A. Uh, yeah.
5 Q. It was a zip pocket?
6 A. Well, I think so.
7 Q. All right. Are you sure you saw him take it out of
8 that pocket?
9 A. Yeah, I saw him.
10 Q. And how much did he take out?
11 A. Just a small bag.
12 Q. And he rolled one for you?
13 A. Well, he rolled up a couple, just started passing them
14 around.
15 Q. Just started passing them around. Did he say anything
16 when he was doing that?
17 A. Well, he was talking all the time.
18 Q. He was talking all the time.
19 A. Yeah.
20 Q. Was he talking about the grass?
21 A. A little bit of everything.
22 Q. And you're that positive he rolled the grass?
23 A. Yeah.
24 Q. Have you and Kenny Law talked about this?
25 A. No.

1 Q. You hadn't talked about being there on, in January?
2 A. Well, yeah, we knew we...I knew he was there and he
3 knew I was there.
4 Q. Well, y'all talked about it since Ricky was arrested,
5 hadn't you?
6 A Small bit.
7 Q. Small bit? When was the last time you talked about it
8 together?
9 A. A little while ago.
10 Q. How long ago?
11 A. Just a few minutes.
12 Q. Before the trial today? You and Kenny talked about it?
13 A. Yeah.
14 Q. Did you and Ricky talk about it before today?
15 A. No.
16 Q. You hadn't talked to Ricky about this at all?
17 A. No.
18 Q. You hadn't talked with him since he was arrested?
19 A. Uh, well, yeah.
20 Q. When did you talk with him?
21 A. Shortly after it happened.
22 Q. Where did you talk with him after it happened?
23 A. Uh, down at his house.
24 Q. All right. Who else was there talking about it?
25 A. Uh, his wife, I guess.

1 Q. Anybody else have any grass there on the 27th of
2 January?
3 A. No.
4 Q. How do you fix the day as being the 27th?
5 A. Well, I don't particularly know it was the 27th.
6 That's just the day that the warrant says, I guess. It
7 was in January.
8 Q. Just in January. Well, what prompted you to say it
9 was the, what part of January that it was?
10 A. Well, I never really said. I just knew it was in
11 January. I didn't know which day.
12 Q. Do you know whether it was the first part of January
13 or the last part of January?
14 A. Later in January.
15 Q. Later in January?
16 A. Yeah.
17 Q. Is there any way that you can remember that it was the
18 later part of January?
19 A. Uh, I was working a lot of overtime at that time of
20 the year, and I was working overtime then.
21 Q. That's all the questions I have.
22 THE WITNESS STANDS ASIDE.
23 Alvin Starkey was called as the next witness.
24 MR. MELESCO: Can we, because of the peculiar
25 nature of this boy's status, can we take this out of

1 the presence of the jury to avoid any problems and then
2 put him back on, Your Honor?
3 THE COURT: I didn't understand you.
4 MR. MELESCO: This is the young man that I've
5 talked to you about that also has charges pending. I
6 think the Court should explain to him.
7 THE COURT: All right. Take the jury out, Sheriff.
8 The following took place with the jury absent:
9 ALVIN STARKEY
10 seventh witness for the Defense, after first
11 having been duly sworn, testified as follows:
12 EXAMINATION BY MR. MELESCO:
13 Q. With Mr. Alexander's consent I'm going to lead into
14 this. You've Alvin Starkey. Correct?
15 A. Yes.
16 Q. And you presently have a charge pending in this court
17 involving a sale of, one sale of cocaine to Peter Moor-
18 man. Correct?
19 A. Yes.
20 Q. And you're here today to enter a plea of guilty to that
21 charge. Correct?
22 A. Yes.
23 Q. Okay. So there will be no misunderstanding, you're
24 gonna enter that plea because you did in fact, were
25 involved in that transaction.

1 A. Yes.
2 Q. All right. You understand that you don't have to
3 testify here if you don't want to.
4 A. Mm huh. (Yes.)
5 Q. All right. The only questions I wanted to ask you
6 were: Do you know Peter Moorman?
7 A. Yes, I know him.
8 Q. And how long have you known him?
9 A. I knowed him ever since June.
10 Q. Of last year?
11 A. '76.
12 Q. Okay. And did you have...do you know this young man
13 here?
14 A. No, not personally.
15 Q. Do you know where he lives?
16 A. Yes.
17 Q. Where does he live?
18 A. I don't know the road number.
19 THE COURT: Let the record show you're talking
20 about the defendant now.
21 Q. The defendant. Well, what does he live in? A house,
22 trailer, boat or what?
23 A. Trailer, I think.
24 Q. Okay. Did you ever go to his house with Ricky King?
25 Go with Peter Moorman?

1 A. Yes.
2 Q. And when was that?
3 A. It was in January.
4 Q. And how can you place that date?
5 A. Because I was just with, with Peter all the time in
6 January.
7 THE COURT: I didn't understand what he was saying.
8 Q. He said he was just with Peter all the time in January.
9 Was it before or after Christmas?
10 A. It was after Christmas.
11 Q. All right. And what happened as best you can remember
12 about going there?
13 A. Well, we was going down. Another guy was driving the
14 car. Peter said let him out at the top of the hill.
15 Q. Let who out?
16 A. Peter.
17 Q. What time of day was this?
18 A. It was between three and five.
19 Q. Was this in the afternoon?
20 A. Yes.
21 Q. All right. How long was Peter gone? Did he go in
22 the house?
23 A. Yes.
24 Q. What did y'all do?
25 A. We drove on down the road and came back. He told us to

1 go down the road and come back by and pick him up.
2 Q. Was he there when you came back?
3 A. No, not the first two times.
4 Q. All right. What kind of car were you in?
5 A. '77 Maverick.
6 Q. Who's was that?
7 A. Peter Moorman's.
8 Q. Did Peter say anything when he came back out?
9 A. No, he, he didn't say anything about what he did or
10 nothing.
11 Q. He didn't tell you...did he tell you why he was going
12 in there?
13 A. No.
14 Q. You just know that he went in and came back out.
15 A. Yes.
16 Q. Now, Alvin, so there's no misunderstanding, I can't
17 make you testify, and I represent you. Do you want to
18 testify and testify against him? Do you feel it will
19 hurt you or anything?
20 A. No, I don't feel that it will hurt me.
21 Q. That's the (one word) I'd like to proffer, Your Honor.
22 THE COURT: Well, what's the relevancy of it?
23 MR. MELESCO: If Your Honor please, I've asked
24 Peter Moorman...I think Peter Moorman's credibility is
25 at issue, and I asked him, "Did you go up there with

1 this boy on the date the alleged sale happened?" and he
2 says no. Said he went up there by himself. I think
3 the jury can draw their own conclusions as to whether
4 or not he's been totally truthful.
5 THE COURT: Any objection to it, Mr. Alexander?
6 MR. MELESCO: We've gotten in all kinds of testi-
7 mony as...
8 THE COMMONWEALTH: Judge, no, I really don't
9 object to it.
10 THE COURT: All right. Now, let's don't get this
11 conversation before and after business into it.
12 MR. MELESCO: Well, he was in (1-2 words), sir.
13 THE COURT: Well, that's what I say, but I don't
14 want it enlarged upon. Bring the jury in.
15 MR. MELESCO: Also, I can ask him what happened
16 and whether or not he's under indictment which he can
17 testify...
18 THE COURT: No. I'm talking about he said when
19 the man got out, when he came back. The conversation
20 with Moorman.
21 MR. MELESCO: All right. Okay. That's all.
22 THE JURY RETURNED.
23 ALVIN STARKEY
24 DIRECT EXAMINATION
25 BY MR. MELESCO:

1 Q. Your name is Alvin Starkey?
2 A. Yes.
3 Q. And how old are you, Alvin?
4 A. Twenty-three.
5 Q. And where'd you grow up?
6 A. Franklin County.
7 Q. And where do you live now?
8 A. In Roanoke.
9 Q. And you presently have a charge pending in this court
10 involving a sale of drugs which you plan to enter a
11 plea of guilty to. Correct?
12 A. Yes.
13 Q. And do you know Peter Moorman?
14 A. Yes.
15 Q. How long have you known Peter?
16 A. I knowed Peter ever since June, be since June 4th.
17 Q. June of what year?
18 A. '76.
19 Q. And you and Peter are pretty good friends?
20 A. No. We was.
21 Q. You were. And you and Peter ride around a lot?
22 A. Yes.
23 Q. Do you know the young man sitting next to me?
24 A. No, not personally.
25 Q. Do you know his name?

1 A. Yes.
2 Q. What is it?
3 A. Ricky King.
4 Q. Did you ever take Peter in Peter's car to Ricky King's
5 trailer?
6 A. Well, I was in the car but I wasn't driving the car.
7 Q. Who was driving it?
8 A. Maurice Smith.
9 Q. Maurice Smith. And who else was in the car?
10 A. It was just me, Maurice and Peter.
11 Q. All right. And when did this happen?
12 A. It was in January.
13 Q. Okay. And how do you know it was in January?
14 A. Well, because I was just traveling with Peter all, all
15 through all that time.
16 Q. What, what would you and Peter do together when you
17 would travel together?
18 A. We'd just be, just, just be traveling. Getting high.
19 Q. Getting High?
20 A. Yes.
21 Q. Who, the both of you or just you?
22 A. Me and Peter.
23 Q. What would you get high on?
24 A. Pot, liquor mostly.
25 Q. Were you high the day that you went up to Ricky King's

1 house?
2 A. Yes.
3 Q. Were both of you high?
4 A. Yes.
5 Q. What, what had you been high on?
6 A. We was drinking liquor when all of us in Roanoke that
7 day. Been smoking a little pot.
8 Q. Smoking a little pot? Whose liquor and whose pot?
9 A. Peter had the liquor.
10 Q. And you had the pot?
11 A. Yes.
12 Q. Where did you get with Maurice?
13 A. Well, Maurice was driving when they come to pick me
14 up in Roanoke.
15 Q. All right. What time of day did you get up to Ricky
16 King's trailer?
17 A. It was sometime between three and five o'clock I think.
18 Q. It was late in the afternoon?
19 A. Yeah.
20 Q. And how did you know it was Ricky King's trailer?
21 A. Well, I, I just knowed, you know, who lived there.
22 Q. You just knew who lived there? Did Peter say Ricky
23 lived there?
24 THE COMMONWEALTH: Your Honor, I object to that.
25 That's a leading question.

1 THE COURT: Yeah.
2 Q. Did Peter make any statement as to who lived in the
3 trailer?
4 THE COURT: I don't think that would be admissible
5 either, Mr. Melesco. It's heresay.
6 Q. Okay. What happened when Peter got out?
7 A. Well, I don't know what happened when Peter got out?
8 Q. Well, not what happened in the trailer, but what did
9 he do?
10 A. Peter, he walked on down the road towards the trailer.
11 Q. And what did he...and what did you all do?
12 A. We rode on beyond the trailer and turned around and
13 came back. Well, we waited a few minutes. He told us
14 to wait. We came back and he wasn't outside. We drove
15 back by the trailer, went down the road again and
16 waited and came back, about three times. And the last
17 time he come out.
18 Q. Okay. Answer Mr. Alexander's questions.
19 CROSS EXAMINATION
20 BY THE COMMONWEALTH:
21 Q. Mr. Starkey, you said you've known Peter Moorman since
22 June of 1976?
23 A. Yes.
24 Q. Where did you meet him?
25 A. I reckon it was downtown.

