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SUPREME COURT OF VIRGINIA
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IN THE

SUPREME COURT OF VIRGINIA

At Richmond

Record No. 780485

WATSON HENRY COMPTON, Appellant

vs.

COMMONWEALTH OF VIRGINIA, Appellee

APENDIX

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INDICTMENT FOR MURDER

Commonwealth of Virginia

IN THE CIRCUIT COURT OF THE COUNTY OF PITTSYLVANIA

JUNE 20, 1977
(Date)

The Grand Jury Charges That: WATSON HENRY COMPTON

On or about January ~~19~~ 29, 1977, in the County of Pittsylvania, Virginia, DID FELONIOUSLY KILL AND MURDER HATTIE MAE RATLIFF.

Virginia Code § 18.2-32

A True Bill.

E. Carson Matthews
Foreman
Grand Jury

This Indictment is found on the evidence of Sgt. D.A. Collins,

witnesses sworn in Court and sent to the Grand Jury.

VIRGINIA: In the Circuit Court for the County of Pittsylvania - October 13, 1977

Commonwealth of Virginia Plaintiff

vs. Indicted for Murder

Watson Henry Compton Defendant

This day came again George A. Jones, Jr., Attorney for the Commonwealth of Pittsylvania County, Theodore P. Huggins and Robert L. Yancey, attorneys at law who assisted in the prosecution of this case, and came the defendant who was found guilty of Murder in the Second Degree by a jury verdict returned on August 3, 1977, and came also Frank M. Slayton and Joseph M. Whitehead, attorneys of defendant's own choosing.

And the Court having considered the motion made by counsel for defendant on August 3, 1977, to set aside the jury verdict, doth overrule said motion, and defendant's exceptions are noted.

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, a copy of said report having been previously 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, and such additional facts as were

presented by the defendant, 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 ordered by the Court that the defendant be and is hereby sentenced to confinement in the penitentiary of this Commonwealth for a term of Fifteen (15) years, as the jurors in their verdict ascertained. And it is further ordered that the defendant pay the costs of the Commonwealth in this behalf expended.

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

No credit due.

The defendant by counsel, having indicated to the Court his desire to note an appeal and apply for a writ of error to the Supreme Court of Virginia to this judgment, it is ordered that execution of sentence be suspended pending said appeal and the defendant is released on his continuing bond.

A Copy, Teste:

S. W. SWANSON, CLERK,

Deputy Clerk

VIRGINIA: IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY

COMMONWEALTH OF VIRGINIA, Plaintiff

vs.

WATSON H. COMPTON, Defendant

LEGAL MEMORANDUM

Watson H. Compton was charged with the willful and deliberate killing of Hattie Ratliff on January 29, 1977, and convicted by a jury on August 3, 1977, after a three day trial of murder in the second degree and his punishment fixed at 15 years in the State penitentiary.

The defendant from the outset has not denied the killing, but has maintained that it was an accidental shooting and that the death of Hattie Ratliff was unintentional.

Other than the defendant, there were no witnesses and the Commonwealth's case was therefore of necessity circumstantial.

The crucial part of the defendant's case was his explanation of what happened at the moment the gun was discharged.

He testified as to Hattie Ratliff's anger toward his former wife, and that he had taken the shotgun from the closet and was in the process of unloading the gun when she either fell or bumped against the kitchen table that in turn hit him knocking the butt of the shotgun from his leg while he was sitting down causing him to discharge the gun.

The Commonwealth was permitted to put into evidence the testimony of Officer T. A. Smith of the Danville Police Department who went to the scene for the first time on February 6, 1977, and

reconstructed the entire event.

Officer Smith, based upon measurements made by him after the furniture had been re-positioned, stated without qualification that Hattie Ratliff was sitting down at the moment she was shot. Furthermore, he was permitted to place her in a different chair from the one the defendant placed her in, from the blood he found on the back of that particular chair.

The defense submits that the following question and answer constitutes reversible error and the Court should set aside the jury verdict and award the defendant a new trial.

Q. "Now, Mr. Smith, based on your experience and your findings here, and plus the testimony earlier in the trial to the effect that the deceased was five feet three; that the gunshot wound occurred about here, sixteen gauge shotgun, exited in the rear; do you have an opinion as to where she was at the time she was struck?" (T. 22)

A. "Based on the findings of the blood on the refrigirator (sic), relocating the chair, the blood around the chair and the lack of blood on the seat, the small amount of blood on the back of it and the victim at the time that she was shot would have had to have been setting (sic) in that chair." (T. 25)

Dr. David W. Oxley, the forensic pathologist and Deputy Chief Medical Examiner for western Virginia testified:

Q. "Doctor, you indicated to the jury that the blood that you found, or that was found there at the scene and the course this bullet took in the body was upward and backward?"

A. "The shot, itself, was horizontal. The course of spatter, blood and brain tissue would have been in all probability upward and backward."

Q. "That would depend on the position of the body at the time the shot was received, would it not?"

A. "To some degree, yes."

Q. "And if the person were standing when it was shot, and the person holding the gun sitting down, if they were bending over to any degree, that would have an effect on the course that it followed in the head?"

A. "Well, given that set of circumstances, the direction would still be upward and backward."

Q. "But if the person were bending over even more, that would change the angle of the wound, wouldn't it?"

A. "Well, I'm not sure I understand your question. In relationship between the muzzle of the weapon, the angle of the muzzle of the weapon and target, it would depend if the muzzle of the weapon were pointed upward and the person bending over; if you keep the relationship constant, you can rotate at a 360 degree circle and not change the degree of the wound, itself."

Q. "So, we're speculating as to the angle of the body and to the angle of the gun at the time the shot was fired?"

A. "Right."

Q. "And you have no way of knowing the exact position of the body when the gun was discharged?"

A. "That's correct."

Q. "And it's entirely possible that the person could be either

in the process of getting up or sitting down when the gun was discharged and the wound that you saw?"

A. "Yes, sir, that's correct."

Q. "A person could also have been standing up and bending over as if to get something off the table or put something on the table, or could have been bending over in such a way to receive the same kind of wound that you saw?"

A. "That's correct, yes." (T. 7-8)

The law in Virginia is quite clear that an expert witness will not be permitted to state an opinion as to the ultimate or final issue before the jury.

In Thornton v. Commonwealth, 113 Va. 736, 744, 73 S.E. 481 (1912) the Court said:

> "Allen Talbott, a witness for the Commonwealth, was asked the following question: 'Taking all of your information up to the present time, including your investigation into these books, have you been able to reach a conclusion that Mr. Thornton made a true statement as to the condition of this bank?' A. 'No, sir; it was not a true statement.' To the introduction of which evidence the defendant, by counsel, objected, and moved the court to exclude the same from the jury, on the ground that the same was not admissible in law on the issue joined," etc. The court allowed the evidence to go before the jury, and it was duly excepted to.
>
> The very issue which the jury were sworn to try was whether or not the defendant, Thornton, had made a true statement as to the condition of the bank. The question and answer take that issue from the jury, and submit it to the witness, and, upon that evidence alone, if admissible, the prisoner might have been found guilty." (Emphasis added)

This same question and method of proof was resorted to again by the Commonwealth in Mitchell v. Commonwealth, 141 Va. 541,

565, 127 S.E. 368 (1925).

> "It is assigned as error that the trial court, over the objection of the accused, permitted a witness for the Commonwealth to be asked and to answer the following question: 'Will you state whether or not the effect of such entries made upon the books of the bank would be to conceal the true state of the account of John Mitchell, Jr., in the bank?' To which the witness replied: 'Yes.' The question was a leading one put to a witness not shown to be an expert. But whether expert or not, it called for the opinion of the witness upon what was practically the very issue to be tried by the jury, and not to what was disclosed by the books of the bank. He was asked as to the "effect" of such entries. This was a question to be determined by the jury from the evidence in the case and not from the opinion of an adverse witness. In Thornton v. Commonwealth, 113 Va. 736, 73 S.E. 481, the case was reversed solely on the ground that a similar question was allowed to be asked an expert witness." (Emphasis added)

In Livingston v. Commonwealth, 55 Va. (14 Gratt.) 592, 603-604 (1857) the Court stated that though it was proper to allow qualified physicians to give their opinion that a certain wound or blow would be or was the actual cause of death in a homicide case.

> .....it would seem to be generally agreed that in such case the opinion of the witness is to be restricted to matters of science, and that he is not to be allowed to give an opinion on things with which a jury may be supposed to be equally well acquainted.

The defense in this instance is that of an accidental shooting and whether or not Hattie Ratliff in her drunken condition was preparing to get up from her seated position or had in fact stood up and in so doing struck the kitchen table that the defendant says hit him and caused him to fire the gun were questions that were primary to the jury.

In the case of Ramsey v. Commonwealth, 200 Va. 245, 249, 105 S.E.2d 155 (1958) where the question before the jury was whether or not the fire which destroyed the defendant's home was accidental or of an incendiary origin, the Court held that it was reversible error to permit an expert to state that in his opinion the fire was an incendiary fire.

The Court said:

> "Ramsey argues that the question and answer were improper and constituted prejudicial error because the province of the jury was invaded as to the ultimate facts in issue. He maintains it was for the jury to decide whether or not the fire was of incendiary origin along with who was the guilty agent, and not for an expert witness to determine.
>
> In Southern Railway Co. v. Mauzy, 98 Va. 692, 694, 37 S.E. 285, the admissibility of opinions of witnesses was discussed. There we said:
>
> '***No principle of law is better settled than that the opinions of witnesses are in general inadmissible, that witnesses can testify to facts only, and not to opinions or conclusions based upon the facts. Hanriot v. Sherwood, 82 Va. 1; Hammond v. Wood, [Woodman] 41 Me. 177 (66 Amer. Dec. 219). To this general rule there are exceptions. The case at bar, however, does not come within their influence. In the valuable note to the case last cited (66 Amer. Dec. 228), it is said, with abundant authority in its support, that "the competency of expert testimony in a particular case depends upon the question as to whether or not any peculiar knowledge, science, skill or art, not possessed by ordinary persons, is necessary to the determination of the matter at issue;*****that expert testimony is not admissible as to matters within the experience or knowledge of persons of ordinary information, as to which the jury are competent to draw their own inferences from the facts given in evidence before them, without extraneous aid other than the instruction of the court upon

questions of law."' See also 20 Am. Jur., Evidence, §781 p.651.

In 20 Am. Jur., Evidence, §782, pp.653, 654, it is stated:

'In many cases it is asserted as a broad general rule, often assumed to be an inflexible rule of law, that while an expert may be permitted to express his opinion, or even his belief, he cannot give his opinion upon the precise or ultimate fact in issue before the jury, which must be determined by them. In other words, while a jury is entitled to the aid of experts in determining the existence or nonexistence of facts not within common knowledge, an expert witness must not take the place of the jury and declare his belief as to an ultimate fact.***'"

In the case of Strawderman v. Commonwealth, 200 Va. 855, 859, 108 S.E.2d 376 (1959):

"While the necessary element of sexual intercourse may be proved by circumstantial evidence (44 Am. Jur., Rape, §100, p.965) the proof must go beyond the mere showing of injury to the genital organs of the female and an opportunity on the part of the accused to have committed the offense.

Although Dr. Hertzler was introduced as an expert witness, his statement in this instance that the injury to the child was caused by a male penis is not sufficient to prove the act of sexual intercourse beyond a reasonable doubt. In the case of McCall v. Commonwealth, supra, 192 Va., at p.426, 65 S.E.2d, at p.542, where similar injuries were inflicted upon a nine-year-old female, the doctor frankly said he would not state the cause of the injuries.

The competency of expert testimony depends upon the question as to whether or not any peculiar knowledge, science, skill, or art, not possessed by ordinary persons, is necessary to the determination of the matter at issue. In other words, expert testimony is not admissible as to matters within the experience or knowledge of persons of ordinary information as to which the jurors are competent to draw their own inferences from the evidence before them without extraneous aid other than the instructions of the court upon the questions of law involved. Southern R. Co. v. Mauzy,

98 Va. 692, 694, 37 S.E. 285; Newton v. City of Richmond, 198 Va. 869, 875, 96 S.E.2d 775 780; Ramsey v. Commonwealth, 200 Va. 245, 249, 250, 251, 105 S.E.2d 155, 158, 159; 20 Am. Jur., Evidence, §781, p.651."

Officer T. A. Smith went to the scene eight days after the death of Hattie Ratliff and took photos of the blood stains he found on the refrigerator door at certain measured distances above the floor.

Instead of limiting his testimony to what he found, he proceeded to draw a conclusion and state an opinion.

In Webb v. Commonwealth, 204 Va. 24, 33, 129 S.E.2d 22 (1963) the witness was allowed to testify the "effect" of two deposit slips made by the defendant which contained unrecorded receipts on the books indicated a shortage and the Court said:

> "The witness's answer went beyond merely stating what the books showed. It had the effect of stating a conclusion that the unrecorded receipts were used to replace funds converted by the defendant to her own use, which is the very issue in this case." (Emphasis added)

Whether or not Hattie Ratliff had moved from her chair and struck the table in such a manner as to cause it to strike the defendant and cause him to accidentally shoot her was the very issue to be determined by the jury.

Officer T. A. Smith did not limit his testimony to the things he did and observed upon his arrival but went much further and in so doing usurped the prerogatives of the jury.

See also Dickerson v. Town of Christiansburg, 201 Va. 342, 346, 111 S.E.2d 292 (1959); 45 Va. L. Rev. 1273; 49 Va. L. Rev. 1612.

The testimony of Officer T. A. Smith was improper for the further reason that the testimony was an inference drawn from an inference.

As Dr. D. W. Oxley testified the course of the shot through the body would not change provided the angle and relationship of the muzzle to the body remained the same but because we do not know the angle of the gun we are speculating as to the exact position of the body when the gun was fired. (T. 8)

Doughty v. Commonwealth, 204 Va. 240, 243, 129 S.E.2d 664 (1963); Smith v. Commonwealth, 185 Va. 800, 819, 40 S.E.2d 273, 282; Murphy v. J. L. Saunders, Inc., 202 Va. 913, 917, 121 S.E. 2d 375, 378; 7 Mich. Jur., Evidence, §17, p.348, §179, p.559; 5 ALR 3d 158.

CONCLUSION

The defendant by limiting the legal arguments advanced in this Memorandum to the propriety of the testimony of Officer T. A. Smith does not waive the other assignments of error made during the course of the trial and will address each of those objections when oral argument is presented to the Court but not having the benefit of the entire transcript at this time counsel for the defendant is not in a position to properly address the legal questions raised in those objections which are not within the scope of this Memorandum.

Counsel for the defendant, however, believes that the admission of the testimony of the officer with regard to the opinions stated and conclusions drawn of such a likely prejudicial nature and in violation of the announced case law that on this issue alone

the defendant is entitled to a mistrial.