1 Q. Downtown?
2 A. Yeah. (2-3 words)
3 Q. How do you know it was June?
4 A. Because I was just getting out of service.
5 Q. Just getting out of...when did you get out of service?
6 A. June 2nd.
7 Q. And it was right after that that you met Peter Moorman?
8 A. Yes.
9 Q. And you're positive of that, aren't you?
10 A. Yes. During that...well, I guess it was five or six
11 days after I got out.
12 Q. Five or six days. And you're sure about that?
13 A. Yeah.
14 Q. Okay. Now, you said you were good friends. Is that
15 right?
16 A. Mm huh. (Yes.)
17 Q. You're not good friends any more, are you?
18 A. No, I...
19 Q. Huh?
20 A. No.
21 Q. You sold cocaine to Peter Moorman, didn't you?
22 A. Yes.
23 Q. And that's what you're pleading guilty.
24 A. Right.
25 Q. And you're not good friends because you've been arrested

1 for that. Isn't that right?
2 A. Yes.
3 Q. Now, how long were y'all gone when you let Peter Moorman
4 out at Ricky King's trailer?
5 A. Anywhere from fifteen to thirty minutes.
6 Q. And did you ride on down the road?
7 A. Yes.
8 Q. Any more trailers on that road?
9 A. I don't, I don't remember.
10 Q. Well, you knew Ricky King before that day then. Right?
11 Is that right?
12 A. Yes.
13 Q. How many times had you seen Ricky King before?
14 A. Well, it had been uh, it had been a long time since
15 I'd seen him.
16 Q. Been at his trailer before?
17 A. No.
18 Q. But you knew that was his trailer.
19 A. Yes.
20 Q. Well, if you hadn't been there before, how did you
21 know that was his trailer?
22 A. Well, Maurice told me it was his trailer.
23 Q. Oh, somebody told you that's whose trailer it was.
24 Okay. And now, I believe Mr. Melesco also represents
25 you. Is that right?

1 A. Right.
2 Q. Have you talked to anybody other than Mr. Melesco before
3 today about this?
4 A. With lawyer...
5 Q. No, no, not lawyer. I mean anybody else about this
6 case other than Mr. Melesco?
7 A. No.
8 Q. You hadn't talked to Ricky King about it?
9 A. No.
10 Q. Hadn't talked to Maurice Smith about it?
11 A. No.
12 Q. You hadn't talked to Kenny Law about it?
13 A. No.
14 Q. You hadn't talked to Kenny Cooper about it?
15 A. No.
16 Q. Hadn't talked to Mrs. King about it?
17 A. No.
18 Q. Hadn't talked to Bill Hall about it?
19 A. No.
20 Q. Hadn't talked to anybody about this case other than
21 Mr. Melesco?
22 A. What case are you talking about, my case?
23 Q. No. I'm talking about the case, Mr. King's, Mr. Ricky
24 King's case.
25 A. No, I haven't talked to...

1 Q. That you testify...do you know whose case you're testi-
2 fying in today?
3 A. Yes.
4 Q. Whose case are you testifying in?
5 A. Ricky King's.
6 Q. All right. Have you talked to anybody about that case?
7 A. No.
8 Q. Nobody?
9 A. No.
10 Q. All right. That's all. Thank you.
11 REDIRECT EXAMINATION
12 BY MR. MELESCO:
13 Q. Alvin, out of that whole list of names that Mr. Alexan-
14 der just quoted to you, do you know any of them?
15 A. I don't know none of them personally. I just know them
16 by, by names.
17 Q. That's all.
18 THE WITNESS STANDS ASIDE.
19 PATTY KING
20 eighth witness for the Defense, after first
21 having been duly sworn, testified as follows:
22 DIRECT EXAMINATION
23 BY MR. MELESCO:
24 Q. Tell the Court and the jury your name.
25 A. Patty King.

1 Q. And you're married to the young man sitting beside me.
2 A. Yes, sir.
3 Q. And how long have the two of you been married?
4 A. Eleven years.
5 Q. And do you have any children?
6 A. Yes, sir.
7 Q. How many?
8 A. One.
9 Q. A boy or girl?
10 A. Girl.
11 Q. And how old is she?
12 A. Ten.
13 Q. And where do the two of you live?
14 A. Route 619.
15 THE COURT: Talk a little louder please and talk
16 this way.
17 A. Route 619.
18 THE COURT: Route what?
19 A. 619 between Boones Mill and Rocky Mount.
20 Q. You're sure it's not 693?
21 A. 693. I'm sorry.
22 Q. And do you live in a house or a trailer?
23 A. Trailer.
24 Q. Okay. Where do you work?
25 A. Allstate Insurance.

1 Q. And on Electric Road in Roanoke?
2 A. Mm huh. (Yes.)
3 Q. How long have you worked there?
4 A. Five years.
5 Q. Were you home from work on December 21st of 1977, 1976?
6 A. Yes.
7 Q. How do you know you were home that day?
8 A. I was off from work that day.
9 Q. Why?
10 A. I was sick.
11 Q. And just tell the Court and the jury in your own words
12 what happened that day, who came there and what you saw.
13 A. Well, Peter Moorman came by. There was a couple of
14 other guys there.
15 Q. Who were they?
16 A. Tony Mattox and Bill Hall.
17 Q. All right. And who got there first?
18 A. I believe Tony and Bill.
19 Q. All right. Were they together?
20 A. Mm huh. (Yes.)
21 THE COURT: Please talk louder and talk this way,
22 not to Mr. Melesco.
23 Q. Talk straight ahead. And what time of day did they
24 get there?
25 A. It was probably about eleven thirty or twelve.

1 Q. And what time did Peter get there?
2 A. Shortly afterwards.
3 Q. Just tell what happened, any discussions between Peter
4 and anybody in there and what was said and what occurred
5 as best you can remember.
6 A. Well, he came in and he sat down. And he was talking
7 about some kind of drugs or something. And he got this
8 bag out of his pocket and he started rolling up some
9 marijuana and started lighting it and passing them
10 around.
11 Q. You smoked some?
12 A. Yes, sir.
13 Q. Your husband did.
14 A. Yes, sir.
15 Q. You don't deny that you and your husband do use mari-
16 juana.
17 A. Yes, sir.
18 Q. What happened then?
19 A. He stayed there for about fifteen minutes and he left.
20 Q. Did Ricky ever...did Ricky and Peter ever get out of
21 your sight together?
22 A. No, sir.
23 Q. Was any sale of marijuana made in your presence?
24 A. No, sir.
25 Q. Did you ever leave their presence?

1 A. No, sir.
2 Q. Did you see any money change hands?
3 A. No, sir.
4 Q. See any marijuana change hands?
5 A. No, sir.
6 Q. Besides the reefer going around?
7 A. No, no, sir.
8 Q. Did Peter try to buy any marijuana? Did he talk about
9 it?
10 A. He talked about various, inquired about where he could
11 get some various drugs.
12 Q. What did Ricky tell him?
13 A. He told him he'd better leave it alone, it would kill
14 him.
15 Q. What was he talking about then?
16 A. Some kind of, I don't know what it was. It wasn't
17 marijuana.
18 Q. Something else?
19 A. Yes, sir.
20 Q. Who told him it would kill him?
21 A. Ricky did.
22 Q. Were you there the day before?
23 A. No, sir.
24 Q. On the 20th. All right. Were you there late in January
25 when Peter Moorman came by the house?

1 A. Yes, sir.
2 Q. What day was that?
3 A. It was late, latter part of January. Around the, I
4 guess it was the 27th.
5 Q. All right. Just...
6 A. He, that's the only...I saw him one day in January.
7 Q. You only saw him one day in January?
8 A. Yes, sir.
9 Q. And who else was there when you saw him then?
10 A. There was this couple that live pretty close to us.
11 They're gone now. And Kenny Law was there and Kenny
12 Cooper and I believe Mike stopped by.
13 Q. Mike Foster?
14 A. Yes, sir.
15 Q. You think he stopped by.
16 A. Mm huh. (Yes.)
17 Q. Do you remember when Peter came?
18 A. Yes, sir.
19 Q. How did Peter get there?
20 A. He come walking down the road.
21 Q. What about his car?
22 A. He said someone let him off at the top of the hill.
23 Q. Did you ever see the car coming and going?
24 A. Yes, sir.
25 Q. Who was in the car?

1 A. A couple of black guys.
2 Q. Two black males?
3 A. Yes, sir.
4 Q. Tell what happened that day as best you can.
5 A. Well, he was sitting down, talking about sawed off
6 shotguns and drugs and bootleg liquor and just, you
7 know, anything you'd name. And he also did the very
8 same thing that day. He pulled out a bag out of his
9 own pocket.
10 Q. Did you share in that?
11 A. Yes, sir.
12 Q. Did any transaction take place that day?
13 A. No, sir.
14 Q. One second. (PAUSE) How long was he there that day?
15 A. About fifteen or twenty minutes.
16 Q. Was it late in the day or...
17 A. Yes, sir. It was after I got off from work.
18 Q. And what time do you usually get home by?
19 A. Before five.
20 Q. Now, how big is your trailer?
21 A. Mm, sixty-five by twelve.
22 Q. Did Peter and Ricky ever get up and leave your immediate
23 presence there?
24 A. No, sir.
25 Q. What area were they confined to?

1 A. Living room and the kitchen.
2 Q. All right. Are the kitchen and the living room right
3 next to each other?
4 A. Yes, sir. You can see through both of them. You know,
5 if you're in the kitchen you can see in the living room.
6 Q. Is there a divider?
7 A. It's just a, it's kind of like a petition but you can
8 see through it. You know, it's...
9 Q. It's all part of one open area and one big area.
10 A. Yeah. Yes, sir.
11 Q. Did Peter talk about buying drugs that day?
12 A. He didn't...he inquired about 'em. He was asking...
13 Q. What was said?
14 A. ...everyone in there, you know, about, something about
15 drugs.
16 Q. What did Ricky say?
17 A. That was when he told him he'd better leave it alone.
18 Q. To the best of your knowledge did Ricky and Peter ever
19 go somewhere else in the trailer besides that area?
20 A. No, sir.
21 Q. Did either one of them go some place else...
22 A. No, sir.
23 Q. Did your husband sell him any drugs to your knowledge?
24 A. No, sir.
25 Q. Did you see any money change hands?

1 A. No, sir.
2 Q. What was Peter's physical condition?
3 A. Uh, his eyes were glassy. I don't know. He, I don't
4 know what you consider his physical condition.
5 Q. Well, have you smoked enough marijuana to realize when
6 people are high...
7 A. Yes, sir.
8 Q. What about his condition as to...
9 A. He was very high on something.
10 Q. All right. What happened when he left the trailer?
11 A. He fell.
12 Q. Where was the car when he left?
13 A. It was coming up the road I think.
14 Q. How many days in January did you see Peter Moorman at
15 your trailer?
16 A. One.
17 Q. And how many days in December?
18 A. One.
19 Q. And you weren't there on the 20th of December.
20 A. No, sir.
21 Q. Answer Mr. Alexander's questions.
22 CROSS EXAMINATION
23 BY THE COMMONWEALTH:
24 Q. Mrs. King, on the, take the last first. On the 27th
25 of January when you were smoking grass, were you out

1 in the living room?
2 A. Yes, sir.
3 Q. And your husband Ricky was in the living room.
4 A. He was between the living room and the kitchen.
5 Q. And Kenny Law was out there.
6 A. Yes, sir.
7 Q. Kenny Cooper was out there.
8 A Yes, sir.
9 Q. Everybody was smoking grass.
10 A. Yes, sir.
11 Q. Where did the grass come from?
12 A. Peter Moorman.
13 Q. What pocket did he take it out of?
14 A. His coat pocket.
15 Q. What kind of coat did he have on?
16 A. It was a heavy coat.
17 Q. A heavy coat. Do you remember what type of pants he
18 had on?
19 A. No, sir.
20 Q. You know whether they were blue jeans or bib overalls
21 or anything like that?
22 A. I don't remember.
23 Q. Can you remember whether or not that he might have had
24 on bib overalls?
25 A. I don't remember.

1 Q. And you're positive he took the grass out of his coat
2 pocket.
3 A. Yes, sir.
4 Q. And which coat pocket did he take it out of?
5 A. The right I guess. I don't know.
6 Q. Well, do you know or do you...
7 A. I don't know. I saw him take it out but I don't know...
8 Q. Saw it, out of one coat pocket. Right?
9 A. Yes, sir.
10 Q. And you saw two black men bring Peter Moorman and
11 drop him off?
12 A. No, sir. I saw Peter Moorman walking down the road.
13 Q. Well, I thought...
14 A. He said that the guys dropped him off.
15 Q. Oh, well you...
16 A. And then I saw them come up the road.
17 Q. You saw them come up the road after they dropped him
18 off.
19 A. Yes, sir.
20 Q. You didn't see the, who dropped him off.
21 A. No, sir.
22 Q. Okay. Then you saw after he left, another car come
23 back up the road?
24 A. Yes, sir.
25 Q. And did you see them pick up Peter Moorman?

1 A. No, sir.
2 Q. You didn't see anybody pick him up?
3 A. He, he went out the door and they were...
4 Q. I understand he went out the door, but you didn't see
5 anybody pick him up.
6 A. No, sir.
7 Q. You didn't see anybody drop him off?
8 A. No, sir.
9 Q. Okay. And you didn't see whether or not he had a car.
10 A. It was his car.
11 Q. Well, how do you know it was his car?
12 A. Because I saw it outside, driving up and down the road.
13 Q. What kind of car does he have?
14 A. A Maverick.
15 Q. What color is it?
16 A Brown.
17 Q. How do you know that's Peter Maverick's...Peter Moor-
18 man's car?
19 A. It is.
20 Q. Well, how do you know?
21 A. I've seen him in it.
22 Q. Well, how often have you seen him?
23 A. I saw him the 21st of December.
24 Q. And you saw him in the car then?
25 A. Mm huh. (Yes.)

1 Q. He drove to your house on that day, didn't he?
2 A. Yes, sir.
3 Q. Had you seen him before that?
4 A. No, sir.
5 Q. How did you happen to remember that he had a brown
6 Maverick?
7 A. Because it was sitting out in the road.
8 Q. And you happened to notice it that day?
9 A. Yes, sir.
10 Q. Okay. Now, Kenny Law and Kenny Cooper were both smoking
11 grass that day, weren't they?
12 A. Yes, sir.
13 Q. And no question in your mind that Kenny Law was smoking
14 grass.
15 A. I presume he was.
16 Q. Oh. Well, do you also presume that Kenny Cooper was?
17 A. Yes, sir.
18 Q. Well, you didn't see him?
19 A. Yes, sir.
20 Q. All right now, did you presume it or did you see him?
21 A. I presumed they did.
22 Q. Well, you didn't see them smoking grass then.
23 A. No, sir.
24 Q. All right. Did you see Ricky King smoking grass that
25 day?

1 A. We were, we were all sitting in the living room smoking.
2 Q. Well, if you were sitting there then you either saw
3 them or you didn't see them. That's all I'm asking you.
4 A. Yes, sir.
5 Q. Did you see them smoke there?
6 A. Yes, sir.
7 Q. All right. Let me start over. Did you see Kenny Law
8 smoking grass?
9 A. Yes, sir.
10 Q. Did you see Kenny Cooper smoke grass?
11 A. Yes, sir.
12 Q. Did you see Ricky King smoke grass?
13 A. Yes, sir.
14 Q. And the other couple. Who were they?
15 A. Michael and Susie Townsend.
16 Q. And where are they now?
17 A. She's in Blacksburg and he's in New York, I think.
18 Q. And they were smoking grass?
19 A. Yes, sir.
20 Q. And you were smoking grass. Where was your child?
21 A. She was outside playing.
22 Q. How old is she?
23 A. Ten.
24 Q. Okay. Now, and this is on the 27th of January?
25 A. Yes, sir.

1 Q. At approximately what time? Five thirty?
2 A. Between five thirty and six.
3 Q. Five, between five thirty and six? Was it light that
4 day?
5 A. Yes, sir.
6 Q. Real light? As light as it is now?
7 A. Yes, sir.
8 Q. With full daylight now?
9 A. Not full daylight.
10 Q. Well, was it getting dark?
11 A. No, sir.
12 Q. Was it as much light as it is today?
13 A. Yes, I would say so.
14 Q. Okay. At five thirty or six.
15 A. Mm huh. (Yes.)
16 Q. And you live in a trailer sixty-five by twelve. How
17 old is that trailer?
18 A. I think it's a '68 model.
19 Q. How long have you lived there?
20 A. Two years, going on three.
21 Q. Do you own it or rent it?
22 A. We are...
23 Q. Buying it?
24 A. Yes, sir.
25 Q. Okay. Did anybody else have any marijuana that day?

1 A. Not, no, sir.
2 Q. Didn't see any other that day? Ricky King didn't have
3 any that day?
4 A. No, sir.
5 Q. You didn't have any that day?
6 A. No, sir.
7 Q. Nobody else except Peter Moorman.
8 A. No, sir.
9 Q. And he brought it in and you all smoked it.
10 A. Yes, sir.
11 Q. How much did he have?
12 A. It was just in a bag.
13 Q. Well, how big was the bag?
14 A. You know, about like this.
15 Q. Do you have any scales in your trailer?
16 A. No, sir.
17 Q. You don't have any scales whatsoever.
18 A. We have one set of scales. Yes.
19 Q. And what kind of scales are they?
20 A. I don't know.
21 Q. Well, what is...describe them.
22 A. They're just real lightweight scales. They have a too
23 on it.
24 Q. And what, well, just light. How big are they?
25 A. Real small.

1 Q. Real small?
2 A. Mm huh. (Yes.)
3 Q. Do they have a balance on one side that you put things
4 on to weigh?
5 A. No, sir.
6 Q. What do you weigh things on then?
7 A. It just has a top on it.
8 Q. It has a top.
9 A. Mm huh. (Yes.)
10 Q. So you put something on the top.
11 A. Yes, sir.
12 Q. Has a arm out here that you move...
13 A. No, sir.
14 Q. It doesn't.
15 A. Huh uh. (No.)
16 Q. Well, where does the, where does the weight register
17 on the scales?
18 A. In the front.
19 Q. And what registers the weight? Does it have a needle
20 or...
21 A. Yes, sir.
22 Q. Or a point?
23 A. Mm huh. (Yes.)
24 Q. And you put something on this top and it weighs, regis-
25 ters.

1 A. Yes, sir.
2 Q. Is that what we commonly call a kitchen scale?
3 A. Yes, sir.
4 Q. Okay. That's all I have.
5 REDIRECT EXAMINATION
6 BY MR. MELESCO:
7 Q. Patty, the scales that Mr. Alexander asked about, would
8 they be like a smaller version of meat scales in a
9 butcher shop?
10 A. Yes, sir.
11 Q. Did anything happen on December the 21st to call your
12 attention to Peter Moorman's car?
13 A. Yes, sir.
14 Q. What?
15 A. A police officer pulled up outside. And Peter Moorman's
16 car was sitting on the side, mostly out in the road, and
17 he stopped and wanted to know if...the car had out of
18 state tags on it. And he wanted to know, well, there
19 had been some reports of people soliciting in this area.
20 Q. All right. So it called your attention to the car.
21 A. Yes, sir.
22 Q. That's all. Wait. Was that the same car that was
23 going up and down the road...
24 A. Yes, sir.
25 Q. On January the 27th? That's all.

1 THE WITNESS STANDS ASIDE.

2 RICKY KING

3 the defendant, after first having

4 been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MELESCO:

7 Q. You're Ricky Lee King?

8 A. No, sir.

9 Q. What's your name?

10 A. Ricky Glen King.

11 Q. Ricky Glen King. And how old are you, Ricky?

12 A. Twenty-nine.

13 Q. And where do you live?

14 A. Route One, Box 278, Rocky Mount.

15 Q. And is that basically in the Boones Mill area?

16 A. Yes, sir. It's on State Route 693 that runs between

17 220 and 919.

18 Q. You've heard all the testimony here today. Let's talk

19 about December 20th. Do you know Tony Gillispie?

20 A. Yes, sir. By sight I know him.

21 Q. You're...friendly with his older brothers?

22 A. Only one of his older brothers.

23 Q. George.

24 A. Yeah, Charlie.

25 Q. Charlie Gillispie.

1 A. Yes, I know him.
2 Q. When was the last time that Tony was in your house?
3 A. Approximately two years ago there was a forest fire and
4 Tony went in to get a drink of water. To my knowledge
5 that's the only time he's ever been in the house.
6 Q. Has he ever been in your house with Peter Moorman?
7 A. No, sir. He has not.
8 Q. Do you know Peter Moorman?
9 A. Yes, sir.
10 Q. Did Peter Moorman come to your house on the 20th day
11 of December and buy marijuana from you?
12 A. He did not.
13 Q. Did he come to your house at all that day?
14 A. No, sir.
15 Q. Did he come the next day?
16 A. Yes, sir.
17 Q. And who was, who else was there?
18 A. My wife was there. And Tony Mattox was there and Bill
19 Hall was there.
20 Q. What happened that day?
21 A. Uh, Moorman came into the house, and we were having
22 some coffee. My wife had been sick so we slept kind
23 of late. It was about ten o'clock before we got out...
24 Q. Speak straight ahead.
25 A. And so, I don't even remember how I met him really. You

1 know, why he came to my house. But I apparently had
2 met him through some friends or playing pool or some-
3 thing, but anyway he came by. He came in. We were
4 there having coffee and...
5 Q. Ricky, what kind of car was he on?
6 A. He was driving a brown Maverick, late model, four door,
7 had a dent in the left rear quarter panel.
8 Q. And where did he park it?
9 A. He parked it...my driveway is laid out where I just,
10 the cars are just off the side of a state road. So
11 instead of pulling on the opposite side of the road or
12 in front or behind either one of my cars, he parked
13 just on the edge of the highway and...
14 Q. Did something happen on that day to call your attention
15 to his car?
16 A. Yes, sir. A policeman came by. I can tell you his
17 name if I could...
18 Q. Well, that's all right. One of the deputies came by?
19 A. Yes, sir. It was a county man.
20 Q. All right. It was a discussion involving Peter's car?
21 A. Yes, sir.
22 Q. What happened in the trailer between you and Peter that
23 day?
24 A. Nothing happened. He said, "Do you wanta get high?" and
25 I said, "Sure."

1 Q. You do smoke marijuana?
2 A. Yes, sir. Been smoking it.
3 Q. Your wife smoke too?
4 A. Yes, sir.
5 Q. All right. Who had the marijuana that day?
6 A. Peter Moorman had it.
7 Q. Did you smoke any?
8 A. Yes, sir.
9 Q. Who else did?
10 A. Everybody there. My wife smoked it.
11 Q. Bill Hall?
12 A. Yes, sir. And Tony Mattox too. We all smoked it.
13 Q. Did Peter talk to you about selling drugs?
14 A. Yes, sir.
15 Q. What did he ask you?
16 A. He asked me if I knew where I could get him some PAP
17 or PCP, you know, that's what he said, PCP.
18 Q. What did you tell him?
19 A. I told him the best thing he could do was, would be to
20 leave it alone because it would kill him. Then I
21 related, related to him an incident about how about
22 five years ago, I remember when some of this PCP, read-
23 ing about it, when some people up near Goshian had did
24 some of this PCP and died from it. And I told Peter
25 Moorman then, I said, "The best thing you can do is

1 leave it alone. It'll kill you."
2 Q. What about, what about marijuana? Was there a discus-
3 sion about selling marijuana?
4 A. No, sir.
5 Q. Did you sell him any marijuana that day?
6 A. No, sir, I didn't.
7 Q. Have you ever sold him any marijuana?
8 A. No, sir.
9 Q. Did any money change hands that day?
10 A. Yes, sir.
11 Q. Did you sell anything?
12 A. No, sir.
13 Q. Okay. Let's go to the 27th of January. How many times
14 did he come to your house in January?
15 A. Once.
16 Q. And that's the day that everybody's testified to being
17 there?
18 A. The day of the 27th. Yes, sir.
19 Q. Was he there the day before that, arranged this trans-
20 action with you that he testified to?
21 A. No, sir. According to him when he got there on the
22 27th...
23 Q. Now, wait a minute. Did he come the day before?
24 A. No, sir.
25 Q. The day that Kenny Cooper was there, was he there that

1 day?
2 A. Yes, sir.
3 Q. What happened that day?
4 A. He came in. He said, "Hey, man, I just been back from
5 D. C. up there fucking with them crazy blacks."
6 Q. That's what he said?
7 A. That's what he said. He said, "Them niggers up there
8 are crazy." That's the very words he used, you know.
9 So then he came in, sat down, pulled a bag of pot out.
10 Q. What did he pull it out of?
11 A. He got it out from a vest up here.
12 Q. What did he have on?
13 A. To the best of my knowledge he had on a faded Army
14 fatigue jacket and a pair of bib overalls, but not the
15 regular type bib overalls, kind of a different style of
16 bib overall and, you know, a, as being the kind like
17 you wear on the farm, you know. A different type. And
18 so he proceeded to roll up...
19 Q. How did he get there that day?
20 A. He came on his car.
21 Q. Did you see him?
22 A. But he got out of the car. Yes, sir.
23 Q. And who was left in the car?
24 A. Two black people. I didn't know either one of them.
25 Q. All right. Did the car stay there?