Respectfully submitted,

By Frank M. Slayton
Counsel

VAUGHAN AND SLAYTON
Attorneys at Law
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C E R T I F I C A T E

I, Frank M. Slayton, of Vaughan and Slayton, Attorneys at Law, South Boston, Virginia, do hereby certify that a true copy of the foregoing Legal Memorandum was mailed to George A. Jones, Jr., Commonwealth's Attorney for Pittsylvania County, Danville, Virginia, and to Theodore P. Huggins, Attorney at Law, Danville, Virginia on the 26th day of August, 1977.

Frank M. Slayton
Frank M. Slayton

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY

COMMONWEALTH OF VIRGINIA, Plaintiff	)	
V	)	MEMORANDUM OF LAW
WATSON H. COMPTON, Defendant	)	

FACTS

The defendant, Watson H. Compton, was convicted of second degree murder in the shooting death of Hattie C. Ratliff and the jury fixed his punishment at 15 years in the State Penitentiary.

The defendant admitted shooting the deceased but claimed the shooting was accidental. The ultimate issue of fact submitted to the jury was whether the shooting was accidental or intentional. The jury determined that issue against the defendant, finding the shooting was not accidental.

Dr. David W. Oxley, Deputy Chief Medical Examiner for Western Virginia, testified that on January 31, 1977, he received the body of the deceased, which was 5 feet 3 inches in length, and found a massive shotgun wound to the head. (T. 3, 4) The doctor testified the entry point of the shot was near the midline of the nose and the angle of the shot through the skull was horizontal to very slightly upward. (T. 5) The doctor testified the shot was fired from a distance of not less than 3 nor more than 10 feet and that death was instantaneous. (T. 6) Dr. Oxley testified that a wound of this nature would have extensive splattering of blood and that the blood would be expected to splatter upward and backward. (T. 6, 7) On cross examination by defense counsel, Dr. Oxley admitted that he could

not tell the position of the defendant, the deceased, or the gun merely from the angle of the wound through the skull of the deceased. (T. 7, 8) On redirect, Dr. Oxley was asked, "If you knew the position of the blood or brains, could you tell approximately the position of the victim?" He answered, "Could tell approximately where the victim was in the area, yes." (T. 10) Dr. Oxley did not view the scene of the crime and based his answers on his examination of the victim's body as a forensic pathologist. (T. 3)

T. A. Smith testified that, as a crime scene search expert, he went on February 6, 1977, to the trailer where the shooting incident occurred. The defense conceded Mr. Smith's qualifications when the Commonwealth sought to qualify Mr. Smith as an expert. (T. 12) T. A. Smith examined the trailer area and photographed blood stains on the refrigerator in the kitchen. (T. 13) Smith replaced a table and a chair in the kitchen by placing the legs of the table and chair in circular spots on the floor having no blood in them, which precisely fit the metal swivel ends of the chair and table legs. (T. 18) Smith testified the refrigerator was 5 feet tall. From the 3 foot 6 inch level to the floor on the refrigerator, Smith testified the blood had a pattern of hitting in a downward direction. From 3 feet 6 inches off the floor to just over 4 feet on the refrigerator, the angle of the blood spatters on the refrigerator were "Straight away." At the 4 foot ten inch height on the refrigerator the blood pattern was definitely in an upward direction. (T. 18, 20) The blood was dried and there was no evidence of wiping or alteration of the blood on the refrigerator. (T. 22) Based upon his experience, his observations and findings, the testimony of Dr. Oxley that the deceased was

5 feet 3 inches tall, and the nature of the wound by a 16 gauge shotgun, T. A. Smith was asked for his opinion as to where the deceased was at the time she was struck. (T. 22) Smith responded that based upon his findings the deceased had to be in a sitting or near sitting position at the time of the shot. (T. 25) On cross examination, Smith stated that the deceased did not necessarily have to be sitting, but had to be nearly sitting due to the blood angles on the refrigerator. (T. 33, 34) On rebuttal, Smith again testified that the exact position of the deceased was not determined, but she could not have been standing erect when the shot was fired due to the blood angles on the refrigerator.

In his investigation, Smith examined photographs taken by Deputy D. A. Collins on January 29, 1977, shortly after the shooting incident before anything in the trailer was touched. (T. 32) Some of these photographs, which were introduced into evidence, showed the position of the chair, table, and the blood on the refrigerator, and showed the chair to be in substantially the same position where Smith placed it. Deputy Collins testified that on February 6, 1977, the blood on the refrigerator appeared the same as on January 29, 1977. The defendant himself also admitted the chair was in substantially the same position where Smith placed it. R. G. Holbrook, a witness for the defense, also admitted that while he was at the trailer after the shooting, he did not notice or make any change or alteration in the blood on the refrigerator or floor. In fact, Holbrook testified that the only changes he found or caused were moving the kitchen table and chairs, slight tampering with the hole and impression in the ceiling, and some scuff or scratch marks in the blood on the floor caused by someone moving the table. The remainder of the blood stains remained the same.

LAW

The qualifications of experts and the extent to which they may be permitted to testify are largely left to the discretion of the trial court. Whether in any given case, the expert testimony is necessary to aid the jury in its search for the truth depends upon such a variety of factors readily apparent only to the trial judge that the appellate court must depend heavily upon his judgment. Krizak v. W. C. Brooks & Sons, Inc., 320 F.2d 37 (4th Cir. 1963); See also, Chesapeake & O. R. Co. v. Meyer, 150 Va. 656, 143 S.E. 478 (1929), 7 M.J., Evidence §170. The general rule is that opinions of experts or skilled witnesses are admissable in those cases in which the matter of inquiry is such that inexperienced persons are unlikely to prove capable of forming a correct judgment upon it, for the reason that the subject matter requires previous experience or study in it in order to acquire a knowledge of it. The scope of such evidence extends to any subject with respect to which one may derive special knowledge by experience when his knowledge on this matter will probably aid the trier in the search for the truth. Neblett v. Hunter, 207 Va. 335, 150 S.E.2d 115 (1966); Neal v. Spencer, 181 Va. 668, 26 S.E.2d 70 (1943); Ferrell v. Commonwealth, 177 Va. 861, 14 S.E.2d 293 (1941).

In the case at bar Officer Smith was asked to testify concerning a technical scientific matter beyond the ability, knowledge, and judgment of the laymen on the jury. He was asked concerning patterns of blood he found and their significance as far as the position of the deceased's body. Certainly this required the training, knowledge, and skill of an expert. The defense conceded that Mr. Smith was a qualified expert, and therefore it was fully within the trial court's discretion to allow Smith to give his expert opinion concerning the

position of the deceased's body at the time of the shooting based on his findings. Furthermore, there is no showing of alteration in the crime scene which would affect Mr. Smith's findings on January 6, 1977.

It is true that Virginia cases have said that an expert should not be allowed to give his opinion on the ultimate issue or ultimate fact in issue to be decided by the jury. However, the rule only limits expert testimony on the ultimate issue or ultimate fact in issue and does not prohibit expert opinion on evidentiary facts in the case, even if these evidentiary facts are contested or contraverted by the defendant, and even if these evidentiary facts play a crucial or important role in the jury's decision on the ultimate fact or ultimate issue. The phrase "ultimate fact in issue" has been defined by a number of U. S. Courts. In Woodward v. Mordecai, 234 N.C. 463, 67 S.E.2d 39, 644 (1951), the court defines ultimate facts as "the final facts required to establish the plaintiff's cause of action or the defendant's defense; and evidentiary facts are those subsidiary facts required to prove ultimate facts." In Gerwin v. American News Co., Inc., 197 Tenn. 51, 270 S.W.2d 354, 356 (1954), the court defines ultimate facts as "those essential to the maintenance of the cause of action, or determinative as a successful defense." In Brundage v. K. L. House Construction Company, 74 N.M. 613, 396 P.2d 731, 732 (1964), the court states that ultimate facts are the "essential and determining facts upon which the court's conclusion rests and without which finding the judgment would lack support in an essential particular." See also, Galvan v. Miller, 79 N.M. 540, 445 P.2d 961, 965 (1968); Star Realty Company v. Sellers, 73 N.M. 207, 387 P.2d 319, 320 (1963). In Wichita Falls & Oklahoma Ry. Co. v. Pepper, 134 Tex. 640, 135 S.E.2d 79, 84 (1940), the court states:

> The terms "ultimate issues," "ultimate facts," "essential facts," "essential issues," and "controlling issues" are frequently used synonymously. An ultimate fact is one essential to the right of action or matter of defense. . . . [A]n ultimate fact. . . is essential to the claim or defense, and is necessary to form the basis of a judgment. . . . (Emphasis added; See also, Texas Employers Ins. Ass'n v. Reed, 150 S.W.2d 858, 862 (Tex. Civ. App. 1941); Dreeden v. Sidor, 254 S.W.2d 908, 910 (Tex. Civ. App. 1952); Hyman v. Regenstein, 258 F.2d 502, 510 (5th Cir. 1958); The Evergreens v. Nunan, 141 F.2d 927, 928 (2nd Cir. 1944).)

Referring specifically to criminal cases, the court, in People v. DeSisto, 214 N.Y.S.2d 858, 887, 27 Misc.2d 217, stated that any finding of fact which is necessary to establish an essential element of the crime charged is an ultimate fact. From the above cases, it can be seen that the ultimate fact in issue in that final fact which the jury will have to decide as to whether the defendant is guilty or whether a certain element of the crime exists or is proved. The facts which the jury uses to determine the ultimate fact of the existence of an essential element of the crime (or, more generally, the defendant's guilt) are evidentiary facts, not ultimate facts.

The Virginia cases support the above case definitions that the "ultimate facts in issue" are the facts directly establishing one or more of the essential elements of the crime itself. In Webb v. Commonwealth, 204 Va. 24, 129 S.E.2d 22 (1963), the defendant was charged with embezzlement under Virginia Code §18.1-109, which required, as essential elements of the crime, a fraudulent conversion of the employer's property to the defendant's use. The purported crime was discovered by examination of deposit slips which did not correspond with the actual amount on deposit. The defendant contended that any error in the records or slips was a mere clerical error and that no

embezzlement took place. The expert witness was allowed to testify that the effect of the two deposit slips was to show a replacement of funds which had been previously taken by the defendant. Thus the witness was allowed to give his opinion that the defendant did convert funds to her own use and fraudulently concealed the conversion by the deposit slips. In effect the witness expressed his opinion on the guilt of the defendant and the proof of the elements of the crime, which was the "very issue in the case" or the "precise or ultimate fact in issue" to be decided by the jury. In Ramsey v. Commonwealth, 200 Va. 245, 105 S.E.2d 155 (1958), the defendant was charged with arson, which required, as essential elements of the crime, a wilful and malicious burning of a dwelling house with the intent to injure the insurer of the house. The defense claimed no intentional starting of the fire occurred. The expert witness was asked a hypothetical question, at page 157, which included all the evidence presented in the case and then asked the witness whether in his opinion the fire was incendiary, that is, intentionally started rather than accidental in origin. Clearly, again, this witness was being asked whether a particular element of the crime of arson existed; and in this case, he was stating his opinion that the fire was intentionally and maliciously started. The witness was in effect giving his opinion of the guilt or innocence of the defendant when it was the jury's job to decide if an arson occurred and if the defendant was responsible. (see p. 159). In Mitchell v. Commonwealth, 141 Va. 541, 127 S.E.2d 368 (1925), the defendant was charged with making false and fraudulent entries in a bank's ledger account with the intent to unlawfully and feloniously conceal the true state of the account and to defraud the bank. The expert witness was asked whether the effect of certain book entries

made by the defendant was to conceal the true statement of the account. Here again, the expert was asked to give his opinion as to whether an element of the crime existed, in this case, whether there was a concealment by the defendant of the true state of the accounts. The question called for an opinion on what was "practically the very issue to be tried by the jury" (at p. 376), in view of the defendant's clain of innocence. In Thornton v. Commonwealth, 113 Va. 736, 73 S.E. 481 (1912), the defendant was charged with knowingly making a false statement of the condition of a bank to the State Corporation Commission. The defendant denied making such a false statement. The witness was asked whether in his opinion the defendant made a true or false statement of the bank's condition. The court noted that it was not shown that the witness was an expert, and the very issue the jury would have to decide, is whether the defendant's statement of the bank's condition was true or false, which was an essential element of the crime. The court, incidentally also said, "It may be said that, if all the evidence before the jury were before the court, it would have justified the question and the answer, but the evidence that may have been before the jury is not before the court". (some of the trial record had been lost). In Strawderman v. Commonwealth, 200 Va. 855, 108 S.E.2d 376 (1959), the defendant was charged with rape of a child under sixteen years of age. A doctor was allowed to give his opinion that the injuries to the child's vagina were caused by a male penis. The court noted that as essential element of the crime of rape is the showing of actual penetration to some extent of the male sexual organ into the female sexual organ. The court noted that the crucial issue for the jury was whether such penetration occurred, and therefore the expert was giving an opinion on the crucial element in issue for the jury to decide. The court also noted that the doctor's statement was, in this case, on a

matter of common knowledge concerning which an expert should not render an opinion when the jury is equally as capable and competent as the expert to draw their own inferences. (at p. 380)

In all of the Virginia cases discussed above, the purported expert witness was asked whether a specific essential element of the crime in controversy existed, or he was asked even more generally in effect, whether in his opinion the defendant was guilty. The existence of the guilt of the defendant and the existence of the essential elements of the crime necessary to convict the defendant are for the jury to decide. These are the ultimate facts in issue which the jury determines, and it appears that the Virginia cases do not allow a witness to substitute his opinion on these issues for that of the jury--this is the sole purpose of the rule prohibiting expert opinion on the ultimate issue or ultimate fact in issue for the jury to decide.

In the case at bar, the sole ultimate fact in issue, decided by the jury, was whether or not the defendant, Watson H. Compton accidentally shot and killed Hattie C. Raltiff. The defendant was convicted of murder in the second degree, the essential elements of which are the unlawful killing of a human being with malice, express or implied. Harrison v. Commonwealth, 79 Va. 374 (1884). Officer Smith was merely asked to give his opinion on the position of the deceased at the time of the shooting. The position of the deceased was a mere evidentiary fact used in arriving at a decision on the ultimate fact in issue of whether the shooting was accidental. A shooting could be accidental or intentional regardless of whether the victim was standing or sitting. Smith did not give an opinion as to the existence of any of the essential elements of the crime, nor did he substitute his opinion for the jury's opinion as to whether the shooting was accidental. The effect of Mr. Smith's testimony was to simply contradict to a small degree, the defendant's version of the incident.