1 A. No, sir. The car went down the road.
2 Q. Then what happened?
3 A. He says, "Well, I can't stay long. I'm with some
4 people and they're going to pick me back up," you know.
5 And he started just talking to everybody there and
6 talking...
7 Q. What was his physical condition?
8 A. He, he was drunk. He fell down the steps and knocked
9 a hole in his leg about that big around.
10 Q. What else happened there that day with him?
11 A. His ride came back by once and he just, he still kept
12 on talking. You know, I guess apparently he musta
13 been trying to make a buy from somebody who was in the
14 trailer.
15 Q. Did you sell him anything?
16 A. No, sir. I did not. Before he came into the house,
17 Kenny Law was there, and I told him, I said, "You watch
18 this guy." I said, "He might pull a gun or something."
19 I said, "He's not right. I think he's probably the
20 heat." That's what I told Kenny on the 27th.
21 Q. All right. And he hadn't been there any other day in
22 January?
23 A. No, sir. I didn't like him and he knew it because he
24 was always, he would always say something like, he
25 would always say something to down his own people.

1 THE COMMONWEALTH: Your Honor, I object to, I
2 object to this. Your Honor, I object to this.
3 A. And then he would wait for you to say something in
4 return.
5 THE COMMONWEALTH: Your Honor.
6 THE COURT: Go ahead. Don't discuss the conversa-
7 tion now with him.
8 Q. All right.
9 A. Okay.
10 Q. He didn't come on the 20th, and he...of December, and
11 he didn't come on the 26th of January.
12 A. No, sir.
13 Q. But he was there on the 21st of December and the 27th
14 of January.
15 A. Yes, sir.
16 Q. Did you sell him anything on those days?
17 A. No, sir. I did not.
18 Q. Nor on the 20th?
19 A. No, sir. I didn't see him on the 20th.
20 Q. What did he have on on the 21st?
21 A. He had on a Army, a green Army fatigue jacket, a tee
22 shirt and a pair of overalls, I believe.
23 Q. Bib overalls or...
24 A. I don't...I can't be sure whether they were bibs...(2-3
25 words). I believe he was wearing tennis shoes.

1 Q. Answer Mr. Alexander's questions.
2 A. Or it may have been a pair of black boots.
3 Q. Answer Mr. Alexander's questions.
4 CROSS EXAMINATION
5 BY THE COMMONWEALTH:
6 Q. Mr. King, where do you work?
7 A. I'm a subcontractor.
8 Q. Who do you subcontract for?
9 A. Building a house now for Yadie Perdue's daughter down
10 there next to Ferrum.
11 Q. Prior to that when did you start working for Yadie
12 Perdue's daughter next to Ferrum?
13 A. Approximately a month ago.
14 Q And prior to that where did you work?
15 A. I sold cars.
16 Q. Who did you sell cars for?
17 A. My own self independently. Buy them and fix them up.
18 Q. Prior to that, or how long did you sell cars for your-
19 self?
20 A. I've been doing it off and on for about, for a long time.
21 Q. Have you, prior to the time that you sold cars for
22 yourself, did you have any place of employment?
23 A. Yes, sir. I worked at Miscellaneous Concrete.
24 Q. And how long did you work for Miscellaneous Concrete?
25 A. I worked there until February.

1 Q. Of what year?
2 A. '76.
3 Q. And after February of '76 you were selling cars on
4 your own? Is that right?
5 A. Yes, sir.
6 Q. How many cars did you sell?
7 A. And also doing other, any kind of work that I could
8 find. Jobs were scarce.
9 Q. How many cars, how many cars did you sell during that
10 time?
11 A. I'd say approximately seven to ten automobiles.
12 Q. In what, a year period there?
13 A. No, sir. It wouldn't be a period of a year, would it?
14 Q. Well, from February till January 27 of 1976, or 1977
15 how many cars did you sell?
16 A. Approximately that many, sir.
17 Q. All right. After January the 27th of 1977, up and
18 through April of 1977, how many cars did you sell?
19 A. Four.
20 Q. So, you sold...
21 A. Two pickup trucks, a 1969 Plymouth and a 1967 Mustang.
22 Q. So you sold approximately fourteen cars in a year and
23 three months.
24 A. Yes, sir.
25 Q. Do you have a license to sell cars?

1 A. No, sir. I do not.
2 Q. What name did you trade under?
3 A. What name did I trade under?
4 Q. Did you have a name for your company or for your...
5 A. Well, several of these cars had been transferred into
6 my name and tagged.
7 Q. All right. Do you know or have any idea how much money
8 you made off of fourteen cars in that fourteen months
9 or fifteen months?
10 A. Well, depending...how much I made? Actually, are you
11 talking about profit? Or how much I took in?
12 Q. I'm asking you, Mr. King, I'm asking you how much money
13 you made on the cars, how much profit you made on those
14 fourteen cars that you testified that you sold in
15 fourteen or fifteen or sixteen months.
16 A. I'd say thirty-five hundred dollars roughly.
17 Q. Thirty-five hundred dollars.
18 A. Maybe not that much. Three thousand.
19 Q. All right. And you've done odd jobs for other people.
20 A. Yes, sir.
21 Q. How much did you make on your odd jobs for other people
22 in that same period?
23 A. Well, I never kept record of it, sir.
24 Q. Did you turn it in on your income tax?
25 MR. MELESCO: Your Honor, what's the relevance of

1 of all this?
2 Q. Your Honor, I think it's extremely relevant.
3 A. I paid tax.
4 THE COURT: The tax, I think not. What he earned
5 is.
6 Q. All right, sir.
7 A. I paid taxes on eighty-three hundred dollars in the
8 year of 1976 to the year 1977.
9 Q. Did that...that includes your wife's earnings?
10 A. That includes the joint return, sir.
11 Q. Joint return. All right, sir. So you don't know other
12 than the three thousand dollars that you've testified
13 that you've made, you don't know how much other money
14 you made on, at odd jobs, because you didn't take any,
15 you didn't keep any record.
16 A. Well, at times when you're out of work, sir, times prior
17 to this when you were working and are able to establish
18 things and accumulate things, when times get hard, you
19 sell these things off and you...
20 Q. I didn't ask you that, Mr. King. I didn't ask you that.
21 A. What are you asking. Just what are you asking?
22 Q. I'm asking you did you keep any records of the odd jobs,
23 the money that you made from your odd jobs?
24 A. No, sir.
25 Q. All right. That's all I asked you. Now, you thought

1 that Peter Moorman as you put it, was the heat. Is
2 that right?
3 A. Yes, sir.
4 Q. And I take it in street language, that means a cop.
5 A. A snitch.
6 Q. A snitch. Well, what's a snitch?
7 A. A rat.
8 Q. Well, what's a rat?
9 A. Someone who's not really qualified to be a police
10 officer but would like to run to police with information.
11 Q. Oh, so you thought that Peter Moorman was a snitch, a
12 rat, the heat and a cop. And yet you sold marijuana to
13 him on three separate occasions?
14 A. No, sir. That's a lie. An absolute lie.
15 Q. I'm lying or Peter Moorman?
16 A. You are now.
17 Q. I am.
18 A. Yeah.
19 Q. Then you never sold any marijuana to Peter Moorman.
20 A. No, sir.
21 Q. And you're awfully sure of that, aren't you?
22 A. I'm positive of it, sir.
23 Q. You use marijuana.
24 A. Yes, sir. I've been smoking it since the early sixties.
25 Q. And your wife uses it.

1 A. Yes, sir.
2 Q. And you don't sell it?
3 A. No, sir.
4 Q. You've never sold any whatsoever to Peter Moorman.
5 A. No, sir.
6 Q. The, on the 20th of September of 1977, Peter Moorman
7 was at your house, wasn't he?
8 A. No, sir.
9 Q. And you were there, weren't you?
10 A. No, sir.
11 Q. You weren't there on the 20th of September?
12 A. The 20th...
13 THE COURT: Not September.
14 Q. Oh, excuse me. 20th of...
15 A. No, sir. I know damned well I wasn't there on the 20th
16 of September.
17 Q. You know damn well you weren't there.
18 A. On the 20th day of September. That's what I said. I
19 wasn't there.
20 Q. Well, let's go, let's go to the 20th day of December.
21 A. Okay.
22 Q. Were you there then?
23 A. 20th of December? Yes, sir, I was there then. It was
24 the week prior to Christmas.
25 Q. And you were there.

1 A. Yes, sir.
2 Q. You were there also on the 21st. You know that, don't
3 you?
4 A. Yes, sir. I was there on the 21st.
5 Q. And Pete...excuse me. I don't want to interrupt you.
6 Go ahead. You through?
7 A. Are you?
8 Q. No, I've got a lot more questions.
9 A. Okay. Well, let's have them.
10 Q. On the 20th of December were you there?
11 A. The 20th of December to the best of my knowledge...was
12 I there all day or was I there at all?
13 Q. When Peter Moorman...
14 THE COURT: Mr. Alexander, let's get back to
15 where you were.
16 Q. All right. Excuse me, sir. You weren't there when
17 Peter Moorman was there.
18 A. I was not there on the 20th when Peter Moorman was
19 there. No, sir. I'm not saying that he didn't come
20 there and I wasn't there, but I wasn't there when he
21 was there, if he was there on the 20th.
22 Q. So if he was there on the 20th you didn't see him.
23 A. Right.
24 Q. And he didn't buy any marijuana from you on the 20th.
25 A. No, sir.

1 Q. Okay. Now, on the 21st where did Peter Moorman take
2 the marijuana from?
3 A. On the 21st.
4 Q. Mm huh.
5 A. Of December?
6 Q. December.
7 A. Where did he take it from? Out of his pocket.
8 Q. Which pocket did he take it out of?
9 A. Right here. You can...I don't know. These jeans have
10 three or four different kind of pockets. He got it
11 from his chest area.
12 Q. All right. Is that the same, the same jeans he had on
13 on the 27th of January or the same type of jeans?
14 A. I don't know if it was the same pair of blue jeans or
15 not, sir.
16 Q. Was it the same type?
17 A. I can't answer to that question.
18 Q. All right. On the 27th where did he take the marijuana
19 from?
20 A. It was still from the chest area.
21 Q. All right. You heard your wife testify that he took
22 it from his fatigue jacket or from a jacket, didn't you?
23 A. Yes, sir, I did.
24 Q. She was mistaken. Is that right?
25 A. I'm not saying that she's mistaken. I said he took it

1 from his chest area. I don't know whether he got it
2 out of a jacket pocket here or whether he reached
3 inside here and got it out of a pair of blue jeans.
4 Q. And on, and on the 27th Peter Moorman was drunk?
5 A. Yes, sir.
6 Q. And he fell down when he left?
7 A. Yes, sir.
8 Q. Knocked a hole in his leg?
9 A. Yes, sir.
10 Q. Did you see the hole in his leg?
11 A. Yes, sir.
12 Q. How did you see that?
13 A. I saw blood too.
14 Q. Saw the blood. What, did he come back in after he left?
15 A. No, sir. He just stopped long enough to pull up his
16 breeches leg and take a look at the, at the wound. And
17 I saw it. If you don't believe me, you just get him
18 out here and look at his leg yourself. You can't hide
19 a cut that big.
20 Q. All right. And, and you saw somebody come pick him up.
21 A. Yes, sir.
22 Q. You saw him in his car.
23 A. I saw a Maverick identical to the one he was driving
24 on the 21st day of December, sir.
25 Q. On the 27th of January is when you saw it.

1 A. Yes, sir.
2 Q. And who was in that car?
3 A. I didn't know either one of the colored gentlemen.
4 Q. You, you didn't know Al Starkey before today?
5 A. I've never seen the gentleman before in my life, sir.
6 Q. All right. And you didn't know Maurice Smith either.
7 A. No, sir.
8 Q. Did you see, did you know...did you identify them as
9 two black individuals from the same, on the 27th?
10 A. I knew that there, I, that there were black people in
11 that car, but I didn't know who they were or, I wouldn't
12 ...if I had saw them up close I still wouldn't have
13 known who they were because the first time I ever saw
14 this Starkey guy is today.
15 Q. Okay. Do you have any scales, Ricky?
16 A. Yes, sir.
17 Q. And what kind of scales do you have?
18 A. They're just, they're basically, they go to ten pounds.
19 I had them when I worked for a company, Fowler and
20 Robinson, as an inspection engineer. I ran soil samples
21 and tested asphalt and in order to run a soil sample
22 you have to weigh it.
23 Q. Well, describe the scales that you're talking about.
24 A. They're just, they go to ten pounds. They're like diet
25 scales.

1 Q. They go to ten pounds.
2 A. Yes, sir.
3 Q. All right. Now, on the 27th of January did you have
4 any money on you on that day?
5 A. Well, it's not very likely. I ain't had any in quite
6 a while.
7 Q. You didn't have a wad of bills on you then, did you?
8 A. I mighta had fifteen dollars.
9 Q. Well, you heard Peter Moorman testify you had a wad of
10 bills.
11 A. Well, what is a wad of bills, sir?
12 Q. And uh, I think he testified that there was a number of
13 twenties, tens, fives in a wad. That's not true, is it?
14 A. It could have been 'cause I sold a '69 Plymouth to
15 George Gillispie for eight hundred and some odd dollars.
16 Q. Now, is George Gillispie...is that the same man as
17 Charlie Gillispie?
18 A. Yes. Charlie Gillispie, Junior.
19 Q. You sold it for how much?
20 A. Eight hundred and...eight twenty-five I believe was
21 the price.
22 Q. So you could have had a large number of bills on you
23 that day?
24 A. I could have but I don't usually...I don't carry large
25 sums of money, sir. Not extremely large amounts.

Q. That's all. Thank you, sir.

REDIRECT EXAMINATION

BY MR. MELESCO:

Q. Ricky, one question about your scales. When you want to weigh something how do they work?

A. You just lay it up on there and the needle goes around to ever what it is.

Q. It's not balancing type...

A. Oh, no, it's not...

Q. There's no two arms on it where you counter-weigh.

A. No, sir. They're not accurate, as accurate...

Q. Then it's not an arm type scale with the balancing things on...

A. No, sir. They're not triple beams if that's what you're trying...

Q. Do you have any triple beam type scales?

A. (Answer not clear.)

THE WITNESS STANDS ASIDE.

THE DEFENSE RESTED.

REBUTTAL BY THE COMMONWEALTH:

PETER MOORMAN

having been recalled to the witness stand, testified as follows:

DIRECT EXAMINATION

BY THE COMMONWEALTH:

1 Q. All right, Peter, on December the 21st of 1976, did you
2 take any marijuana to the home, the trailer home of
3 Ricky King?
4 A. No, I did not.
5 Q. Did you have any marijuana in your possession prior
6 to going to Ricky King's trailer?
7 A. No, I did not.
8 Q. Did you furnish any marijuana to anybody at the trailer
9 on December 21st?
10 A. No, I did not.
11 Q. All right now, on January the 27th of 1977 did you
12 take any marijuana to the home of Ricky King?
13 A. No, I did not.
14 Q. On that day did you supply any marijuana to anybody
15 in the trailer that you brought to the trailer?
16 A. No, I did not.
17 Q. On the 27th of January, did you, how did you go to the
18 trailer home of Ricky King?
19 A. I drove my vehicle.
20 Q. Did Al Starkey or Maurice Smith go with you on that day?
21 A. No, sir.
22 Q. Did you on the 27th of January of 1977 cut your leg
23 while falling off of a step while you were drunk at
24 the home of Ricky King?
25 A. No, I did not.

1 Q. Did you cut your leg at any day while at the home of
2 Ricky King?
3 A. No, I did not.
4 Q. On Decem...on January the 27th, 1977, what time did you
5 go to the home of Ricky King?
6 A. That's January the 27th?
7 Q. Right.
8 A. I went to his home at 11:20 a.m.
9 Q. What time did you leave?
10 A. 11:40 a.m.
11 Q. Thank you, sir. Answer Mr. Melesco's questions.
12 CROSS EXAMINATION
13 BY MR. MELESCO:
14 Q. Peter, you only went to his house once in January when
15 there were other people were there. Correct?
16 A. Yes, sir.
17 Q How many other people were there?
18 A. There was Mr. King, myself and two other white males.
19 Q. On January the 27th?
20 A. Yes, sir.
21 Q. That sounds like December 21st. You told me that...
22 THE COMMONWEALTH: Your Honor, I object to Mr.
23 Melesco testifying.
24 Q. You testified earlier...
25 THE COURT: Ask him if he did testify.

1 Q. I'm not sure he can remember that, Your Honor. Did
2 you testify earlier today, Peter?
3 A. Yes, I did.
4 Q. And you testified you only went there twice in January.
5 Correct?
6 A. Yes, sir.
7 Q. And the first time nobody was there but you and Ricky
8 and nothing happened.
9 A. Yes, sir.
10 Q. And the second day you went back.
11 A. Yes, sir.
12 Q. Let me see your notes that you're so apt to testify
13 from please. And these are based on other notes?
14 A. Yes, sir.
15 Q. Where are the other notes?
16 A. Where are the other notes?
17 Q. Mm huh.
18 A. The other notes that involve that case, I guess they're
19 in the trash now.
20 Q. You threw them away?
21 A. Yes, sir.
22 Q. You do know Alvin Starkey?
23 A. Yes, I do.
24 Q. You know Maurice Smith?
25 A. Yes, I do.

1 Q. Did you ride around with them?
2 A. Do I ride around with them?
3 Q. Mm huh.
4 A. Not now.
5 Q. Did you then?
6 A. Yes, I did. At times.
7 Q. Who would do the driving?
8 A. I would at times.
9 Q. Who else would drive?
10 A. Mr. Starkey would drive it sometimes.
11 Q. And Maurice would drive it sometimes.
12 A. Yes, he would. I remember one occasion when he did.
13 Q. Did you and Maurice ever pick up Alvin at his apartment
14 in Roanoke?
15 A. No, we didn't pick him up. We went to his residence
16 in Roanoke.
17 Q. Was he there?
18 A. Yes, he was.
19 Q. When was that?
20 A. I don't have that in my notes. There was no drug
21 purchase involved at that particular time.
22 Q. Well, based on your experience as a police officer,
23 can you tell us roughly when that was?
24 A. I wouldn't want to guess.
25 Q. Well, just tell us was it January, December? When?

1 A. I wouldn't want to guess, sir.
2 Q. I'm not asking you to guess. I'm asking you to give
3 us a rough estimate of when you were there.
4 THE COURT: Well, he's given you as much as he
5 can, Mr. Melesco.
6 Q. He's given me nothing, Your Honor.
7 THE COURT: Well, that's all you're entitled to.
8 Q. Did you ever go to Ricky King's with Alvin?
9 A. No, I did not.
10 Q. Have you seen the two boys that were there on Decem...
11 on January the 27th?
12 A. Have I seen them?
13 Q. Yes. Did you see them today or...
14 A. No, I haven't.
15 Q. Did you get their names?
16 A. No, I did not.
17 Q. Did you ask their names?
18 A. No.
19 Q. Why not?
20 A. Because they weren't involved in the direct, in the
21 case in a direct manner.
22 Q. You didn't think it was part of your investigation to
23 find out who was present?
24 A. I got the license number of the cars that they were
25 driving.

1 Q. Did you run the license number check?
2 A. I didn't run it. I gave it to Sheriff Overton. I don't
3 know what he did with it.
4 Q. And how much did you pay for the marijuana on the 27th
5 of January?
6 A. Twenty-seventh, one hundred and fifteen dollars.
7 Q. And there wasn't a party going on down there.
8 A. No, sir.
9 Q. When did you put these notes together, Peter?
10 A. Those notes were put together...
11 THE COMMONWEALTH: Your Honor, this is not a
12 rebuttal...I mean this is a rebuttal and this is not
13 in...we've already asked that, in direct and cross
14 examination.
15 THE COURT: I think he has too.
16 MR. MELESCO: May I see the Court then?
17 THE COURT: All right.
18 MR. MELESCO: That's all I have.
19 THE COMMONWEALTH: Your Honor, I would at this
20 time move for introduction of these notes into evidence.
21 Everybody has seen them except the Court.
22 THE COURT: Any objections?
23 MR. MELESCO: Yes, sir. They're not the originals.
24 The originals are the field notes which he threw away.
25 THE COURT: I don't think they should be

Was Kirney in Chambers Not there

1 admissible, Mr. Alexander.

2 THE COMMONWEALTH: All right, sir.

3 MR. MELESCO: I think we're done. May I see the

4 Court for one second?

5 (The following took place in chambers with the

6 Court, the Commonwealth Attorney, the defense attorney

7 and the defendant present:)

8 MR. MELESCO: ...lesser included offense in the

9 sale or the drug transaction that it should be granted.

10 I believe the statute as worded is probably an uncon-

11 stitutional burden on the defendant and even though

12 I'll be the first to admit my client denied the sale

13 happened in the first place, but I think he is entitled

14 to the instruction on the lesser included offense.

15 Just as if in a murder case the defendant would be

16 entitled to an instruction on assault if he chose not

17 to testify. They could draw any conclusions that they

18 wanted. It's up to the jury to make the determination.

19 There's been no testimony that it was for profit or

20 within the standards of this higher offense.

21 THE COMMONWEALTH: Your Honor, I would just rely

22 on Mr. Melesco's own argument that, or his own statement

23 that the defendant did not allege that the sale or deny

24 the sale completely. And I think that's enough to keep

25 the accommodation instruction out. He is not entitled

1 to an accommodation instruction unless there is some
2 evidence that he sold it. But that he didn't intend
3 to profit by it. I don't have any other objections.
4 MR. MELESCO: That's the old door with the tiger...
5 THE COURT: Okay.
6 MR. MELESCO: There's one other. I would, of
7 course, object to the Court refusing my instruction
8 taken from the lines of the "hanging mayor case."
9 THE COURT: McCue Case..Yeah.
10 MR. MELESCO: Yes, sir.
11 THE COURT: Okay. All set.
12 OPEN COURT RESUMED.
13 THE COURT INSTRUCTED THE JURY.
14 THE FOLLOWING PROCEEDED IN CHAMBERS:
15 THE COURT: The Court's attention has been called
16 to the fact that the eleven year old daughter of the
17 defendant was seated on the front row next to her...
18 MR. MELESCO: Mother.
19 THE COURT: ...mother who has testified in the
20 case. The Court thinks that that is not proper which
21 would be an implied invitation to sympathy in the case
22 which has no place in the merits of the case. I have
23 therefore requested that the child be absented from
24 the courtroom. And defense counsel objects and excepts
25 to the ruling of the Court on this ground.