Furthermore, the mere fact that Officer Smith's testimony concerning the deceased's position contradicted and impeached the defendant's version of the incident does not render his opinion inadmissible as an opinion on the ultimate fact in issue. The Virginia courts have never recognized that a defendant has the right to exclude all expert testimony which conflicts with his version of the incidents out of which the charge arises. Virginia has long recognized the admissibility of expert testimony concerning the existence of the defendant's fingerprints at the scene of the crime, and this is so even though the defendant asserts an alibi. See, Avent v. Commonwealth, 209 Va. 474, 164 S.E.2d 655 (1968). The Virginia Supreme Court has allowed expert opinion testimony in homicide cases as to whether a shotgun shell found near the crime scene was fired from the defendant's gun, despite the defendant's version. Ferrell v. Commonwealth, 177 Va. 861, 145 S.E.2d 293 (1941). The Virginia Supreme Court has also allowed expert opinion testimony in homicide cases concerning the cause of the victim's death, without regard to the defendant's contentions. Johnson v. Commonwealth, 111 Va. 877, 69 S.E. 1104 (1911); See also, Waitt v. Commonwealth, 207 Va. 230, 148 S.E.2d 805 (1966), and Neal v. Spencer, 181 Va. 688, 26 S.E.2d 70 (1934). If expert opinion testimony were not admissible when it conflicted with the defendant's version of an incident or when it was a material factor in the jury's determination, then expert opinion testimony would never be admissible except when it was immaterial or unnecessary.

Note also that opinion testimony, even from nonexperts, has been held proper as to the direction from which a blow was struck (Hopt v. Utah, 120 U.S. 430, 7 S. Ct. 614, 30 L. Ed. 708 (1887), the

direction from which shots were fired (Ford v. State, 96 Ark. 582, 132 S.W. 995 (1910), and the probable position of the victim with respect to the weapon with which he was shot (Carson v. State, 57 Tex. Crim. 394, 123 S.W. 590).

In addition, the rule prohibiting expert opinion on the ultimate fact in issue should not be confused with the separate rule that expert opinions should not be given on commonplace matter from which the jury is as competent as the expert to draw the inferences. In Strawderman v. Commonwealth, supra, Ramsey v. Commonwealth, supra, and Livingston v. Commonwealth, 55 Va. (14 Gratt.) 592 (1857), the court ruled the opinion of the expert inadmissible, at least in part, because the court considered the matters to be within the experience of ordinary laymen who were competent to draw their own inferences. In the case at bar, the evidence required expertise in crime scene investigation, and the court properly exercised its discretion in permitting the testimony of Officer T. A. Smith.

Note also the authorities advocating and permitting expert opinion testimony on ultimate facts, or at least holding that there is no inflexible rule prohibiting such testimony. See 31 Am. Jur. 2d §22; McCormick on Evidence, 2nd Ed. §12 (1972); 2 U. Rich. Law Notes 26 (1963). In Waitt v. Commonwealth, 207 Va. 230, 237 n. 4, 148 S.E.2d 805, 810 n. 4 (1966), the Virginia Supreme Court noted:

> The prevailing modern rule favors admission of expert opinion evidence as to the cause of death, disease, or other physical condition...even though controverted and having a bearing on the ultimate issue of fact...where it can be seen with reasonable clarity, from the nature of the subject matter as either wholly scientific or in a measure beyond the scope of knowledge of the average jurror, that it will help the jury reach a sound verdict and not tend to confuse them, and hence not invade their province of fact finding.

The opinion testimony of Smith is not an inference from an inference. Smith's testimony was an opinion based on objective findings in his investigation and previous testimony in the trial. (T. 22) It is further recognized that inferences may validly be drawn from facts proved by circumstantial evidence. Chesapeake & O. R. Co. v. Ware, 122 Va. 246, 95 S.E. 183 (1918); Norfolk & W. R. Co. v. Richmond Cedar Works, 160 Va. 790, 170 S. E. 5 (1933); 7 M.J., Evidence §17. Therefore the authorities cited by the defense are inapplicable.

Respectfully submitted,

GEORGE JONES, JR., Commonwealth Attorney

THEODORE P. HUGGINS

R. LEE YANCEY

CERTIFICATE OF COUNSEL

I, R. LEE YANCEY, of counsel for plaintiff, do hereby certify that a true and correct copy of the foregoing Memorandum of Law was mailed to FRANK M. SLAYTON, Post Office Box 446, South Boston, VA 24592, and to JOSEPH M. WHITEHEAD, Chatham, VA 24531, counsel for defendant, on the 7th day of September, 1977.

R. LEE YANCEY

THEODORE P. HUGGINS
ATTORNEY AT LAW

R. LEE YANCEY
ASSOCIATE
DANVILLE, VIRGINIA

TWENTY-SECOND JUDICIAL CIRCUIT

CIRCUIT COURT OF DANVILLE

CIRCUIT COURT OF FRANKLIN COUNTY

CIRCUIT COURT OF PITTSYLVANIA COUNTY

B. A. DAVIS, III, JUDGE
ROCKY MOUNT, VIRGINIA 24151

JAMES F. INGRAM, JUDGE
DANVILLE, VIRGINIA 24541

W. CARRINGTON THOMPSON, JUDGE
CHATHAM, VIRGINIA 24531

September 27, 1977

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Re: Commonwealth v. Watson Henry Compton

Gentlemen:

This defendant was tried before a jury August 1st, 2nd, and 3rd, on an indictment alleging murder and resulting in a jury verdict on August 3rd, finding the defendant guilty of murder in the second degree and ascertained his punishment to be fifteen (15) years confinement in the penitentiary. Motion were made to set aside the verdict and argued orally before the Court on September 23rd. The Court will state its conclusions as follows:

I INSTRUCTIONS:

Fourteen instructions were given, including Instruction 9 which is as follows:

> "THE COURT INSTRUCTS THE JURY THAT, where, as in the case at bar, the defense is that the killing was an accident, the defendant is not required to prove this fact, beyond a reasonable doubt, or by a preponderance of the evidence, but the burden is upon the

> Commonwealth to prove beyond a resonable doubt that said killing was not accidental; therefore, if, after hearing all the evidence, you have a reasonable doubt whether said killing was accidental, or that it was intentional, then you should find the defendant not guilty."

The Court feels that the instructions given fully covered all theories of the case and the refusal of Instructions A, B, C, D, E and F were not prejudicial to the defendant.

II. EVIDENCE AS TO PRIOR RELATIONSHIP OF THE PARTIES:

Objection was made to the evidence of a witness, Virginia Carter, and others, as to the prior relationship between the decedent and the defendant, tendering to show possibly other offenses in addition to the one being tried. Part of this evidence came from defendant's Exhibit 13, which defense counsel passed to each of the twelve jurors. The Exhibit included a summary of Investigator Holbrook's interview with Mrs. Carter and through inadvertence this was written on Exhibit 13.

The Court feels that the evidence comes within the exceptions set forth in Kirkpatrick v. Commonwealth, 211 Va. 269, 272, 176 S.E.2d 802 (1970):

> "The general rule is well established that in a criminal prosecution, proof which shows or tends to show that the accused is guilty of the commission of other crimes and offenses at other times, even though they are of the same nature as the one charged in the indictment, is incompetent and inadmissible for the purpose of showing the commission of the particular crime charged. It is also well established that evidence of other offenses should be excluded if offered merely for the purpose of showing that the accused was likely to commit the crime charged in the

> indictment. However, the exceptions to the general rule are equally as well established. Evidence of other offenses is admitted if it shows the conduct and feeling of the accused toward his victim, if it establishes their prior relations, or if it tends to prove any relevant element of the offense charged. Such evidence is permissible in cases where the motive, intent or knowledge of the accused is involved, or where the evidence ic connected with or leads up to the offense for which the accused is on trial."

Of course, the defendants placed heavy stress on the good relation that existed between the parties and the Commonwealth should have an equal opportunity to challenge that evidence.

III. TESTIMONY OF T. A. SMITH:

It was conceded during the trial that this witness was an expert but the defendant objected to his opinion as to the probable position of the decedent at the time she was shot. It was argued that following the holding in Ramsey v. Commonwealth, 200 Va. 245, 105 S.E.2d 155 (1958), this evidence usurped the function of the jury. The ultimate issue before the jury was whether or not the death was a felonious homicide or an accident. The expert did not express an opinion on this.

The rule is mentioned in Waitt v. Commonwealth, 207 Va. 230, 237, 148 S.E.2d 805 (1966) this is said:

> "While the modern trend of judicial decision favors admission of expert opinion 'having a bearing on the ultimate issue of fact;, Annotation, 66 A.L.R.2d 1082, 1112[4], and personal examination of the subject is not always necessary, Lawson v. Darter, 157 Va. 284, 160 S.E. 74, an opinion given without any examination of, or acquaintance with, the subject and formed on the basis of incorrect and incomplete information, is not an opinion on which a jury should rely and it does not constitute admissible testimony."

> "(4) 'The prevailing modern rule favors admission of expert opinion evidence as to the cause of death, disease, or other physical condition, at least when it is not a pure conclusion without reference to immediate and connecting causative factors and antecedents but is submitted rather with reference thereto and based upon supporting evidence in the record, even though controverted and having a bearing on the ultimate issue of fact, and when it is derived from either the personal observation of, or a proper hypothetical question put to, the witness, where it can be seen with reasonable clarity, from the nature of the subject matter as either wholly scientific or in a measure beyond the scope of knowledge of the average juror, that it will help the jury reach a sound verdict and not tend to confuse them, and hence not invade their province of fact finding."

Also in 31 Am Jur 2d at page 723, under the topic EXPERT AND OPINION EVIDENCE, this is said:

> "Position is also a subject of opinion evidence because of the difficulty or impossibility involved in reproducing data. Thus opinion evidence has been held admissible upon the question of one's probable position with respect to the weapon with which he was shot."

The motions to set aside the verdict are overruled and the Court will set October 13th for formal pronouncement of sentence. A pre-sentence report is requested.

With best wishes, I am

Very truly yours,

W. Carrington Thompson

W. Carrington Thompson

WCT:hds

ASSIGNMENTS OF ERROR

1. The Judge of the Circuit Court of Pittsylvania County erred in permitting Officer T. A. Smith, expert witness for the Commonwealth, to include the following statement in his testimony: "Based on the findings of the blood on the refrigerator, relocating the chair, the blood around the chair and the lack of blood on the seat, the small amount of blood on the back of it and the victim at the time that she was shot would have had to have been setting (sic) in that chair." (T-V,III-25).

2. The Trial Court erred in permitting Ella Lucille Wilson, a witness for the Commonwealth, to testify to a threat made by Watson Compton upon Hattie Ratliff.

3. The Trial Court erred in permitting Virginia Carter, a witness for the Commonwealth, to testify to a prior assault by Watson Compton upon Hattie Ratliff.

4. The Trial Court erred in admitting Commonwealth's Exhibit Number 47, a piece of Watson Compton's ceiling, into evidence.

5. The Trial Court erred in granting Commonwealth's Instruction Number 6.

6. The Trial Court erred in refusing to set aside the verdict as contrary to the law and the evidence.

indictment is amended to read January 29, 1977, the date of the alleged offense.

(Whereupon, the jury was called and duly empaneled; the defendant waived arraignment and entered a plea of not guilty in person, after which the following was had:)

THE COURT: Gentlemen, do you wish to make opening statements?

MR. YANCEY: Yes, sir, Your Honor.

(Whereupon, opening statements were rendered by counsel, after which the following was had:)

LINDA HARVILLE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. YANCEY:

Q State your name to the Court, please.

A Linda Harville.

JACQUELINE E. SCRUGGS
COURT REPORTER
CULLEN, VIRGINIA
PHONE: 542-5465

Q. Where do you live, Miss Harville?

A. 18-B, Carriage Hill Trailer Court.

Q. Is that in Pittsylvania County?

A. Yes, sir.

Q. Where were you living on August 29.....No, excuse me.....January 29, 1977?

A. Lot 9-C, Carriage Hill Trailer Court.

Q. That's also in Pittsylvania County?

A. Yes, sir.

Q. Now, where did Watson Compton, the defendant, live on January 29, 1977?

A. Right next door to me.

Q. How far away from your trailer was his trailer?

A. I imagine it was about 10 feet between the trailers.

Q. If you went out your front door, where would you be facing in regards to his trailer?

A. His back door.

Q. Would you tell the Court and the jury what occurred on the evening of January 29th of this year?

A. Well, let's see; I come home about 7:00.

THE COURT: Speak a little louder.

A. I got home about 7:00 that evening and went on in

JACQUELINE E. SCRUGGS
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1 the house, and as I come in the house I heard some loud noise
2 and arguing over there; when I came into the house.
3 Q. Heard argument and loud noise?
4 A. Yes, when I come into the house about 7:00 o'clock.
5 So I went on in and finished my supper, and then we eat. And I
6 was getting ready to watch a TV program; my little baby, he liked
7 it. It was close to the window; the time when it come on was
8 about 8:00 o'clock, and I was setting there in the rocking chair,
9 and I heard a bang noise once.
10 THE COURT: Heard what?
11 A. A bang noise, sounded like in my trailer. So the
12 baby asked me what it was, and I said I didn't know. I got up,
13 turned the TV up a little bit louder, and then I got, oh, maybe
14 over to the refrigirator in my kitchen.
15
16 MR. WHITEHEAD: You said who asked you what?
17 A. The baby asked me what it was.
18
19 MR. WHITEHEAD: The baby asked you?
20
21 A. Yes, so I turned the TV up a little louder, and I
22 was going to my bathroom, and then I heard another bang noise.
23 Q. What happened after that?
24 A. Well, it got quiet, I'd say maybe ten (10) minutes.

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1 And then I heard his car crank up, Mr. Watson's, Mr. Compton's
2 car. And I got up and looked out the window, and I looked over
3 towards the trailer, and the lights was off, and that's all.
4 Q You mentioned you heard arguments and loud noises;
5 how long did the voices that you heard remain loud after you had
6 returned home at 7:00 p.m. that evening?
7 A About an hour, close to an hour.
8 Q From 7:00 to 8:00?
9 A Yes, close to it, yes.
10 Q Up to the time of the bang?
11 A Yes, sir.
12 Q Would you say the noise was increasing, decreasing
13 or about the same?
14 A No, I think her voice got a little louder close to
15 8:00 o'clock, close to the bang noise, just a little louder.
16 THE COURT: Whose voice?
17 A Mrs. Ratliff's voice.
18 THE COURT: Did you recognize the voice?
19 A No, I just heard a woman's voice.
20 Continuing by Mr. Yancey:
21 Q Where were the voices coming from, Mrs. Harville?
22 A Well, in my trailer it sounded like it was coming
23 from the kitchen.
24 Q Kitchen of what?

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CULLEN, VIRGINIA
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A. Of Mr. Compton's trailer.

Q. Now, you said you heard a bang, was that a loud or soft bang?

A. It was loud, because it scared the baby.

Q. Scared the baby?

A. Uh-huh.

Q. Now, after you heard the bang, would you demonstrate to the jury what you did, after you heard the first bang?

A. Can I get up?

Q. Yes, do it at approximately the speed you did that night.

A. I got up, went over and turned the TV up and went a little bit further, and then I heard another one.

Q. Would you do that again, demonstrate again how that was done?

A. I was sitting in the chair, and the noise went off, and I got up and turned the TV up and went on towards my refrigirator in the kitchen.

Q. All right, and that's when you heard the second bang?

A. Yes, sir.

Q. Approximately how long was it between the first and the second bang that you heard?

A. I imagine it was about two or three seconds.

MR. YANCEY: No further questions.