1 MR. MELESCO: If it please the Court I had earlier
2 made a motion that the Sheriff be omitted from the
3 courtroom on the grounds that his presence in there as
4 the chief law enforcement officer of the county even
5 though he was not personally involved in this case
6 lended an aura, influenced this case that was prejudi-
7 cial to my client. And now that I find that when my
8 client's child is in the courtroom, she's going to be
9 excluded despite the fact the Sheriff was allowed to
10 stay and took no part in the trial. And I don't think
11 the Court is being fair with the defendant in this
12 matter. Plus I think the Court is placing the cart
13 before the horse. I think she has a perfect right to
14 be in the trial. If we're gonna open it up for every-
15 body, it's a public trial, and she has the right to be
16 here. Her father's future is at stake and she has the
17 right to listen. Beyond that, of course, for the
18 record, I did make a motion to strike at the end of
19 all the evidence based on the fact that the Commonwealth
20 has not borne their burden which I think was overruled.
21 THE COURT: All right. Okay. You want something,
22 Mr. Alexander?
23 MR. MELESCO: Wait a second. Can I ask that the
24 Sheriff not sit with the Commonwealth Attorney during
25 closing argument?

1 THE COURT: I don't think that makes any difference.
2 OPEN COURT RESUMED.
3 CLOSING STATEMENT BY THE COMMONWEALTH
4 If it please the Court, ladies and gentlemen of
5 the jury, all of you have sat through the trial, a
6 trial before and know, of course, that the time for
7 closing argument is just a time for me as Common-
8 wealth's Attorney and Mr. Melesco as the defense
9 attorney to argue to you what we think has come about
10 in the trial and what we think are the important points
11 and what out of each version of the case that you've
12 tried or have heard so far is. So that's just exactly
13 what I'm going to do and again I caution you that
14 nothing that I say or nothing that Mr. Melesco says
15 is evidence in the case, just like the opening argument.
16 Now, what this whole case boils down to is the credi-
17 bility of Peter Moorman or the credibility of Ricky
18 King and the other eight witnesses that testified on
19 behalf of Ricky King. There's no question but that
20 the marijuana, the three packs that have been intro-
21 duced in evidence today are marijuana. There's a drug
22 report there to indicate that each package does contain
23 marijuana and the amount that it contains. There's no
24 question but that Peter Moorman said that he purchased
25 each of these three packs, or these three bunches or

1 whatever you want to call it, of marijuana, from Ricky
2 King on December the 20th, 21st and January the 27th.
3 The only question is in this whole case is whether
4 or not this man did in fact purchase that marijuana,
5 those three packs of marijuana from Ricky King. Now,
6 as I said, this boils down to who you believe. It's
7 whether you believe Peter Moorman or whether you be-
8 lieve the defendant's witnesses. Now, I'd like to
9 just go down these witnesses. I'm not going to try to
10 summarize what they testified to or try to go back and
11 paraphrase what they testified to. If you'll look and
12 the Court has instructed you in one of the Court's
13 instructions, tells you that you are the sole judges of
14 the credibility of the witnesses. And in determining
15 the weight given to the testimony of the witnesses,
16 the jury may consider the appearance and demeanor of
17 the witnesses on the witness stand, their manner of
18 testifying, their apparent intelligence or lack of it,
19 their interest or lack of it in the outcome of the
20 case, their temper, feeling or bias if any has been
21 shown, their opportunity for knowing the truth and
22 having observed the things concerning which they testi-
23 fy. And from these and all other surrounding circum-
24 stances of the trial, then you're to determine who you
25 believe. And that, isn't that what we have? Now, the

first witness if you'll recall was Tony Gillispie. Now, I ask you what interest does Tony Gillispie have in the outcome of this trial. If you'll remember George Gillispie, Charlie Gillispie, George Rondy... they're all the same person. They're all the same people...is Tony Gillispie's brother. Tony Gillispie knew that his brother Charlie Gillispie had been convicted and had been convicted on the testimony of Peter Moorman. Charles Gillispie sold drugs to Peter Moorman. The next person, Mr. Charlie Gillispie, the father of the man that Peter Moorman had convicted, also testified, and he testified to you that he was there. He was disabled or retired. I forget which, but he was there on the day that this man, Peter Moorman, was supposed to come by the trailer. He was there. He remembers everything about it because he was there. He was there everyday. I question you whether or not he has convinced you that he remembers the day in question and that Peter Moorman did not come by his house. Why does he testify today? The reason, ladies and gentlemen, this man's son has been sentenced because of Peter Moorman. Is he biased? Bill Hall. Bill Hall. What did he testify to? He told you that Peter Moorman asked for drugs, that there was a discussion about the drugs, that everybody was

1 smoking grass, that he tried to buy THC, that he tried
2 to buy grass. And, but he says he didn't see the sale.
3 He doesn't say, and Bill Hall doesn't in no way, tell
4 you that this man didn't sell drugs. He said he didn't
5 see this man sell any drugs. That's all he said. And
6 he also told you that he had discussed with Ricky King
7 ...excuse me...with Mrs. King and with Dave Melesco
8 this trial before today. He had discussed this testi-
9 mony. He told you also that he didn't know independent-
10 ly what of his own recollection, what day that he was
11 there on the 21st. But the way he knew that it was
12 the 21st is because Mrs. King had checked at work and
13 told him. And therefore he told you that. Now, Kenny
14 Law, the next witness to testify. Now, he was there.
15 Now, if you remember, Bill Hall said everybody was
16 smoking grass, but Kenny Hall gets up and says, "No, I
17 wasn't smoking grass. I, I was there but I wasn't
18 smoking grass. No, sir. Everybody else was but me."
19 Now, he also said that there was drug conversation...
20 excuse me...that Peter Moorman did not try to buy any
21 drugs from this man, a direct contradiction to what
22 Bill Hall said. He also said that there was no drug
23 conversation, a direct contradiction to what Bill Hall
24 said. Now, that's all on the 21st. Now, on the 27th
25 of January, you had Kenny Cooper, who testified that

1 he was seated on the sofa, that there was drugs, mari-
2 juana being smoked, that he was there, that he saw
3 Peter Moorman take the drugs out of his pocket, I
4 believe, pull it, yeah, pull it out. He said he pulled
5 it out. Then he said that he didn't smoke any. Excuse
6 me. I've got, I've gotten my people mixed up here.
7 Kenny Law says he didn't smoke any. Kenny Cooper says
8 that he did. He says, he went along with everything
9 that Kenny Law said with the exception of Kenny Law
10 saying that he didn't smoke anything. Now, the two of
11 them, if you'll remember, Kenny Law testified that the
12 man pulled some drugs out at first, but then when I
13 cross examined him, he couldn't tell whether or not
14 Peter Moorman actually got the drugs out of his pocket
15 or where he got it or if he actually pulled it out of
16 anywhere. He kept saying pulled it out. But, if
17 you'll remember he also said that he had talked with
18 Kenny Cooper, and that Kenny Cooper had told him that
19 he had pulled it out and that's exactly what Kenny
20 Cooper said on the stand. Kenny Cooper told you that
21 he had pulled it out of his, I think the zipper bib
22 overall pocket. So, and that the, Kenny Law testified
23 that the two of them had talked to him before this
24 trial, and I submit to you that that's exactly what's
25 happened. That the two of them have gotten together

1 with the exception of Kenny Law, thought, "Well, I'd
2 better not get in here today. I'd better not say I
3 smoked marijuana. That won't look too good." But
4 Kenny Cooper said he did. Now, when you get to Al
5 Starkey. Also on the 27th of January. Al Starkey.
6 What interest or what bias has been shown from Al
7 Starkey? Well, Al Starkey has admitted that he sold
8 cocaine to Peter Moorman. He's also admitted that
9 he's pleading guilty to it. He's also admitted that
10 he was a friend of Peter Moorman and that the reason
11 he's no longer a friend of Peter Moorman is because
12 Peter Moorman sold him the grass, and he...I mean the
13 cocaine, and he was arrested for it, and he's being
14 brought before the Court today. That's why he's
15 biased. Ladies and gentlemen, a cocaine sale, an
16 arrest, a conviction--that's why Al Starkey is biased.
17 Now, Patty King. You saw Patty King testify. Why is
18 she biased? She's the wife of this man right here.
19 Is any bias there? I submit to you there is. Ricky
20 King himself. Now, think of the instructions. The
21 temper, feeling of bias. What did this man do? He
22 sat on this stand and gristled. That's all he did.
23 He was mad. He was mad at being here, and I don't
24 blame him for being mad at being here. But he was
25 mad. He was fired, he was burning up. And he didn't

1 like being charged with three drug sales. He didn't
2 like Peter Moorman. Peter Moorman was a liar. I was
3 a liar. That's what he told you from the stand.
4 Gristling. You observed his demeanor. Now, he and
5 his wife both testified and a number of the other
6 witnesses also testified that, if you'll remember, it
7 was five thirty to six o'clock and Mrs. Patty King
8 said closer to six o'clock. Where was your daughter?
9 On January the 27th...
10 MR. MELESCO: Your Honor, I'm going to object to
11 this.
12 THE COMMONWEALTH: This is in testimony, Your
13 Honor.
14 MR. MELESCO: Your Honor, may I see the Court in
15 chambers?
16 THE FOLLOWING PROCEEDED IN CHAMBERS:
17 THE COMMONWEALTH: Your Honor, my argument is
18 that they said at five thirty or six o'clock that their
19 child was outside playing and these, these jurymen can
20 bring their own knowledge of the time and the darkness
21 and everything else at five thirty or six o'clock on
22 January the 27th.
23 THE COURT: What's your objection to it?
24 MR. MELESCO: You've already moved my daughter
25 out of the, out of the...

1 THE COURT: He's talking about the evidence. The
2 unlikelihood of their story, not to where the little
3 girl is.
4 MR. MELESCO: Are you gonna get into the point
5 that any father should, would be, have their daughter
6 out where...
7 THE COMMONWEALTH: No, no. I'm not going to say
8 anything...
9 THE COURT: ...the question of where the witness
10 was.
11 MR. MELESCO: All right.
12 THE COMMONWEALTH: The likelihood of the child
13 being out at five thirty or six in the afternoon and...
14 MR. MELESCO: Well, I don't want...the reason I
15 interrupted, I thought you were gonna say...
16 OPEN COURT RESUMED.
17 THE COMMONWEALTH: Patty King testified and so
18 did Ricky King testify, testified that at five thirty
19 to six o'clock on January the 27th that their little
20 girl was playing outside and, the outside of the
21 trailer. She wasn't present when all this was taken
22 care of. Now, ladies and gentlemen, you can take your
23 knowledge and your experiences into the, into the jury
24 room with you. You don't have to rely as far, you don't
25 have to forget what you know. Now, I ask you to think

1 of your own knowledge what it's like on January, the
2 end of January, what it was like this past January,
3 what the daylight was, what the weather was, and I ask
4 you whether you believe that this little girl was
5 playing outside in the dark at five thirty or six
6 o'clock in the cold while all this was going on inside.
7 And why is that, and why else is that important?
8 Because everybody has testified or a number of witnesses
9 have testified that Ricky, Ricky King and Patty King
10 and several others have testified that Al Starkey and
11 Maurice Smith drove up in Peter Moorman's car, let
12 Peter Moorman off. He went in, purchased the grass
13 and came back out, and they saw them. Patty King saw
14 them. She told you she saw two black men in that car.
15 That she saw them when they drove by. She recognized
16 the car. So did Ricky King say that. At five thirty
17 or six o'clock on January the 27th in the very, very
18 dead of winter, she saw that. He saw that. Now, not
19 only is that contradictory but Peter Moorman himself
20 got up here and said no, he didn't say no, but he testi-
21 fied that the buy went down I think at 11:40, somewhere
22 around 11:40 in the morning a.m., some five hours
23 before they're talking about. Now, think about the
24 testimony. Think about the case. The, when you look
25 at the whole specter...spectrum, when you dissect it,

1 you get down to this point. That the stories are
2 really not very different. The stories in fact are
3 almost exactly the same from Peter Moorman's point of
4 view and from the defendant's point of view through
5 all of the other eight defendant's witnesses, including,
6 nine including the defendant. It's the same story with
7 the exception of two things. Now, what two things are
8 they? The first thing is that Peter Moorman, they say,
9 brought the grass in, supplied the grass, had it when
10 he got there. Supplied everybody, and everybody was
11 smoking his grass. That's the first thing. The second
12 thing is that everybody without exception said, "No,
13 it didn't take place." It boils down...everything
14 else took place that Peter Moorman said. But the only
15 thing that didn't take place is the sale and the only
16 thing that Peter Moorman did differently was supply
17 the grass rather than being the beneficiary and a user
18 of the grass. Now, why? Why is that? This is a
19 concocted story. The defense, the defendant and the
20 witnesses on behalf of the defendant admittedly have
21 talked about this case. They have concocted up a
22 story. They brought it to you. They want to make it
23 as close to Peter Moorman's story as is possible, as
24 close to it as is possible but to try to make it
25 believable for everything except the actual sale itself.