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1 Q How long had you gone down that hall toward the
2 bathroom, half way, quarter of the way or all the way?
3 A. No, I hadn't got all the way. I got close to, not
4 even half the way, about a quarter of the way.
5
6 MR. YANCEY: Okay, no further questions.
7 THE COURT: Any further cross-examination?
8 MR. WHITEHEAD: No, sir.
9 THE COURT: You may stand aside.
10
11 THE WITNESS STANDS ASIDE:
12
13
14
15 EUGENE STREET, being first duly sworn,
16 testifies as follows:
17
18 DIRECT EXAMINATION
19 BY MR. JONES:
20 Q. State your name for the Court and jury, please.
21 A. Eugene Oliver Street.
22 Q. Where do you live?
23 A. I live at Powell.
24 Q. Powell, North Carolina?

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1 A. Yes, sir.

2 Q. Where do you work?

3 A. Airport Sonoco.

4 Q. Is that in Pittsylvania County?

5 A. Yes, sir.

6 Q. Airport Sonoco Station; that's 58 East Pittsylvania

7 County, isn't it?

8 A. Yes, sir.

9 Q. How long have you worked there?

10 A. Been out there since the first of the year.

11 Q. Do you recall the evening of January 29, 1977?

12 A. Yes, sir.

13 Q. Were you working at Airport Sonoco at that time?

14 A. Yes, sir.

15 Q. Did you see a man by the name of Watson Compton?

16 A. Yes, sir.

17 Q. Did you know him before that day?

18 A. No, sir.

19 Q. What time did Mr. Compton come to your station?

20 A. Right around 8:00 or a little after.

21 Q. Around 8:00 or a little after 8:00; that's in the

22 p.m.?

23 A. Yes, sir.

24 Q. Was it dark?

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A No, sir, it wasn't.

Q Just tell the jury what transpired once Mr. Compton came to the station?

A Well, when he first come in, I was in the back there doing some mechanical work, and he wanted to know if it would be all right to use the telephone, and I told him all right if it was a local call. And he tried to use it a couple times, and then he asked if I would dial the number for him, he was trying to get in touch with his wife.

THE COURT: Speak a little louder, trying to get in touch with his wife?

A Yes, sir; and I dialed the number for him, and he talked to them, and then.....

Q You dialed the number for him?

A Yes, sir.

Q And you gave him the phone?

A Yes, sir.

Q And he talked?

A As far as I know, he did.

Q Okay, go ahead.

A A little later on he asked if I'd call the sheriff's office and I told him I would, and so I looked the number up.

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1 And a fellow out there named Charlie Jefferson, I looked the
2 number up, and Charlie called the sheriff's department and told
3 them what had happened out there, and Mr. Compton was waiting for
4 him.
5 Q How did Mr. Compton get to the station?
6 A He drove his car.
7 Q What kind of car was it?
8 A Little small car.
9 Q Little small one; what did he do after he made the
10 phone call?
11 A He paced the floor and he talked, and he looked like
12 he was right nervous.
13 Q Looked like he was nervous?
14 A Yes, sir.
15 Q What did Mr. Compton have to say to you?
16 A Well, he made the statment that he had blowed his
17 girlfriend's head off with a shotgun.
18 Q Did you ask him why it happened?
19 A Well, I asked him, but he said it was a accident,
20 he said he didn't know the gun was loaded or anything.
21 Q Did you ask him what he was doing with a gun?
22 A Yes, sir, I asked him, but he never did comment on
23 it.
24 Q He answered what?

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1 A. He never did make a comment on it.

2 Q. Did you overhear any conversation Mr. Compton made

3 over the telephone?

4 A. I heard a little bit, not too much. I heard when

5 he said something about he won't go....He had gone as far as he

6 was going, he won't go run no further and was go wait there for

7 the law to come pick him up.

8 Q. What time did the deputies come?

9 A. I really couldn't say; it was right around 9:00

10 or little after 9:00.

11 Q. So, Mr. Compton stayed at your station for about an

12 hour?

13 A. Yes, sir.

14 Q. Did you have any difficulty understanding Mr. Comp-

15 ton's speech?

16 A. No, sir.

17 Q. What did he do after he was waiting for the deputies?

18 A. Where did he stay?

19 A. Well, his nerves bothered him right bad. He paced

20 the floor and cried a while and sort of beat on his head for a

21 while, and he set down for a while and would get up and walk for

22 a while.

23 Q. Did you have chance to observe the defendant's

24 clothing?

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A. Yes, sir, I did.

Q. Did you notice anything unusual about it?

A. Well, he had right smart blood on his right leg, I'd say right around the knee or little above his knee.

Q. From the right leg, from the knee downwards?

A. Yes, sir.

MR. JONES: No further questions.

CROSS-EXAMINATION

BY MR. SLAYTON:

Q. How long was Mr. Compton in your station from the time he got there until the time the police finally came?

A. Well, it was a little after 9:00. Mr. Talley, he's the one that came over there, and he made a phone call, too. I think he was there, and I generally close at 9:00, and I know I was running right late closing that night. So I would say pretty close to a hour and a half or maybe a little longer.

Q. It wasn't any reason why he couldn't leave at any time if he wanted to leave, is that correct?

A. No, sir.

Q. In other words, there was nobody there to restrain him; you weren't trying to keep him around, were you?

A. No, sir.

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1 Q. And during the time you talked to Mr. Compton, he
2 was very obviously upset and distraught of something having
3 happened to him?
4 A. Yes, sir.
5 Q. Did you observe him crying during this period of
6 time?
7 A. Yes, sir.
8 Q. So he wasn't trying to conceal the fact that there
9 had been a bad accident or something, but he talked to you about
10 it and told you it was an accident, and he cried about the thing
11 happening?
12 A. Yes, sir, he sure did.
13 Q. And he sat there, or he stayed there as best he could,
14 either pacing or very upset, waiting for an hour for the police
15 to come?
16 A. Yes, sir.
17
18 MR. SLAYTON: All right, sir, thank you.
19 THE COURT: Any further questions of this
20 witness?
21
22 REDIRECT EXAMINATION
23 BY MR. JONES:
24 Q. You state Mr. Compton told you about how the accident

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took place?

A Yes, sir.

Q He sat there and told you about it?

A Yes, sir.

Q Tell us what he said?

A Well, he said they were setting there, and he said they was having a drink, and he said he had the gun laying on the table there, and he said he picked it up, and that he didn't realize it was loaded, and he said that it just went off; it was just a accident.

MR. JONES: Okay, no further questions.

THE WITNESS STANDS ASIDE:

(Brief recess)

J. C. GILBERT, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. YANCEY:

Q State your name to the Court, please.

A J. C. Gilbert.

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1 Q What is your occupation?

2 A Deputy Sheriff, Pittsylvania County Sheriff's

3 Department.

4 Q I call your attention back to January 29 of this

5 year. On that occasion did you go to the scene of Carriage Hill

6 Mobile Home Court?

7 A Yes, sir.

8 Q Approximately what time did you arrive?

9 A Approximately 8:45 p.m.

10 Q This is in Pittsylvania County?

11 A Yes, sir.

12 Q Did you go to the trailer in question?

13 A Yes, sir.

14 Q Okay, could you tell us whether or not you opened

15 the door to the trailer?

16 A When I first arrived the trailer was locked.

17 Q What happened after that?

18 A Approximately fifteen to twenty minutes later, Mr.

19 Compton arrived and turned the key over to me, and then I opened

20 the trailer.

21 Q Did you go in the trailer?

22 A I stepped just inside the door, just being one step

23 on the inside.

24 Q Did you touch anything in the trailer?

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A. Just the light switch which is located to the left; I just turned on the light.

Q. Nothing else?

A. No, sir.

Q. Did any other deputies arrive later?

A. Yes, sir, a short time later Deputy Collins arrived.

MR. YANCEY: No further questions.

MR. SLAYTON: No questions.

THE COURT: Stand aside.

THE WITNESS STANDS ASIDE:

D. A. COLLINS, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. YANCEY:

Q. State your name for the Court and the jury, please.

A. D. A. Collins, Deputy Sheriff, Pittsylvania County.

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1 Q. Mr. Collins, did you have occasion to investigate
2 a incident on January 29th of this year?
3 A. I did, sir.
4 Q. Would you tell us what you did and what you found?
5 A. At approximately 9:15 p.m. of January 29, 1977, I
6 received a call at my home from the sheriff's office to go to
7 the Carriage Hill Mobile Home Court, Lot 8-C. I arrived there at
8 approximately 9:30 p.m. This was to assist Deputy John Gilbert
9 and Frank Reynolds.
10 When I arrived there approximately 9:30 p.m. that night,
11 Deputy _____ and Gilbert were already there and A. M. Talbert.
12 MR. WHITEHEAD: Excuse me, what time did you
13 arrive?
14 A. Arrived there at 9:30 p.m.
15
16 Q. What did you do after you arrived?
17 A. I entered the trailer, Lot 8-C.
18 Q. Could you tell us whether or not it was already
19 open or whether it was closed?
20 A. The door was closed, but it was unlocked.
21 Q. You say Deputy Gilbert was already there?
22 A. Yes, sir, he was.
23 Q. What did you do?
24 A. I entered the trailer.

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1 Q And then what did you observe in the trailer?

2 A I found a white female subject lying in the dining

3 room area of the trailer with her brains blew out.

4

5 (Whereupon, a paper is handed counsel for

6 the defense by Mr. Yancey.)

7

8 THE COURT: Do you gentlemen of the defense

9 wish to retire and examine it privately?

10 MR. WHITEHEAD: Yes.

11 THE COURT: I assume it's a floor plan of

12 the trailer?

13 MR. YANCEY: Yes, the kitchen area and

14 dining room.

15 MR. WHITEHEAD: We could save some time if

16 we could go over this.

17 BY THE COURT:

18 Q When did you do it, Mr. Collins?

19 A I did a small diagram on the 30th of January, and

20 on this past Saturday everything I copied in the small diagram,

21 I copied on that copy.

22 MR. SLAYTON: Where is the copy?

23 A I've got it right here, sir.

24 THE COURT: All right, briefly, gentlemen,

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MR. YANCEY: I thought we could put it right here, Your Honor.

THE COURT: Well, the defense attorney couldn't see it then. Bring the blackboard in.

Continuing by Mr. Yancey:

Q Deputy Collins, using the diagram now, if you would, sir, with your stick would you point out exactly what you found when you came in the trailer on January 29th of this year?

A Can I stand up, sir?

THE COURT: Yes, get on this side over here so you won't block anybody's view.

A Okay, at approximately 9:30 p.m. when I entered the trailer on January 29, 1977, I viewed the body of a white female subject lying in the dining area of the mobile home. Part of her body was underneath the dining table; her legs and part of her legs were sticking out from the dining table.

Also I observed the shotgun as I entered the mobile home; was a .16 gauge Remington shotgun. The magazine where discharges the shells was left open. I found two (2) empty shotgun shells that had been shot; one red in color, one purple in color; both .16 gauge.

Also I observed a hole in the ceiling of the trailer,

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1 and right beside the hole was a indenture in the ceiling from a
2 round object.
3 Also in this area over here, going back towards the
4 kitchen area where the refrigirator was, I found blood on the
5 refrigirator, and at the bottom of the refrigirator I found a
6 large spot of brain and two small spots, and underneath the gun
7 was another spot of brains. This chair was.....
8 MR. WHITEHEAD: Excuse me, Your Honor; some
9 of the character witnesses just came in.
10 (Whereupon, the witnesses were excluded
11 from the court room.)
12
13 A. This chair where was close to the body was slid
14 away from the table; again, a chair directly across from this
15 table and chair was slid away. The other two chairs were closer
16 to the table than these two.
17 Also I found approximately, I believe it was four (4)
18 shots, four (4) to six (6) shots, from the gun that had been
19 fired, in this area of the refrigirator into the cabinet area
20 here; and found two waddings that were from a shotgun shell.
21 The waddings separate the shot and the powder; they were found
22 in this area here. This lady was identified by personal
23 belongings to be Mrs. Hattie Cain Ratliff, age thirty-seven (37);
24 had a handbag there which I removed and found her driver's license

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1 and identification of the body.

2 Also in this corner right here was a telephone with

3 blood on the receiver of it. There was a lot of blood back in

4 this area here, like it had been blown back in there.

5 MR. WHITEHEAD: Objection.

6 Q. Don't state your own opinion; just what you found.

7 A. It was blood in this area here on the cabinets and

8 on the refrigirator.

9 Q. Okay, now, you pointed out on your diagram certain

10 areas of blood on the diagram. Now, was there any other blood

11 in the area?

12 A. There was blood on the back of this chair, here, but

13 not in the seat; on the back of the chair.

14 Q. Anywhere else on the floor?

15 A. Yes, it was two (2) large spots of blood underneath

16 the table, directly out, at her head; was on each side, and

17 underneath the head was two (2) telephone books, placed under

18 her head. Her head was lying on them.

19 THE COURT: Two telephone books?

20 A. Yes, sir.

21 Q. Did you find any other blood near the chair on the

22 floor?

23 A. Yes, sir; where the chair was, it was a small

24 amount of blood.

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1 Q. Small amounts on both sides or one side or what?

2 A. It was there where the legs were at.

3 Q. Okay.

4 A. Leg of the chair.

5 Q. Same being on this side?

6 A. Yes, sir.

7 Q. Now, where was the hole in the roof with reference

8 to that chair?

9 A. It was pretty close to the chair here.

10 Q. Could you tell us what angle that hole was toward

11 the roof?

12 A. Approximately a forty-five (45%) degree.

13 Q. All right, which way?

14 A. Shot back this way.

15 Q. So, it was going through the roof at this angle?

16 A. Right.

17 Q. Now, you mentioned that the refrigirator had brains

18 down the side of it. How about the doors and side of the refri-

19 girator, could you tell us whether or not there was any blood

20 there?

21 A. The blood on the doors of the refrigirator?

22 Q. Right.

23 A. Yes, sir, it was, sir.

24 Q. How about on the side of the refrigirator, was it

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1 any there?

2 A. Yes, sir, it was.

3 Q. Would you say it was in a film; was it splattered

4 or what?

5 MR. WHITEHEAD: Objection; he'll have to

6 describe what he saw.

7 Q. Describe how it was found on the refrigirator.

8 A. It was spattered on the refrigirator.

9 Q. Did you find anything else in other areas of the

10 house?

11 A. I found a towel. You have to realize this right

12 here is just a diagram of the kitchen and dining where the body

13 was found; but as you can see, this direction here is a hallway,

14 a bedroom, then it's a bathroom. And in the bathroom I entered

15 and I found a towel that had blood stains on it; also in the

16 sink there was some blood stains.

17 Q. Could you tell us whether or not the sink was wet

18 or dry at the time you came in?

19 A. It was still moist.

20 Q. Now, could you give us the.....Did you measure the

21 room, the kitchen and dining room area?

22 A. Yes, sir, I did, sir.

23 Q. Could you tell us the width and length of that?

24 A. I'll have to look at my other chart over there, sir.

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1 Q. When did you return again?

2 A. Approximately 10:00 o'clock a.m. on January 30,

3 1977.

4 Q. Could you tell us whether or not, with the exception

5 of the items you said you already removed, was it anything

6 different that you found at the scene that morning?

7 A. Everything was intact other than the body and the

8 things I had removed on the night of the 29th.

9 Q. I'm now going to show you Commonwealth's Exhibit

10 Number 46, and would you tell the jury what this item is and

11 where you found it?

12 A. I found this when I reentered the trailer on the

13 30th of January at approximately 2:30 p.m.; found it underneath,

14 partly underneath the refrigirator; a .16 gauge shotgun shell,

15 red in color.

16 Q. Is that a empty or loaded shell?

17 A. A loaded shell, sir.

18 Q. And when did you find this?

19 A. Approximately 2:30 p.m. on the 30th of January.

20 Q. And when did you say you went in on Sunday, at 10:00?

21 A. Yes, stayed for a short period of time, locked the

22 trailer up, checked both doors to see if the trailer was locked;

23 it was locked. and entered that afternoon with the Commonwealth's

24 Attorney.

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1 Q What were your reasons for reentering on Sunday,
2 the two times you entered on that day?
3 A To continue my investigation and to see if I had
4 overlooked any items.
5
6 MR. YANCEY: I would like to pass this
7 around.
8 Q I'll ask you, Deputy Collins, when was the next
9 time after Sunday that you entered or saw the trailer?
10 A The 31st of January; was on Monday afternoon,
11 approximately 5:30 p.m.; I, Deputy D. A. Collins, along with
12 Deputy Gilbert entered the trailer again with the deceased'
13 sister, Mrs. Carter. This was ordered by the Commonwealth's
14 Attorney, George A. Jones, to allow the deceased' sister to get
15 in to get some burial clothes for the deceased.
16 Q At that time did you see the dining area and kitchen?
17 A I did.
18 Q Except for the items removed, did the scene appear
19 the same as it did before?
20 A Yes, it did.
21
22 MR. WHITEHEAD: When was this he went back?
23 WITNESS: This was Monday.
24 Continuing by Mr. Yancey:

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1 Q. What time?

2 A. Approximately 5:30 p.m., sir.

3 Q. What did you do after you went in on this occasion?

4 A. After Mrs. Carter had left, I checked both doors,

5 the front door and back door, to see if it was locked; make sure

6 it was locked before leaving, sir.

7 Q. When was the next time you saw the trailer?

8 A. Well, I went through the area, I believe, on

9 Wednesday and back again on a Saturday, on the 5th of February.

10 I observed the trailer; I did not enter, but I observed the

11 trailer.

12 Q. Would you describe its appearance on Saturday?

13 A. Well, there was no activity around the trailer;

14 everything looked secure.

15 Q. When was the next time that you entered the

16 trailer?

17 A. February 6th, sir.

18 Q. And that was the day after the Saturday, on Sunday?

19 A. Yes, sir.

20 Q. All right, I'm now going to show you Commonwealth's

21 Exhibit Number 47, and would you describe to the jury what this

22 item represents?

23 A. This is part of the ceiling here where it had the

24 gunshot hole and the indenture beside of it; removed that from

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1 the ceiling on February 6th, and cut this out and mailed it by
2 certified mail to the lab.
3 Q. All right, sir; was anyone else with you on that
4 occasion?
5 A. Yes, sir, it was myself, D. A. Collins, R. M. Walton,
6 Jr., Deputy Sheriff of Pittsylvania County.....correction....
7 Sgt. T. A. Smith, Danville Police Department, and Ray Shelton,
8 Danville Police Officer, and two lawyers, Mr. Huggins and Mr.
9 Yancey.
10 Q. And I believe you got a search warrant to go in on
11 that occasion, did you not?
12 A. I did, sir.
13 Q. Now, on that occasion, did you also examine anything
14 on the outside or above or under the trailer?
15 A. Yes, sir, we took a stepladder and climbed up on the
16 outside and looked where the hole was through the top part of
17 the trailer, and to see if it was any rust or anything on the
18 metal top of the trailer, which we observed none; it looked like
19 it was fresh. Also, while inside the trailer, I showed Al Smith
20 of the Danville Police Department, what I had found on January
21 29th at approximately 9:30 p.m.. Sgt. Smith took different type
22 measurements, and we put the chair back in the same place it was,
23 everything, particular this chair here;was bloody rings on the
24 floor where the legs of the chair were; so we matched them up

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with that and took different type measurements and some pictures.

MR. SLAYTON: This amounts to attempting to reconstruct something that happened several weeks prior to the event, itself.

THE COURT: Eight (8) days.

MR. SLAYTON: Yes, sir.

Continuing by Mr. Yancey:

Q Officer, let me ask you this question: When you entered on Sunday, February 6th.....

THE COURT: Wait just a minute.

MR. SLAYTON: We object to this line of questioning because of the remoteness of it to the event which occurred eight days prior to this. And the officer, of course, testified what he found on that occasion; but now he's attempting to go back to reconstruct the scene and make measurements, and I don't know where he's headed, so I object to that line.

THE COURT: What is the purpose of the line of questioning?

MR. YANCEY: It's trying to establish what was found on the Sunday that showed connection with the prior times he had been in. That's why I offered

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1 to ask one additional question concerning this, which
2 I understand Mr. Slayton has objected to. So I would
3 offer to ask the deputy what the scene appeared to be
4 to him on Sunday.
5 THE COURT: All right, proceed.
6
7 Q. Deputy Collins, going back a little bit; when you
8 entered on Sunday, February 6th, with the exception of the items
9 removed and the items you removed, did the scene appear to be in
10 substantially the same position you found it on Monday when you
11 previously had been there?
12 A. Yes, it did, sir.
13 Q. Now, when you talk about the chair and a circle,
14 just describe, don't explain your conclusions, but describe what
15 you found on the floor at the area of the chair?
16 A. There was a brown bloody circle of dried blood,
17 as big around as the chair leg.
18 Q. Are you saying it was substantially the same as
19 the chair leg bottom?
20 A. Yes, sir.
21
22 MR. SLAYTON: Your Honor, now what Mr. Yancey
23 is doing; that he and his partner took this officer
24 out there with the intent to build a case, build an

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A. No, sir, I do not.

MR. WHITEHEAD: That's all.

THE COURT: Anything further?

MR. YANCEY: No further questions.

THE WITNESS STANDS ASIDE:

(Whereupon, Dr. Oxley was called and testified as contained in a separate transcript of this proceeding of Dr. Oxley's testimony; said transcript to be made a part of this record.)

CLEON C. MAUER, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. HUGGINS:

Q. Would you state your name, sir?

A. Cleon C. Mauer.

Q. Where do you live, Mr. Mauer?

A. Henrico County.

Q. Where are you employed?

A. I'm presently employed with the Bureau of Forensic

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1 Exhibit Number 43 with the shotgun shells which I had received
2 in our lab and are marked as Exhibit 44.
3 I also examined the metal pellets which are marked
4 as Exhibit Number 45 and attempted to determine the size. I
5 also examined the wads which are contained in Exhibit 44 to
6 determine whether or not they are components of the shotgun shell.
7 I examined Item 46 to determine whether or not in my
8 opinion the hole therein could have been caused by a shotgun
9 shot.
10 Q As to the condition of the gun, what did your
11 investigation show?
12 A In my opinion, the shotgun, Exhibit 43, was in
13 mechanical operating condition; safety features were functioning
14 properly.
15 Q How many shots does that hold, Mr. Mauer?
16 A Off-hand, I don't know.
17 Q As to the shotgun shells, did you conclude whether
18 or not they had been fired from that shotgun?
19 A I did.
20 Q And your conclusion was?
21 A In my opinion the shotgun shells, Exhibit 44, were
22 fired in the shotgun, Exhibit 43.
23 Q As to the metal pellets, what did your test indicate?
24 A My opinion, these metal pellets are consistent with

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1 Number 1 buck.

2 Q. Number 1 buck?

3 A. Yes.

4 Q. Now, Mr. Mauer, these paper wads, how many paper

5 wads are in a shotgun shell of that type?

6 A. Various shells differ, components differ, and some

7 don't have any; some have two, three; they vary.

8 Q. Now, what were your conclusions as to the ceiling

9 that you had there, as to what made that hole?

10 A. Based on my opinion.....

11 Q. Would you step down here, please? If you would face

12 the jury and show it to them.

13 A. In my opinion the hole in the upper portion of the

14 ceiling material is consistent with a wadded column, shotgun

15 wadded column; entered the ceiling. The small indentation to

16 your right of this hole is consistent with the wadding. In

17 other words, what may be a plastic wad, cardboard wad, leaving

18 the column, which it does, and striking to the right of the hole.

19 Q. Now, you found powder burns or unburnt powder around

20 this hole?

21 A. This is what's consistent with unburned powder

22 surrounding.

23 Q. What does that indicate to you, Mr. Mauer?

24 A. It was within the distance of which the firearm

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1 would have deposited powder, and this would probably be near
2 three (3) feet, approximately a maximum of four (4) feet.
3 Q. Or less; are you saying a maximum of three or four
4 feet?
5 A. In that area, yes.
6 Q. Did your investigation indicate whether that hole
7 was straight up or at an angle?
8 A. Based upon my examinations, it was entered at
9 approximately a twenty-five (25%) degree angle.
10 Q. All right, sir; you, of course, returned these to
11 the deputy sheriff who had forwarded them to the lab?
12 A. They were returned to him, yes.
13 Q. Now, as to the ceiling, were you specifically asked
14 to indicate whether or not any sign of wetness or staining was
15 present?
16 A. I was.
17 Q. Did your investigation indicate any of this?
18 A. I found none.
19 Q. No indication of wetness or staining?
20 A. No, sir.
21
22 MR. HUGGINS: Your witness.
23
24

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CROSS-EXAMINATION

BY MR. SLAYTON:

Q. This gun is fixed so it will only hold three (3) shells, is that correct?

A. I don't know.

Q. You didn't make that determination?

A. No, I did not.

Q. Well, how many years have you been dealing with such as this shotgun?

A. The last thirteen (13) years.

Q. Now, when the gun is fired, what happens to the shell?

A. Normally, in this type of a firearm, the shell is ejected from the firearm.

Q. And you examined this gun and testified that it was in operation, from your examination, is that correct?

A. Yes.

Q. How many times did you fire it?

A. Four (4) times.

Q. Now, when you fired it, did it eject a shell after each time as you would expect it to do?

A. I believe it did. I have no indication it did not.

Q. Now, if the gun were loaded and a person wanted to unload the gun, how would he do it?

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A. You can unload it by rotating the bolt to the rear.

Q. Show the jury, please.

A. When unloading the gun, one way is to move that to the rear and pull this each time, and each time a shotgun shell would eject.

Q. Is that the normal way or a safe way to unload the gun?

A. Nothing wrong with that way.

Q. All right, now, when you unload it that way and the shell is discharged, does it come out of the chamber following the same trajectory, or will it follow slightly a different course?

A. They will vary, but the general pattern will be the same, but they will vary.

Q. And if the person is unloading the gun by using his hand, the trajectory that the shell casing takes is different from that that it takes when the gun is fired, isn't that correct?

A. If the gun is fired, it would still take a different trajectory, as far as the actual same trajectory, but the general pattern of it would be, generally the same. It may go forward a little bit or to the rear, but generally it would be off to the right.

Q. If you were seated in the chair and unloading this gun of three (3) cartridges, you might find them in anywhere to

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1 the right of you?

2 A. Once they strike the floor or whatever it is, they

3 may bounce anywhere.

4 Q. All right; now, did this weapon, when you examined

5 it, have a safety that was properly functional?

6 A. Yes, sir.

7 Q. And I believe you testified that from this exhibit,

8 Number 44, you found one hole that you identified as a hole made

9 by shotgun blast?

10 A. No, sir, I said it was consistent with one made by

11 a shotgun column.

12 Q. Is there anything about this exhibit Number 44 that

13 allows you to conclude that it was fired by this weapon?

14 A. No, sir.

15 Q. This other indentation that you found, that you

16 observed, was not made by a shotgun, is that correct?

17 A. It was made in my opinion by a shotgun shell compo-

18 nent.

19 Q. All right, sir, and is there anyway.....Well, from

20 your judgment, how far was the gun that made this hole from this

21 material when the shot was fired?

22 A. I'd estimate somewhere near three to four feet.

23 Q. Something like that or more?

24 A. Possibly.

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1 Q. Now, is it possible to fire a gun and make this hole
2 without also having made this indentation to it?
3 A. Is it possible?
4 Q. Yes, is it possible.
5 A. Certainly.
6 Q. Why is that?
7 A. It depends again; each time a shotgun is fired, it
8 may not take exactly the same path. The wad at one time may
9 stay with it, the next time it may vary a little bit to the left,
10 maybe an inch; next time it may go two inches; it may go to the
11 left, it may go to the right; it varies.
12 Q. Well, when you come into a room, and a shotgun has
13 been fired in that room, where you find the wadding on the floor
14 means what?
15 A. Nothing.
16 Q. And when you find a pellet, or pellets that have been
17 expended lying in various parts of the room, what does that prove
18 to you?
19 A. I don't know if they're indented in the wall; if
20 they are merely laying on the floor they could have been kicked
21 over there, I don't know. If they are all in one area, nothing
22 in here, I have to assume they were fired in probably the direction
23 the pellets were located.
24 Q. Suppose they are lying in a corner of the room on

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1 the floor but they have been dented.

2 A. Indented in the wall?

3 Q. No, sir, I'm saying suppose they are lying on the

4 floor loose, and you find that they have indentation in them.

5 A. I would think this was absolutely normal; when they

6 are coming out of the shotgun, itself, they may hit against each

7 other and dent; they are soft lead.

8 Q. They will also hit various objects in the room,

9 wall, floor or anything, and will ricochet off and fall in various

10 places?

11 A. Yes, sir.

12 Q. So the location of the expended pellets and the

13 location of the shotgun shell casings and the location of the

14 expended wads from shell casings are lying in various places of

15 the room and for the most part prove nothing?

16 A. Only if they are all in a general area. We assume

17 they are fired in that area, and none back here. They could have

18 been fired in that general direction and bounced off. I don't

19 know where the gun was actually located.

20 Q. Now, if this gun were loaded and the safety was off,

21 the trigger pulled, and the shell did not fire, would the gun

22 automatically eject that shell?

23 A. No, sir.

24 MR. SLAYTON: Thank you, sir.

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1 THE COURT: Any redirect?

2

3 MR. HUGGINS: Yes, sir.

4 MR. SLAYTON: Could I ask him one other

5 question, Your Honor?

6 THE COURT: Wait, let them finish. They

7 said they had some redirect.