1 That's the reason. Ladies and gentlemen, you have,
2 you have heard it. You've heard the evidence. You
3 saw Peter Moorman when he testified. You observed his
4 demeanor. He looked at you. He talked to you. Ricky
5 King looked at me, looked at Mr. Melesco. Did he look
6 at y'all? Did he look at you? He looked down, around,
7 gristling. That's what he did. Look at Peter Moorman's
8 demeanor. Listen to him talk. Listen to him, the way
9 he described the moles, the scars on this man. And I
10 ask you another question. You've seen this marijuana
11 or you will have it soon or you will see it. And you
12 heard Peter Moorman testify that he wrote his name on
13 the package and then he delivered it over the next day
14 to the Trooper Childress, who was working with it. You
15 heard him testify that. Now, as Peter Moorman will
16 come in here today, concoct all of these stories just
17 to get Ricky King? Is there any evidence that there's
18 any bias on the part of Peter Moorman to get at Ricky
19 King? Is there any evidence that he was doing other
20 than his job? He was out there working as an under-
21 cover man. He was doing a very, very distasteful job.
22 And is there any evidence to show that he was after
23 Ricky King for any reason whatsoever? Why would he go
24 to the trouble of bringing this man in, labeling this,
25 going through the whole thing, going through the

1 laboratory, meeting with Trooper Childress? Why would
2 he do that? Is there any reason been shown or even
3 hinted at or any inference that could be drawn? Abso-
4 lutely none. Ladies and gentlemen, Mr. King has tried
5 to influence, he's tried to get at members of this
6 jury by saying that Peter Moorman himself has degraded
7 his own race, called them niggers. This man wouldn't
8 stop when he was objected to. Came on out with it.
9 That was calculated directly to get at two members of
10 this jury.
11 MR. MELESCO: Your Honor, I'm gonna move for a
12 mistrial at this point. He's playing on the emotions
13 of the jury.
14 THE COURT: I overrule it.
15 MR. MELESCO: Would you ask this counsel not to
16 pursue this point of argument?
17 THE COMMONWEALTH: I'm through, Mr. Melesco.
18 THE COURT: I think it's within the scope of
19 permissible argument. Proceed.
20 THE COMMONWEALTH: Ladies and gentlemen, I've
21 taken enough time in going over what I said I wasn't
22 going to do, trying to wrap up the evidence and summa-
23 rize the evidence. I ask you to read the jury's in-
24 structions, the Court's instructions. I ask you to
25 look at the inconsistencies of the witnesses that have

1 testified. The different statements that they have
2 made. Each other has made. I ask you to look at this
3 man's demeanor. I ask you to look at the bias. I ask
4 you to look at the prejudice. I ask you to look at
5 the reason these people have testified as they have
6 testified. What they have to gain. They're all
7 friends. In addition to everything else I ask you to
8 believe Peter Moorman. I ask you to return a verdict
9 of guilty on all three charges. And that is a separate
10 finding of guilt on each one...excuse me...of the dates.
11 This man is not charged with three sales on the same
12 day. He's not charged with three counts. He's charged
13 with three separate charges and each one carries a
14 separate penalty. And I ask you to affix an appropri-
15 ate penalty on each of the charges, and I thank you
16 for your attention.

17 CLOSING STATEMENT BY MR. MELESCO

18 May it please the Court, ladies and gentlemen of
19 the jury, I'll be the first one to admit to you that
20 I did talk to these witnesses. Sure I talked to them.
21 It's part of my job. I guarantee you Mr. Alexander has
22 talked to Peter Moorman a hundred times. He is a pro-
23 fessional. He can do it easy. These people aren't.
24 You have to sit down and talk to them and find out what
25 their testimony is gonna be. Sometimes you're surprised.

1 I'm not surprised about some of the testimony that
2 came out today. But I did talk to them. I don't deny
3 it. I'd be derelict if I didn't. And Mr. Alexander
4 has told you that this whole story is concocted up,
5 pulled out of the sky, that it was put together close
6 enough to state, stay, but it was just a little bit
7 different, but enough to make you let my client go.
8 That's not totally true. Not at all true. Ricky King
9 told you that December the 20th, that Peter Moorman
10 wasn't even in his trailer, that he never saw him.
11 Does that sound like he's trying to keep it close or
12 is that a direct denial? The young Mattox boy who
13 sits back there. He tells you he was home sick on
14 December 20th and didn't leave his house. Didn't
15 leave his house at all. And his father, father who is
16 retired, told you that he was there and he knows he was
17 there because he told you he was there that day and the
18 day before and the day after because he babysits for
19 his granddaughter. He told you that he was there and
20 his boy did not leave the house because he was in fact
21 sick. And Mr. Alexander made a lot about, you know,
22 this date, that date, how could they be sure? Peter
23 Moorman is the one that told you. He told you that on
24 one day in December he went up there and the only people
25 there were Ricky King and the Mattox or the Gillispie

1 boy. And the Gillispie boy says, "I haven't been up
2 there in some time. I wasn't there." And Ricky says
3 it never happened. And then he tells you later...and
4 these stories aren't close. But he tells you later,
5 "I went back in January," and he says, "I drove up
6 there myself." But yet two witnesses today...three
7 witnesses, Ricky King, his wife and Kenny Law told you
8 that when that boy came in the house, when Peter Moor-
9 man came in that house, they asked, "Where's your car?"
10 "Some of my friends let me off." And they saw the car
11 coming up and down the road. Now, did we pull that
12 out of the sky? Or did Alvin Starkey, who doesn't know
13 any of these people, tell you that he was in fact in
14 that car, that he and Peter Moorman had been drunk and
15 smoking dope all day over in Roanoke? I don't know
16 why Peter Moorman would testify to the way that he
17 has but I think it's obvious that my client smokes
18 marijuana. His wife smokes marijuana. His friends
19 smoke marijuana. I don't condone that. It's probably
20 wrong, and it is wrong. But is it any better than
21 Peter Moorman smoking marijuana? Peter Moorman drinking
22 liquor and Peter Moorman running around drunk and high
23 under the influence of marijuana? Damned if you do,
24 damned if you don't. He's no better and no worse than
25 this man. Peter told you. Even his own testimony was

1 he smoked it with them. Now, do you sit there...do
2 you believe he could sit there and smoke it and keep
3 a clear head on what was going on? I don't think so.
4 Now, let's go through the testimony, and the offenses.
5 December 20th, went up there with Tony Gillispie. Went
6 by and got him and went out there. Well, Tony says,
7 "He didn't get me. I was home sick." His father
8 says, "He didn't get my boy. My boy was home sick."
9 And Ricky King tells you, "I wasn't there that day
10 and he didn't come around." That's for you to weigh.
11 December 21st, who's up there? Tony Mattox, Bill Hall
12 and Patty King. I'll be the first to admit to you I
13 don't think Tony Mattox was totally honest with you
14 today. I think he's scared. I think he's nervous.
15 I think he's afraid to tell you that he did in fact
16 smoke marijuana and that drugs were being talked about.
17 But Bill Hall was honest. Bill Hall told you, "Yeah,
18 I was there. Marijuana was smoked. I smoked it.
19 Ricky smoked it. Ricky's wife smoked it. And the
20 marijuana came from Peter Moorman." "Well, Bill, was
21 anything discussed?" "Yeah. Peter Moorman wanted to
22 buy some PCP too." Pig tranquilizer is what it is.
23 And Ricky told him, "Don't fool with it. It'll hurt
24 you. It'll kill you. I won't sell it to you. I don't
25 have it. I don't fool with it." "Well, how about some

1 grass?" "I'm not selling you any grass either. I
2 don't sell." He didn't sell him anything. Four people
3 were there besides Peter Moorman and each one of them
4 had told you that this boy did not sell Peter Moorman
5 anything on the 21st. Now, we go to the 27th, and Mr.
6 Alexander would have you believe another...disbelieve
7 two more witnesses, Kenny Law. Kenny Law told you
8 what happened out there except he probably did leave
9 out the fact that he smoked marijuana. There's no
10 doubt in my mind he smoked it, but he's young. He's
11 scared, afraid to tell you that. Kenny Cooper, he
12 told you, "Yeah, marijuana was smoked. We were all in
13 there. And Peter Moorman had the marijuana, and Peter
14 Moorman was high when he came in there." Alvin Starkey
15 has not talked to any of these people, but Alvin
16 Starkey has him drunk and high when he gets out of
17 the car. Kenny Cooper has him drunk and high when he
18 comes in the house. And Ricky King tells you the man
19 fell down and hurt himself going out of the house.
20 Now, could a man that is drunk and high on marijuana
21 remember what happened enough to lead you to convict
22 a person on that testimony? There are discrepancies.
23 Peter told you that he only went up to my client's
24 house twice in January, once on the 26th when no sale
25 took place and there were only two people there, he

1 and Ricky King. Now, Ricky denied that he ever saw
2 him on the 26th. That's not really important. But
3 what is important is that Peter told you that when he
4 went back and the day the sale happened, people were
5 present. People were there. They were there. Well,
6 the people that were there have come forward and told
7 you they were there. But it didn't happen at noon or
8 eleven o'clock like Peter said. It happened late in
9 the afternoon. Kenny Cooper had gotten off work at
10 five thirty and gone up there, had about a forty-five
11 minute break before he went back. It didn't happen
12 at noon. Peter Moorman is wrong about who was there,
13 when it happened and how he got there. Now, can he
14 be right about what happened then? He was wrong about
15 who drove him there because Alvin Starkey and the
16 other young man drove him there. He was wrong about
17 who was there because no woman was there, but everybody
18 else in the room says Patty King was there. And he was
19 wrong about the time. It wasn't at noon. It was at
20 five o'clock. If he's wrong on all that, can he be
21 right about buying marijuana on that day? My client
22 asked me to apologize to you. He did gristle at Mr.
23 Alexander and he's sorry for it, but he is scared. I
24 think any of us would be scared if we were facing a
25 sentence that could be imposed on these (one word).