8

9 REDIRECT EXAMINATION

10 BY MR. HUGGINS:

11 Q. Mr. Mauer, if one of these shells from this gun is

12 ejected without being fired, will the other one automatically

13 come up in the chamber for firing?

14 A. If the bolt goes forward and there is one in there

15 to be inserted in the chamber, yes.

16 Q. Now, you were asked about this as to whether you

17 would always expect to find a hole and the indentation in this

18 manner.

19 A. Yes, sir.

20 Q. And I believe your answer is you wouldn't expect to

21 find it logically, the indentation in this manner; but let me

22 ask, would you expect to find.....

23 A. I believe I was misunderstood. I would expect to

24 find a wad marking such as this. However, sometimes you may not

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1 find it and other times it will be at a distance where it will
2 not reach this far. However, this is not uncommon, and you run
3 into it very frequently.
4 Q. Now, Mr. Slayton also asked you, do you know whether
5 this gun made this hole?
6 A. I do not.
7 Q. But is this or not, is it or not consistent with a
8 16 gauge shotgun blast?
9 A. It's consistent with a shotgun. I won't say a 16
10 gauge, but it is consistent with a shotgun column.
11
12 MR. HUGGINS: That's all.
13 THE COURT: All right, Mr. Slayton.
14
15 RECROSS-EXAMINATION
16 BY MR. SLAYTON:
17 Q. I believe you told the jury that the two expended
18 shells that you examined were shells that were fired by this
19 weapon, is that correct?
20 A. In my opinion they were fired in that firearm, yes.
21 Q. You are not able in your examination to draw that
22 one conclusion based upon any pellets that may have been found
23 in any particular area, are you?
24 A. The only conclusion or inference could be drawn at

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that point is that the markings on the exterior surface of these shotgun shells indicate that it was normally or factorily loaded with number one buck. The pellts which were recovered are consistent with number one buck; but it doesn't specifically identify this shotgun shell as opposed to the other by the number one buck pellets.

Q. You say it does?

A. It does not.

Q. Now, the reason you are able to say those shells were fired by that gun is because of the peculiarity of the markings that a weapon makes on the shell as it strikes it, isn't that correct?

A. Yes, sir, there are individual characteristics which are common to this particular shotgun shell and to no other.

Q. So in order to say what those particular characteristics are for that weapon, it was necessary for you to test-fire that weapon one more time; is that how you arrived at it?

A. I test-fired Exhibit 43 four (4) times.

Q. So, when making your examination to determine whether those individual, those special characteristics are of this particular weapon, you looked at the rear, the back part of the shell casing, itself?

A. The metal portion, yes.

Q. And are these markings observed under microscope?

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1 MR. HUGGINS: Yes, sir.

2

3 (Whereupon, Mr. T. A. Smith was called,

4 sworn and testified as contained in a separate

5 transcript and to be made a part of this record.)

6

7

8 ELLA LUCILLE WILSON, being first duly sworn,

9 testifies as follows:

10

11 DIRECT EXAMINATION

12 BY MR. YANCEY:

13 Q. State your name for the Court, please.

14 A. Ella Lucille Wilson.

15 Q. Where do you live, Mrs. Wilson?

16 A. Carriage Hill Trailer Park Lot 9-B.

17 Q. Where is that in 9-B, where is that in relation to

18 the trailer of Watson Compton?

19 A. Almost directly in front of it.

20 Q. Is it on the same side of the road or opposite

21 side of the road?

22 A. On the opposite side.

23 Q. All right, how long have you lived at that address?

24 A. Five (5) years.

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1 Q. Did you have occasion to know the deceased, Hattie
2 Ratliff, and the defendant Watson Compton?
3 A. Yes, sir.
4 Q. All right, now, I call your attention back to the late
5 fall of 1976 and ask did you observe any altercation or any
6 incident between the deceased and Watson Compton, the defendant?
7
8 MR. WHITEHEAD: Your Honor, before the
9 response, we'd like to take up a matter with the Court.
10 THE COURT: Let's take the jury back here.
11
12 (Whereupon, the jury leaves the court room.)
13
14 THE COURT: Now, gentlemen, let's complete
15 the line of questioning, then we can get the objection.
16 It's in the absence of the jury.
17
18 Continuing by Mr. Yancey:
19 Q. Mrs. Wilson, will you tell us what happened on that
20 occasion?
21 MR. WHITEHEAD: When is this?
22 THE COURT: You said the fall of '76?
23 MR. YANCEY: Yes, sir.
24 THE COURT: Could you be more specific than

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1 entitled to show this.

2 Now, as to the gun and the shooting; again,

3 we're dealing with a accidental type; this is the

4 alleged defense. Now, this girl testifies to Hattie's

5 car, she thought it was Hattie; can't say she actually

6 saw the face; but what comes out is a couple months

7 prior to this, prior to the actual killing, this man was

8 out shooting at somebody or in the direction of someone.

And I think we're entitled to show that. We have others

10 who will also testify as to other threats, one in his

11 presence.

12 THE COURT: Do you gentlemen want to pursue

13 the matter further?

14 MR. WHITEHEAD: Well, Judge, I was looking

15 up a case; it's unrelated to the crime; it doesn't

16 lead up to the crime; the transactions are too remote

17 in time, and really, her testimony is so vague.....

18 THE COURT: We've got two different inci-

19 dents here, now; which one?

20 MR. WHITEHEAD: On the incident in November.

21 THE COURT: On the shooting at the car, I'm

22 of the opinion that is not admissible at this stage.

23 It may be when he testifies, in cross-examination of

24 him.

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1 The other one, I'm inclined to believe it
2 is admissible to show the relationship of the parties.
3 It was in November; the alleged homicide was in
4 January. She identifies his voice; he came over there;
5 he calls over there and said, "If she don't come over
6 here I'm going to get a knife after her", and he made a
7 gesture to do that in the presence of this woman, and
8 her husband intervened; and I'm going to rule that that
9 shows the relationship of the parties prior to the
10 alleged homicide.
11 MR. SLAYTON: You're doing that in spite of
12 the fact that he pulled out of his pocket car keys and
13 tossed them over to her?
14 THE COURT: Yes. He was overcome by the
15 force that intervened, her husband. But it may get
16 in on examination of him, again, both incidents; but
17 we'll face that when we get there.
18 MR. WHITEHEAD: We except to the ruling of
19 the Court.
20 THE COURT: Mrs. Wilson, you're still on the
21 witness stand. The Court is ruling that the incident
22 about the shooting at the car is not admissible;
23 therefore, you will not tell the jury about that. You
24 will tell them about the other incident if asked by

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1 A. On Carriage Hill Trailer Park, Lot 9-B.

2 Q. Where is that in relation to Watson Compton's trai-
3 ler?

4 A. Almost directly in front of it.

5 Q. Would that be on the same side of the street or
6 opposite side?

7 A. On the opposite side.

8 Q. How long have you lived at that address?

9 A. Five (5) years.

10 Q. Now, I call your attention back to November of 1976
11 and ask you if you would explain to the jury the incident which
12 occurred at your trailer involving the deceased, Hattie Ratliff,
13 and the defendant, Watson Compton.

14 A. Well, she came over to the trailer.

15 THE COURT: Who is she?

16 A. Hattie Ratliff.

17 Q. All right.

18 A. Came over to my trailer, and she was setting there,
19 and she'd been over, maybe five minutes or so. And the telephone
20 rang, and I answered it, and it was Mr. Compton.

21 Q. Did you recognize his voice, or did he identify
22 himself or what?

23 A. I recognized his voice.

24 Q. All right, what did Mr. Compton say?

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1 A. He asked me if Hattie was over there; he did say
2 Ratliff; he said is Hattie over there, and I told him yes. And
3 he said, "Well, tell her she'd better come on home, don't I'm
4 going to come get her with a knife".
5 Q. Now, what was that again that he said on the phone,
6 and say it slowly so the jury can hear it?
7 A. He said, "Tell her to come home; if she don't, I'm
8 going to come over there and get her with the knife".
9 Q. All right.
10 A. And it won't long before he came over there, and he
11 came on in and set down, and I don't know exactly what was said,
12 but I do remember him asking her if she was ready to go home,
13 and she told him no, and he stood up and reached in his pocket,
14 and then that's when my husband stood up and told him we didn't
15 want any trouble over there. And he said something about her
16 car, and then he throwed her car keys across the room where she
17 was setting. She was over in a chair next to the kitchen, and
18 he threw her keys over to her, and then he left. And I didn't
19 hear any more that night.
20 Q. Did Hattie leave then, or did she stay a while or
21 what?
22 A. She stayed a little while after that, and then she
23 left.
24 Q. About how long did she stay?

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1 A. Oh, maybe ten, fifteen minutes.

2

3 MR. YANCEY: No further questions.

4

5 CROSS-EXAMINATION

6 BY MR. WHITEHEAD:

7 Q. Mrs. Wilson, this is something that happened last

8 fall, isn't that right?

9 A. Yes, sir.

10 Q. And the fall of 1976?

11 A. Yes, sir.

12 Q. You're not realy sure about the month, are you, the

13 exact time?

14 A. Well, it was when I went to work up there where I'm

15 working at now, because I just had got the job.

16 Q. When did you go to work where you're working now?

17 A. It was before Thanksgiving, that's all I know.

18 Q. When was it before Thanksgiving?

19 A. You mean what?

20 Q. How long, how long before THanksgiving?

21 A. Maybe a couple weeks; it wasn't long.

22 Q. So, this was one evening; Hattie Ratliff came to

23 your trailer?

24 A. No, sir, it was at night, it was dark.

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1 Q. Evening, dark, night?

2 A. Yes, sir.

3 Q. And you got a telephone call from Mr. Compton?

4 A. Yes, sir.

5 Q. And he came over there?

6 A. Yes, sir.

7 Q. And they sat there a little while and talked, is

8 that right? How long did they sit there?

9 A. Not long.

10 Q. Not long; and he left?

11 A. He left first, yes.

12 Q. He left, and before he left he threw her some car

13 keys, right?

14 A. Yes, sir.

15 Q. And how long did she stay there after he left?

16 ten or fifteen minutes?

17 A. Something like that, I guess.

18 Q. You didn't call the police?

19 A. No, sir.

20 Q. You forgot about it after that until after this

21 happened?

22 A. Well, there wasn't any trouble over there.

23 Q. I said that was it, he left?

24 A. Yes.

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Q And then ten or fifteen minutes she left?

A Yes, sir.

Q Do you know where she went to after she left?

A No, sir.

Q But he left and she left?

A Yes.

MR. WHITEHEAD: All right.

THE COURT: Anything further of this witness?

MR. YANCEY: No, sir, Your HOnor.

THE COURT: All right, you may stand aside. Call the next witness.

THE WITNESS STANDS ASIDE:

JESSE WILLARD WILSON, JR., being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. YANCEY:

Q State your name for the Court, please.

A Jesse Willard Wilson, Jr.

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1 Q. Are you the husband of Ella Lucille Wilson?

2 A. Yes, sir.

3 Q. And you live at Carriage Hill Mobile Home Court?

4 A. Yes, sir.

5 Q. Your trailer, I take it, is across the street from

6 Watson Compton?

7 A. Yes, sir.

8 Q. I call your attention back to the time when Hattie

9 Ratliff came to your trailer, limiting it to that.

10 A. Yes, sir.

11 Q. And would you tell the jury what happened on that

12 specific occasion?

13 A. She came over to the trailer and was setting there

14 talking and got a phone call, and my wife said it was.....

15 THE COURT: Turn this way and talk a little

16 louder.

17 MR. WHITEHEAD: Your Honor, we'd like to make

18 the same objection just as we did before.

19 THE COURT: Yes, sir, I assume it's the same

20 incident.

21 MR. YANCEY: Yes, sir.

22 THE COURT: All right.

23

24 A. And I got a phone call, and my wife answered the

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1 phone, and he said is Hattie there, and she said yes.

2 Q You don't know that?

3 A No, sir.

4 Q Tell what happened.

5 A In a few minutes Watson came over.

6 Q Mr. Compton came to your trailer?

7 A Yes, sir. He knocked on the door, and I let him

8 in, and he came and set down on the couch, and he was talking to

9 her, and he stood up and reached in his pocket; and I said we

10 don't want any trouble. He said, "Ain't go be no trouble", and

11 took some keys out and threw them at her, and he walked on out.

12 Q At the time this happened, you said he was seated

13 and then he stood up?

14 A Yes, sir.

15 Q And it was at that point that he reached in his

16 pocket?

17 A Yes, sir.

18 Q And your response was that you didn't want any

19 trouble?

20 A Yes, sir.

21

22 MR. YANCEY: No further questions.

23

24 CROSS-EXAMINATION

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1 BY MR. WHITEHEAD:

2 Q Mr. Wilson, he came over, talked a little bit, he
3 threw the keys and he left, right?

4 A Yes, sir.

5 Q And then she stayed there how long after he left?

6 A Ten or fifteen minutes.

7 Q When did this happen?

8 A I believe it was around the first of November,
9 no, this was, it was still warm; I believe it was August or
10 September.

11 Q You think it was August or September?

12 A I don't know.

13 Q It was something that just, you didn't attach any
14 significance to, you didn't call the law or police, did you?

15 A No, sir.

16

17 MR. WHITEHEAD: That's all.

18 THE COURT: Anything further of this witness?

19 MR. YANCEY: No, sir.

20 THE COURT: You may stand aside.

21 Call the next witness.

22

23 THE WITNESS STANDS ASIDE:

24

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1 VIRGINIA CARTER, being first duly sworn,
2 testifies as follows:
3
4 DIRECT EXAMINATION
5 BY MR. HUGGINS:
6 Q. State your name, please?
7 A. Virginia Carter.
8 Q. Where do you live, Mrs. Carter?
9 A. 118 Belaire Drive, Danville, Virginia.
10 Q. What relation, if any, are you to the deceased,
11 Hattie Ratliff?
12 A. Sister.
13 Q. Now, Mrs. Carter, do you know the defendant in this
14 case, Watson Compton?
15 A. Yes, sir, I do.
16 Q. How long have you known him?
17 A. About a year and a half.
18 Q. Now, do you know how long that he lived in Carriage
19 Hill Trailer Court prior to the death of your sister?
20 A. To the best of my knowledge, it was sometime in
21 the summer of '76.
22 Q. All right, did you ever go over there?
23 A. Yes, sir.
24 Q. Now, did you have any occasion to go over in October

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of 1976?

A. Yes, sir. It was one Thursday night about 11:00 o'clock that Hattie, Mrs. Ratliff, called me. And she said, "Will you come and get me?" I asked why. She said, "Watson has".....

Q. Wait a minute; where was she?

A. She was at the trailer court.

Q. She said, "Come get me"?

A. Yes, sir.

MR. WHITEHEAD: Your Honor, we've got a motion to make.

THE COURT: All right, let's take the jury back to the last room on my left.

(Whereupon, the jury leaves the court room, and the following was had:)

THE COURT: Now, gentlemen, let's do as we did before. Go through the entire examination and cross-examination and then get the objection.

MR. HUGGINS: If Your Honor pleases, is there an objection on the ground of the relevancy? If so, I think I can save the Court a lot of time.....

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1 Q. How long after the incident in October was it
2 before you learned that he had bought the wedding rings?
3 A. I didn't see them until a week before Christmas,
4 and I'm not sure who bought what as far as the wedding rings are
5 concerned.
6 THE COURT: All right, gentlemen; have you
7 concluded?
8 MR. SLAYTON: Yes, Your Honor.
9 THE COURT: All right, I'm going to rule
10 that what happened on the Thursday of October over at
11 the trailer court is admissible; not the conversation
12 between her sister and her when her sister called;
13 not what her sister said. Do you understand that?
14 WITNESS: Yes, sir.
15 THE COURT: All right, bring the jury back.
16 MR. SLAYTON: Your Honor, we would like to
17 except to the decision of the Court.
18 THE COURT: Yes, sir.
19
20 (Whereupon, the jury returns to the court
21 room, and the following was had:)
22
23 THE COURT: All right, Mr. Huggins.
24

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Continuing Direct Examination:
BY MR. HUGGINS:

Q Mrs. Carter, to go back over a little, you are Virginia Carter, the sister of the deceased, Hattie Ratliff?

A Yes, sir.

Q In October of 1976, did you receive a telephone call from your sister?

A Yes, sir, I did.

Q As a result of this telephone call, did you go to the Carriage Hill Trailer Park?

A Yes, sir, I did.

Q Now, when you got there, would you describe to us what you.....First of all, who was there and what you found and what you did?

A My sister was there, and Watson Compton was there. My sister's nose was bleeding, her mouth was bleeding, her left side of her face was all swollen and bruised; and she stated that Watson had beat her with his fist and had stomped her, knocked her down and stomped her legs. She said he had also hit her in the back of the head with a water pick, and she told me that he had beat her, like I say.

Q Where was he at that time?

A He was standing right there in the living room with us, and I asked Watson for him to give.....Hattie said he

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1 would not give her her car keys. So I asked him for her car
2 keys, and at first he said he didn't know where they were. So
3 we walked into the bathroom to see if we could find them, see if
4 they were in there, because she said sometimes she hid the keys
5 from him in there.
6 Well, in the meantime when she had told me that he
7 had beat her with his fist and what all he had done to her, he
8 made the statement that, "Yes, I am a sorry son-of-a-bitch". And
9 we came back out, and I asked for her car keys again. He went
10 to the closet, took out a gun; it was not a hand gun; it was a
11 rifle or some sort; and he put it between my eyes, and he
12 said, he would give us a few minutes to get out of there, and he
13 told me he would blow my head off too.
14 Q Blow your head off too?
15 A Blow my head off too.
16 Q Now, what kind of gun was this, if you know?
17 A It wasn't a hand gun, and it wasn't a shotgun,
18 because I know the difference between a shotgun, shotgun shells
19 and bullets; appeared to look like they were about that long.
20 Q Do you know whether that gun was loaded or not?
21 A Yes, it was loaded, because he made sure of that.
22 Q Why was that?
23 A It was bolt or lever or something; he pulled it
24 back, and I could see the bullets in it, and then that's when he

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1 stuck it between my eyes and said that he would blow my head
2 off too.
3 Q. What did you and your sister do then?
4 A. He throwed some keys out on the table, and I got
5 the car keys, and we left immediately, because he had told us
6 he would give us just a few minutes to get out of the house.
7 Q. This was October of 1976?
8 A. Yes, sir.
9 Q. Where did you take your sister?
10 A. I took her to my home at 118 Belaire Drive.
11 Q. Now, did you ever go back to that trailer?
12 A. The next morning I took her back. I didn't go back
13 inside that day. I took her back, and the only other time I went
14 in the trailer was after her death when I did go in to get one
15 outfit for her to be buried in, because I couldn't find that
16 particular outfit anywhere else.
17 Q. What did your sister do the following day following
18 the incident that you have described to the jury?
19 A. She got up, went out and got an apartment.
20 Q. Where?
21 A. At Ruxton Apartments.
22 Q. Where is that?
23 A. In Danville, Virginia.
24 Q. How long did your sister maintain that apartment at

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1 Ruxton Apartments?

2 A. She still had it at the time of her death.

3

4 MR. HUGGINS: Your witness.

5

6 CROSS-EXAMINATION

7 BY MR. SLAYTON:

8 Q. Mrs. Carter, what time of the day or night did you

9 receive this phone call?

10 A. It was 11:00 o'clock at night.

11 Q. How long did it take you to get from your home over

12 to where your sister was?

13 A. Not over twenty (20) minutes.

14 Q. Approximately what time did you arrive?

15 A. Approximately 11:15 or twenty past 11:00.

16 Q. Had your sister been drinking?

17 A. I did not see her drink anything.

18 Q. Well, did you detect the odor of alcohol about her?

19 A. I couldn't swear to that, because there was a odor

20 of alcohol in the trailer. There was a empty beer can laying on

21 the floor, so I do not know if it was.....

22 Q. How often did you see your sister during this time

23 in October?

24 A. Just during the month of October?

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1 Q. No, September, October, November; during that period
2 of the year?
3 A. I saw her maybe, well, at least once a month, twice
4 a month.
5 Q. It is a fact that she had developed quite a drink-
6 ing problem, wasn't it?
7 A. I don't think I'm qualified to testify to that, I
8 do not know.
9 Q. Well, it's a fact that when you saw her she was
10 drinking on most every occasion?
11 A. No, not necessarily.
12 Q. Well, it's a fact that when you saw her in the
13 evening, she was generally, had generally had quite a bit to
14 drink?
15 A. No, not necessarily.
16 Q. It's a fact that when she drank she became very
17 wild and excitable?
18 A. No.
19 Q. She did not?
20 A. Well, I don't know exactly what you mean by wild
21 and excitable. I'm afraid you'll have to explain it.
22 Q. She was very argumentative, wasn't she?
23 A. No, not around me she wasn't.
24 Q. Well, how did she behave when she had been drinking?

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1 A. Most of the time when she'd come over she might lay
2 around, lay down and go to sleep if she'd been drinking.
3 Q. At at the times she didn't do that, what did she
4 do?
5 A. We talked.
6 Q. And she tried to slash her wrist on the night that
7 you had to come and get her?
8 A. No, sir, she did not.
9 Q. You deny that?
10 A. Yes, sir, I deny it.
11 Q. Do you deny she was angry and upset because she
12 couldn't see her children because she had had too much to drink
13 that night?
14 A. Yes, I deny that.
15 Q. Now, had you retired for the evening and gone to
16 bed when you received this phone call?
17 A. Yes, sir, I had.
18 Q. And it's a fact that you got up and put on a house
19 coat, and you went out into your car and went straight over to
20 Mr. Compton's trailer?
21 A. Yes, sir.
22 Q. And you do own a hand gun?
23 A. Yes, sir.
24 Q. Don't you?

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A. Yes, sir, I do.

Q. And it's an automatic pistol?

A. Yes, sir.

Q. And did you have it with you that night?

A. No, sir.

Q. ARe you sure?

A. I am positive.

Q. Had you been to Mr. Compton's trailer any other time with that gun?

A. No, sir, I had not. I do not carry it, I do not have a license to carry it, and I leave it at home.

Q. But you admit that you own a hand gun?

A. Of course, I admit it.

Q. And it is an automatic?

A. Yes, sir.

Q. Now, after this night in October, Mr. Compton and your sister continued to see each other on a regular basis, did they not?

A. I knew they were seeing each other. I do not know how regular it was.

Q. But you knew that they were having dinner, they were visiting at her place or his place?

A. Yes, sir.

Q. They were going on trips together?

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A. I don't know anything about the trips.

Q. They went to Reedville, you don't know anything about that?

A. Well, I don't consider that a trip. It was to see my father in the hospital, and it wasn't anything overnight.

Q. I didn't mean to suggest that; I mean they took trips together, they went to Reedville to see your father?

A. Yes, sir.

Q. And this was after October?

A. Yes, sir.

Q. And after this incident you described here?

A. Yes, sir.

Q. And this continued along until the night of her death?

A. Yes, sir.

MR. SLAYTON: Thank you.

THE COURT: You may stand aside. Call the next witness.

THE WITNESS STANDS ASIDE:

MR. HUGGINS: The Commonwealth rests, Your Honor.

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THE COURT: Bring the jury back. We're not concerned with the energy crisis right now.

MR. SLAYTON: No, but we do feel it's relevant to ask if this conversation was different from other previous conversations.

THE COURT: I think that's a little remote.

(Whereupon, the jury returns to the court room, and the following was had:)

THE COURT: All right, Mr. Slayton.

DIRECT EXAMINATION

Continuing by Mr. Slayton:

Q. Would you state your name, please, sir?

A. Robert Clark.

Q. Where do you live, Mr. Clark?

A. I live on Southland Drive, Danville.

Q. What business or occupation are you engaged in?

A. Clark Printing Company.

Q. Mr. Clark, in January, 1977, did you hold any position with the City of Danville?

A. Yes, sir, Mayor.

Q. Did you know Mrs. Hattie Ratliff?

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A. Yes, I did.

Q. How long had you known her?

A. I'd known her since she was secretary to the National Tobacco Textile Museum Center, when she went to work for them.

Q. Were you also associated with the National Tobacco Museum?

A. Yes, I was.

Q. And in what capacity?

A. As a director of the board.

Q. Did you talk to Mrs. Ratliff in January of 1977?

A. Yes, I did.

Q. Do you remember the date you talked to her?

A. It was on January 29th.

Q. Approximately what time?

A. Between the time of 8:15 and quarter to 9:00 that night.

Q. How long did you talk to her, do you recall?

A. A very few minutes; I'd say not over five minutes at the most.

Q. How did you happen to talk to her at that time?

A. She called my home and was trying to seek some help to get some oil for Mr. Compton, stating that.....

MR. HUGGINS: Objection, Your Honor.

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1 THE COURT: Let's leave the conversation out.

2

3 Q. How long did you talk to her?

4 A. About five minutes.

5 Q. Had she previously called your home?

6 A. She called late in the evening, and I wasn't in.

7 Q. And you returned the call to the number she had left?

8 A. Yes, she left the number with my wife for me to

9 call back.

10 Q. When you returned the call to her, did she answer

11 the telephone?

12 A. Yes, sir, she did.

13 Q. And before you terminated that call, did you talk

14 to anyone else?

15 A. Mr. Compton.

16 Q. And had you talked to Mrs. Ratliff on the phone on

17 other occasions besides this particular one?

18 A. Yes, on business matters with the museum.

19 Q. And how many times did you talk to her on that

20 particular occasion?

21 A. Six to eight times; that's not exact, but within

22 that.

23 Q. Now, when you were talking to her at Mr. Compton's,

24 did you talk to her on more than one occasion?

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A. On this night?

Q. Yes.

A. Yes, sir.

Q. Why was she calling?

A. She was calling to try to get fuel.

MR. HUGGINS: Objection, Your HOnor.

THE COURT: What was the relationship between her and Mr. Compton; you talked to both of them, didn't you?

WITNESS: Yes.

THE COURT: Were they hostile, friendly or what?

WITNESS: They were friendly when they called.

THE COURT: That's the extent of it, gentlemen.

MR. SLAYTON: I have no further questions.

CROSS-EXAMINATION

BY MR. HUGGINS:

Q. They were very friendly?

A. Yes, sir.

Q. Very friendly to the Mayor of the City of Danville

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1 DR. DAVID W. OXLEY, having been first duly
2 sworn, testifies as follows:
3
4 DIRECT EXAMINATION
5 BY MR. HUGGINS:
6 Q. Please state your name?
7 A. I'm Dr. David W. Oxley.
8 Q. What is your profession?
9 A. A forensic pathologist and Deputy Chief Medical
10 Examiner for Western Virginia.
11 Q. Where is your headquarters, sir?
12 A. In Roanoke.
13 Q. In Roanoke?
14 A. Right.
15 Q. Doctor, now did you receive the body of Hattie
16 Ratliff?
17 A. Yes, I did.
18 Q. When was that?
19 A. On the 31st of January, 1977.
20 Q. Now, what else did you receive?
21 A. I received the body and the clothing present with the
22 body.
23 Q. Now, would you tell the jury what you observed, what
24 you found and what your.....

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A. The body was that of a well-developed, well-formed white female sixty-three (63) inches long weighing an estimated 135 pounds.

At the time I received the body it was clothed. Do you want the clothing described?

Q. Yes.

A. The body was clothed in red synthetic fiber long sleeve body shirt, size large; blood stains on the back and bottom portions; white synthetic fiber bra, size 36 C; red, white and blue checked slacks. These showed blood stains on the back and legs; flowered bikini panties, brown panty hose, red and blue socks and brown suede hush puppy type shoes.

Examination of the body revealed a massive shotgun wound of the head, left side of the frontal portion of the forehead was missing down to the level of the ridge of the nose; left eye was missing. The brain had been.....was missing from the cranial cavity.

The area of entrance was near the midline, just above the root of the nose between the eye. X-rays of this area revealed no shot pellets or lead fragments present in the head, itself. There was no powder residue present on the skin around the area of entry, nor were there any individual shot pellet wounds in the skin around the area of entry.

Other examination of the body showed an old healed

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1 tracheostomy scar at the suprasternal notch, an old healed surgical
2 scar on the right upper abdomen, two healed scars on the lower
3 abdomen; one healed surgical scar on each knee. There were old
4 bruises on the back of the upper portion of the left arm, and
5 there were recent abrasions on the back of the left elbow.
6 Q. Well, Doctor, describe again to us where was the
7 entry wound and exit wound.
8 A. The area of entry was near the midline, here, between
9 the eyes and at the root of the nose, the base of the nose, in
10 the front portion of the head.
11 Q. And the area of exit?
12 A. Well, the entire upper portion of the skull was blown
13 away from about the level of the eyebrows up. There was slight
14 more destruction on the left, and the left eye had also been
15 blown away.
16 Q. What direction, if you know, could you indicate
17 that this blow took?
18 A. From front to back.
19 Q. From front to back?
20 A. Yes, sir.
21 Q. Was it more or less level, up or down?
22 A. Horizontal to very slightly upward.
23 Q. Now, no powder residue according to your testimony?
24 A. No, sir.

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Q. What does this indicate to you?

A. Well, with the shotgun, with the type of wound, characteristic of the entry wound, the fact it was no powder residue present on the skin of the area of entry, together with the fact there was no individual shot pellet holes, would in my estimation place the distance of the shot greater than three (3) feet but less than ten (10) feet.

Q. Doctor, when you say the distance is not less than three (3) nor more than ten (10), you're talking about from the end of the barrell, is that right?

A. That's correct, yes.

Q. Doctor, I assume this is instantaneous death?

A. Yes, sir.

Q. Now, a wound of this nature, do you have a splatter effect of blood or what, sir?

A. Oh, yes, blood.....the brain was completely blown from the cranial cavity. There would have been extensive splattering of blood and tissue.