1 He's scared and he's nervous. But that does not make
2 his testimony incredible or disbelievable just because
3 he is scared. I would hope that any person sitting
4 here where he sits would be scared. It's a frightening
5 experience, one that I don't care to ever encounter.
6 But he is sorry and he is apologetic for it. Let me
7 read this instruction to you. It's a long one. In-
8 struction number four. This basically describes the
9 law in America today. You are instructed...this is
10 the middle part...that it is not sufficient that the
11 defendant's guilt be probable or even more probable
12 than his innocence. Nor can the defendant be convicted
13 upon mere suspicion because no amount of suspicion,
14 however great, will justify his conviction. In order
15 to convict the defendant the evidence of his guilt
16 must be so strong that there can be no reasonable
17 theory from the evidence persistent with his innocence.
18 Well, isn't there a reasonable theory here today that
19 he is innocent? Haven't eight people come forward?
20 And Mr. Alexander has reached up and pulled all these
21 motives out of the air. "They don't like this man.
22 Their brother's in jail." What motive does Alvin
23 Starkey have? He doesn't know these people. He told
24 you he's pleading guilty. He's admitting his wrong.
25 You think that a fourteen year old boy is gonna come

1 in here and take a chance on a perjury charge over
2 whether or not he went to Ricky King's house? If he
3 was gonna lie it would be simpler just to say, "I went
4 up there but nothing happened." I think he's telling
5 you the truth. He didn't go to Ricky King's house.
6 Do you think the father would lie? I don't think so.
7 I think Bill Hall was honest with you. He was up
8 there. These people aren't lying. And they put
9 forward a reasonable theory of the defendant's inno-
10 cence. It didn't happen. Peter Moorman's an under-
11 cover cop. He has access to lots of marijuana. He
12 could have gotten that marijuana from anywhere. The
13 Sheriff had ordered him to get Ricky King. "Go and get
14 him." I ask you again to read the instructions. Par-
15 ticularly read instruction number four and ask your-
16 selves, "Have we heard enough? Have we heard enough
17 to send a young man to jail for a long period of time?"
18 Over any period of time? I don't believe you have.
19 This story that the defendant has put forth, I don't
20 think you're going to find that it's concocted. I
21 think some of these people may not have been truthful
22 with you about whether or not they smoke marijuana
23 because they're scared. But what happened up there,
24 who was there and what times these things happened,
25 and how Peter Moorman got there, they've been truthful

1 with you. And I think they have been truthful on the
2 key point, that this young man did not sell marijuana.
3 Nobody testified. They all denied it, seeing any
4 money change hands or any bags change hands or anything
5 along those lines. Now, when I'm not practicing law,
6 I like to play tennis and I like to read. I read
7 history books a lot. And I just got done reading a
8 biography of Oliver Cromwell, who is a sort of unoffi-
9 cial king of England after they beheaded the ruling
10 king. He has some problems with his parliament. They
11 were debating a very important law that involved the
12 future of three people in England one time. And he
13 went and told them...I think the advice is good advice
14 here. He told that parliament, "Be ye careful because
15 you could be wrong." And that's what I'd ask you to
16 be here. Be careful because if you're wrong this poor
17 boy will suffer. Thank you.
18 REBUTTAL STATEMENT BY THE COMMONWEALTH
19 Ladies and gentlemen. Tony Gillispie, if you'll
20 remember, think back at his testimony, testified that
21 he was sick on December the 20th, that he was home in
22 bed, and so did his father. Peter Moorman didn't say
23 he saw Tony Gillispie on December the 20th. He said
24 he saw him on December the 19th. Tony Gillispie said
25 he was home on the 19th and on the 21st, if you remem-

1 ber. But he says on the 20th, "I was home sick in bed.
2 I know I didn't see Peter Moorman." Peter Moorman
3 didn't say on the 20th. He said on the 19th. I don't
4 know why it was like that. Mr. Melesco asked a question
5 about was it any worse or was it any better...I don't
6 remember which he said...about that Mr. Peter Moorman
7 was smoking marijuana. Well, Peter Moorman was hired
8 to be an undercover agent. Now, Peter Moorman, while
9 he was working, didn't wear a uniform. Peter Moorman
10 dressed as a person on the street, to use that slang
11 for their, slang for dress. He didn't wear a coat and
12 tie. He didn't polish his shoes. He didn't shave.
13 Peter Moorman wasn't out there to look like a cop. He
14 wasn't out there to look like an undercover agent. He
15 was out there to buy drugs and that's what he did. And
16 this man would not have sold anything to him had Peter
17 Moorman walked in there in a suit and tie, said...
18 and there's grass on the table, had he refused to smoke
19 grass with them, had he refused to drink. And I don't
20 doubt if for one minute that he was drinking, that,
21 that part of this time he probably was. But is this
22 man gonna believe that Peter Moorman wants to buy
23 marijuana from him if he doesn't partake? If he doesn't
24 act like a drug user or a drug seller? Of course Peter
25 Moorman has got to play the role. He's got to do it.

1 And he came forth and he was honest, and he told you.
2 Now, he could get up here just as easily and say that
3 he didn't do it. There's one other key, key point.
4 Peter Moorman has told you the people that were there
5 on each of the days. Now, if this is a concocted story,
6 if this is a story that Peter Moorman has made up, to
7 come in here to get this man, to get Ricky King, to
8 have him convicted, if that's a concocted story, why
9 would he tell you that other people were in the trailer?
10 Why wouldn't he say, "I bought this marijuana and I
11 bought it from Ricky King and no one else was there"?
12 Why didn't he say that? It was easier. It would have
13 been much easier. Ladies and gentlemen, you have to
14 decide who's telling the truth. You've heard Peter
15 Moorman. You've heard Ricky King. I ask you again
16 to believe Peter Moorman, to look at the job that he
17 was doing, the way he was doing it, what he had to do.
18 I ask you again to convict Ricky King on each of those
19 three counts. I submit to you that the evidence is
20 more than beyond a reasonable doubt. And in closing
21 I would like to read the instruction that the Court
22 has propounded to you or part of it when it attempts
23 to explain reasonable doubt to you. And the instruction
24 number five tells you that a doubt engendered by sym-
25 pathy or by a dislike to accept the responsibility of

1 convicting the defendant is not a reasonable doubt.
2 The law does not require proof amounting to absolute
3 certainty nor proof beyond all possibility of mistake.
4 That's what reasonable doubt is. And it also tells
5 you in the first part of this instruction that you've
6 got to limit your consideration to the testimony intro-
7 duced. Ladies and gentlemen, I submit to you that the
8 Commonwealth has borne its burden of proof, that this
9 man is guilty, that Ricky King is guilty of selling
10 marijuana on the 20th day of December, one ounce;
11 almost four ounces, a quarter of a pound on the 21st
12 day of December, and on the 27th of January, almost
13 a quarter of a pound. I ask you again to find him
14 guilty on all three charges. Thank you.
15 THE JURY RETIRED AT 2:30 P.M.
16 MR. MELESCO: ...two members of the jury playing
17 upon the race. No matter what my client did, I think
18 it's highly improper and prejudicial. It's my under-
19 standing the law cannot single out jurors like that.
20 THE COMMONWEALTH: Your Honor, I did not single
21 out two members of the jury. This man made the com-
22 ments over objection and continued his testimony and
23 obviously prayed at the jurors and I merely commented
24 on what he'd said. I don't think it's...
25 MR. MELESCO: What he did is one thing. What a

1 member of the bar did is another thing.

2 THE COURT: I think it's permissible argument in

3 the context that it was made.

4 MR. MELESCO: We would, of course, except to it.

5 THE COURT: Yes, sir.

6 MR. MELESCO: I take it we're not granted a

7 mistrial.

8 THE COURT: Right.

9 THE JURY RETURNED WITH THE FOLLOWING VERDICTS

10 AT 3:05 P.M. AS READ BY THE CLERK:

11 "We, the jury, find the defendant, Ricky G. King,

12 guilty of selling marijuana on December the 20th, 1976,

13 as charged in the indictment and ascertain his punish-

14 ment to be confinement in the penitentiary for a period

15 of six years and a fine of one thousand dollars.

16 Signed, Mattie W. Mattox, Foreman."

17 "We, the jury, find the defendant, Ricky G. King,

18 guilty of selling marijuana on December the 21st, 1976,

19 as charged in the indictment and ascertain his punish-

20 ment to be confinement in the penitentiary for a period

21 of six years and a fine of one thousand dollars.

22 Signed, Mattie Mattox, Foreman."

23 "We, the jury, find the defendant, Ricky G. King,

24 guilty of selling marijuana on January the 27, 1977,

25 as charged in the indictment and ascertain his punish-

1 ment to be confinement in the penitentiary for a period
2 of six years and a fine of one thousand dollars.
3 Signed, Mattie Mattox." Are these your verdicts and
4 so say you all?
5 AFFIRMATIVE RESPONSE BY THE JURORS.
6 THE COURT: Any motion before the jury is dis-
7 charged?
8 MR. MELESCO: Not prior to the discharge, Your
9 Honor.
10 THE JURY WAS DISCHARGED.
11 THE COURT: All right, sir.
12 MR. MELESCO: If it please the Court, at this
13 time I'd move to set aside the verdict (noise)...
14 evidence that was introduced and also based on the
15 prejudicial remarks of the Commonwealth Attorney during
16 his closing argument.
17 THE COURT: Mr. Alexander.
18 THE COMMONWEALTH: Your Honor, I think the, it
19 was a question for the jury. The jury has made its
20 decision, and I would ask that the sentence be imposed
21 as the jury has decided.
22 THE COURT: The motion to set aside the verdict
23 will be overruled. Ask the defendant to stand. Mr.
24 King, do you have anything to say as to why judgment
25 should not be pronounced against you at this time?

1 MR. KING: Yes, sir. Yes. (PAUSE) No, sir.
2 THE COURT: Sir?
3 MR. KING: No, sir.
4 THE COURT: All right. It is therefore the
5 judgment of this Court that on each of these three
6 indictments you be confined in the penitentiary of
7 this Commonwealth for a period of six years and
8 subject to a fine of one thousand dollars for a total
9 of eighteen years confinement in the penitentiary and
10 a total fine of three thousand dollars. These sentences
11 of course, will run consecutively and not concurrently.
12 Your attorney will advise you of your right to appeal.
13 MR. MELESCO: If it please the Court at this time
14 ...advise as he advised me prior to the trial that he
15 would be interested in appeal. He is under a ten
16 thousand dollar bond. He has his family here. He
17 has no prior record. I'd ask that he be allowed to
18 stay out pending the...
19 THE COURT: What's the attitude...
20 MR. MELESCO: I would ask the Court for a pre-
21 sentence report on the defendant to take under advise-
22 ment. Our motion for the introduction and the...
23 sentence would (few words).
24 THE COMMONWEALTH: Your Honor, I would object to
25 Mr. King being allowed to stay free on bond even until

VIRGINIA:

IN THE CIRCUIT COURT OF FRANKLIN COUNTY

COMMONWEALTH OF VIRGINIA	)	
v.	)	NOTICE OF APPEAL
RICKY GLENN KING	)	

Ricky Glenn King does file this his notice of appeal to three jury verdicts rendered on the 24th day of May, 1977, finding his guilty of three charges of distribution of marijuana and sentencing him to a total confinement of 18 years in the Virginia State Penitentiary.

Inasmuch as the defendant was sentenced on the day of his trial by the presiding judge and resentenced on June 24, 1977, pursuant to a motion by defense counsel to set the verdict aside, defense counsel does hereby file this his notice of appeal again to protect the defendant's interest in this matter.

RICKY GLENN KING

By David A. Melesco
Counsel

David A. Melesco
Melesco and McLaughlin, P.C.
Price-Perdue Building
Rocky Mount, Virginia

Filed in the Clerk's Office of Circuit Court of Franklin County the 5 day of July, 1977, at 4:00 p.m.
By: Brenda G. Dale Deputy Clerk.

CERTIFICATE OF DELIVERY

I, David A. Melesco, hereby certify that a true copy of the foregoing Notice of Appeal has been delivered to William N. Alexander, II, Esq., Commonwealth Attorney, Courthouse, Rocky Mount, Virginia, this 5 day of July, 1977.

David A. Melesco