Q. In what direction would you expect to find.....

A. Probably upward and backward.

Q. Upward and back?

A. Yes, sir.

MR. HUGGINS: Your witness.

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CROSS-EXAMINATION

BY MR. SLAYTON:

Q. Doctor, you indicated to the jury that the blood that you found, or that was found there at the scene and the course this bullet took in the body was upward and backward?

A. The shot, itself, was horizontal. The course of spatter, blood and brain tissue would have been, in all probability, upward and backward.

Q. That would depend on the position of the body at the time the shot was received, would it not?

A. To some degree, yes.

Q. And if the person were standing when it was shot, and the person holding the gun sitting down, if they were bending over to any degree, that would have an effect on the course that it followed in the head?

A. Well, given that set of circumstances, the direction would still be upward and backward.

Q. But if the person were bending over even more, that would change the angle of the wound, wouldn't it?

A. Well, I'm not sure I understand your question. In relationship between the muzzle of the weapon, the angle of the muzzle of the weapon and target, it would depend if the muzzle of the weapon were pointed upward and the person bending over; if you keep the relationship constant, you can rotate at a 360

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degree circle and not change the degree of the wound, itself?

Q. So, we're speculating as to the angle of the body and to the angle of the gun at the time the shot was fired?

A. Right.

Q. And you have no way of knowing the exact position of the body when the gun was discharged?

A. That's correct.

Q. And it's entirely possible that the person could be either in the process of getting up or sitting down when the gun was discharged and the wound that you saw?

A. Yes, sir, that's correct.

Q. A person could also have been standing up and bending over as if to get something off the table or put something on the table, or could have been bending over in such a way to receive the same kind of wound that you saw?

A. That's correct, yes.

Q. Did you make any test on the body to determine whether or not it had any alcohol, whether the person had consumed any?

A. Yes, sir, the blood was examined for blood alcohol.

MR. YANCEY: We object. That's immaterial. They're contending the death was accidental.

THE COURT: I think it is relevant. Proceed.

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Q What were the results of those tests, Doctor?

A The blood contained point twenty-five (.25) percent alcohol.

Q Thank you very much. How long have you been in this business of making these analyses, Doctor?

A I've been in full-time forensic pathology since 1972. I also did forensic pathology in Northern Virginia since 1966.

Q And you're familiar with the effect this much alcohol would have on a person that would weigh the same thing that this deceased person would weigh, would you not?

A Yes.

Q What effect would an alcohol level in a person having...

A Well, of course, the presumptive evidence for drunk driving is point one percent, and this was point twenty-five, quite a high level. A person of this level would be quite intoxicated.

MR. SLAYTON: Thank you.

REDIRECT EXAMINATION

BY MR. HUGGINS:

Q Dr. Oxley, Mr. Slayton asked you about the angle of the shotgun blast, that you wouldn't know what position she was in or whatever?

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A. Yes.

Q. Now, if you knew where the main thrust or splatter of the blood was, would your answer be different, where the brains had hit and the main portion of the blood?

A. Well, if we knew the position, given a position of either the weapon or the decedent. If you know the position of one you can extrapolate the position of the other. If you don't know or hypothosize the position of one, you can't make a determination of one with relation to the other.

Q. If you knew the position of the blood or brains, could you tell approximately the position of the victim?

A. Could tell approximately where the victim was in the area, yes.

Q. Would the height of the main portion of the blood be significant to you?

A. To some degree, yes.

Q. What significance.....I withdraw that.

A. Well, as I say.....

Q. I withdraw the question.

MR. HUGGINS: I think that's all of this witness, but I would like him subject to be recalled.

THE COURT: Yes, sir. Any further cross-examination of Dr. Oxley?

MR. SLAYTON: Not at this time, Your Honor.

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(THE WITNESS STANDS ASIDE.)

T. A. SMITH, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. HUGGINS:

Q State your name, please?

A T. A. Smith.

Q Where do you work, Mr. Smith?

A Danville Police Department, Danville, Virginia.

Q As what?

A Supervisor of the Mobile Crime Lab.

Q Now, as supervisor of the Mobile Crime Lab, what are your chief duties, what are your duties?

A My job is crime scene search, evidence collection, processing, training the men that work under me to do the same and supervising their activities and responding on all major crimes and also responding to other jurisdictions for assistance.

Q Other than Danville?

A Yes, sir.

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1 Q Now, Mr. Smith, what training do you have for this?

2

3 MR. WHITEHEAD: We waive his qualifications,

4 Your Honor.

5 MR. HUGGINS: As a expert witness?

6 MR. WHITEHEAD: No, sir, as a.....

7

8 Q Now, Mr. Smith, did you have occasion to go to the

9 scene of Watson Compton's trailer and check the scene? If you

10 did, will you tell us who you went with, when and what you found?

11 A Yes, sir. I went to the trailer on Mt. Cross Road,

12 Carriage Hill Trailer Park, on the 6th of February of this year.

13 Sgt. Collins was at the Pittsylvania County Sheriff's Department,

14 Mr. Lee Yancey and Mr. Huggins and one of my men, Mr. Shelton,

15 went out to the trailer, mobile home, and went in and viewed the

16 scene. At the time we were out there there was no other person

17 there.

18 The scene in the kichen in reference to the position

19 of the furniture and the blood that was still there on the floor

20 and the walls, et cetera, from all indication was still intact.

21

22 MR. WHITEHEAD: Well, Your Honor, he can't

23 testify to that.

24 THE COURT: He said just from indication.

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1 Had you been there before, Mr. Smith?

2 WITNESS SMITH: No, sir, I had not.

3 THE COURT: All right. Go ahead.

4

5 A. And looking over the scene we made some photographs.
6 We also checked a hole in the ceiling inside of the mobile home
7 and made some special photographs of the refrigirator that was
8 particularly patterned to the blood that was on the refrigirator,
9 and made some close-up photographs of this pattern.

10 Setting just in front of the refrigirator was a chair.
11 The chair was repositioned based on the circles in the floor
12 where there was blood, indicating where the chair had been setting.
13 And photographed across the chair across to the refrigirator;
14 we were able to photograph this blood pattern.

15 Q. Now, you photographed it, yourself?

16 A. Yes, sir.

17 Q. Do you have these pictures?

18 A. Yes, sir.

19 Q. May I have them?

20 A. I have three from a general range, and then I have
21 three that are close-up or one on one photographs.

22 THE COURT: Are these the same we saw this
23 morning?

24 MR. HUGGINS: No, sir.

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THE COURT: Let the gentlemen see them.

MR. WHITEHEAD: Yes, sir; we'd like to see the Court out of the presence of the jury.

(Whereupon, the following was had in the Judge's Chambers.)

THE COURT: All right, I assume these are the three, is that right?

MR. HUGGINS: Yes, sir, and these are the other three that we'll follow up with.

THE COURT: What are you doing, getting the distance off of the floor?

MR. HUGGINS: Yes, sir, and patterns of blood and flow.

THE COURT: What is the objection, gentlemen?

MR. WHITEHEAD: Your Honor, it's obvious what they're attempting to do is go and reconstruct the scene of the shooting, and this is some eight (8) days later. We object to it on the grounds that it's inadmissible because it's based on hearsay, speculation; apparently he's going on what Officer Collins testified to as to the position of the chair. We have evidence which we can present that will put the chair in an

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1 entirely different position, and it's entirely
2 not probative.
3 MR. SLAYTON: In addition though, Judge,
4 what they're doing is attempting to take what they
5 regard as a pattern of blood against that refrigirator
6 and reconstruct the entry of this shotgun load and the
7 exit, number one, to show where this woman was standing
8 or sitting at the time she was shot; and by their own
9 witness, who is the doctor who testified here, he made
10 it very clear that you cannot reconstruct that pattern
11 without definitely knowing the position of either one
12 or the other, either the weapon at the time that the
13 shot was fired or the position of the person who re-
14 ceived the blast. And in this instance they don't
15 have either of those variables pinned down.
16 But the officer obviously is going to try
17 to show that there was a definite pattern against the
18 front of that refrigirator from the blood that was
19 spattered against it, and infer from that that the
20 woman was either standing in front of the refrigirator
21 or sitting down in that chair. I don't know which, but
22 what they're trying to do is go and reconstruct this
23 thing.
24 MR. HUGGINS: If Your Honor pleases, we do

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1 plan to reconstruct to show positions. They have
2 stipulated, didn't have to prove this is a qualified
3 expert in police science. Now the doctor obviously
4 didn't train in this sort of thing. The testimony of
5 Dr. Oxley is the blood will splatter back,up and back.
6 We intend to correlate this in the fact there is no
7 change in this from the very time Deputy Collins got
8 out there until this time. The blood would coagulate
9 within a matter of hours; no evidence it was tampered
10 with; exactly the same it would have been on the day
11 of the killing. And from this, that you can validly
12 figure where, how high she was at the point that the
13 shot struck her.
14 Now, at the same token, the chair is posi-
15 tioned in a way that according to Deputy Collins, the
16 imprint was on the floor, clearly. That would have
17 coagulated within a period of time. It's very easy to
18 put that chair exactly where it was.
19 Now, this man is an expert. He's entitled to
20 testify as to a conclusion of where this woman was
21 at the time she was shot. It is the very heart of the
22 case.
23 THE COURT: I'm going to admit it. You take
24 your exception and let's go.

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1 MR. WHITEHEAD: We'll except for the record.

2

3 (Whereupon, the following was had in the

4 court room.)

5

6 THE COURT: All right.

7

8 BY MR. HUGGINS:

9 Q. Mr. Smith, would you again identify these for the

10 record?

11 THE COURT: Identify them by the numbers on

12 there, the number and then say what it purports to

13 show.

14

15 A. Commonwealth's Exhibit Number 49 is a picture

16 showing the kitchen area of the Compton mobile home showing the

17 chair,behind the chair, the refrigirator, wall and kitchen sink

18 and cabinet area.

19 Q. And that chair is setting where and why?

20 A. The chair is setting in front of the refrigirator

21 in the floor. This was the spot that the chair was at the time

22 of the shooting.

23 Q. How did you determine that?

24 A. On the legs of the chair at the bottom, there are

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1 little round swivel type flat parts of metal that sets on the
2 floor, and there were four of these on the floor that were
3 surrounded by blood, but yet these four spots did not have any
4 blood in them.
5 THE COURT: So you set the chair in that
6 place?
7 A. The chair had been moved before I arrived. And I
8 took the chair and set the chair back into these four little
9 circles, and they fit perfectly, and that's how the chair got
10 into the position that it is in the photograph.
11 Q. Your next exhibit?
12 A. Marked Commonwealth Exhibit Number 50, and again it
13 is a picture of the inside of the Compton mobile home. This
14 particular picture is focused in on the refrigirator, the door
15 of the refrigirator and the corner and the side and a panel wall
16 to the right of the refrigirator. On the refrigirator we have a
17 tremendous amount of spots of blood. The lower portion of the
18 refrigirator up to about the three foot six inch level, we have
19 a pattern where the blood hit, and it went downward, around the
20 four foot level, between three-six and four foot, and just over
21 four foot. We have the blood spots that are hitting straight
22 on. They're not going off at an angle. They hit, and then as
23 they dried they started running straight down, indicating that
24 they were hit straight on at the top of the refrigirator at about

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1 the five foot level. The refrigirator is five foot tall. The
2 blood here is an indication that it's going upward. When it
3 hit on the refrigirator at the angle, instead of being straight
4 away or no run to it, it started running upward, meaning that it
5 was evidence of upward force behind it.
6 Q Now, your next exhibit is what?
7 A Commonwealth's Exhibit Number 51. Again it's in the
8 Compton mobile home, and it is showing the chair in the floor,
9 and it's showing the position of the chair on the floor in refe-
10 rence to the blood that was on the floor, also showing very small
11 amount of blood running down on the inside back of the chair
12 and no blood on the seat.
13 Q No blood on the seat?
14 A No, sir.
15 Q The next three exhibits you have are what?
16 A Commonwealth's Exhibit Number 52, Commonwealth
17 Exhibit Number 53, Commonwealth Exhibit Number 54, they all
18 three were made in the Compton trailer. They were made of the
19 refrigirator. These are close-up photographs. The camera was
20 put right down onto the refrigirator to show some of the spots
21 of blood. Also in the photograph is a tape line; was held at
22 the.....That was held at the top of the refrigirator and run it
23 down until it was even, touched the floor. And when the photograph
24 was made the camera was put right over the tape line in order to

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1 get the measurements.

2 Q. What would they indicate?

3 A. Again, these are the close-ups at the refrigirator

4 at the three foot, four and six foot marks. You can see that

5 the blood spots here are going at a downward angle. At the four

6 foot three mark, here, you see they are straight away, no angle

7 to them. And at the four-ten and five foot mark, which was the

8 top of the refrigirator, the drops of blood are angling up instead

9 of down.

10 Q. Now, Mr. Smith, the surface you were photographing,

11 of course, was of the refrigirator and the adjacent wall, primari-

12 ly?

13 A. Yes, sir.

14 Q. From your experience, how long does it take blood

15 to coagulate on that type of surface?

16

17 MR. SLAYTON: Objection.

18 THE COURT: On what basis?

19 MR. SLAYTON: How long it takes blood to dry

20 is a conclusion the jury can properly draw. You don't

21 have to be told that by so-called experts. I think if

22 you begin to allow this type of testimony you can

23 speculate to a lot of other things.

24 THE COURT: He said based on his experience.

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1 MR. SLAYTON: It hasn't been established he
2 has had any experience.
3 THE COURT: His qualifications were admitted.
4 Proceed. I overrule the objection.
5 MR. SLAYTON: I except to the ruling of the
6 Court.
7 THE COURT: Proceed.
8
9 A. It would depend on a number of factors, how much
10 blood is involved in a particular spot, the environmental condi-
11 tions, how hot it is. In this particular case inside the room,
12 the humidity inside the room, the individual drops would probably
13 dry or coagulate to where they wouldn't run within a couple or
14 three hours. The large pool of blood on the floor would take
15 considerably longer. It could take up to better than twenty-four
16 hours for the large pools of it. There would be in less time
17 than that a film across the top of it that would coagulate first.
18 Then it would work its way on down.
19 Q. Now, the surface you photographed and are testifying
20 from, are you telling us it was dried blood?
21 A. Yes, sir, it was dry blood.
22 THE COURT: On February 6th?
23 A. On February 6th.
24 Continuing by Mr. Huggins:

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1 Q. Were there any indications that this in any way had
2 been tampered with or cleaned or changed?
3 A. The spots of blood throughout the refrigirator, there
4 was no indication that the small spots had been tampered with or
5 wiped or touched with anything. The only two areas that is
6 visible in the photographs of any wiping, is the lower middle
7 part of the refrigirator that something that was bloody hit it
8 and slid off onto the floor. And the top right-hand side, some-
9 thing, another mass that was bloody hit it and dropped down.
10 The indications from looking at the blood even in the
11 photographs is that no cloth or anything like this had been used
12 to disturb it.
13 Q. Now, Mr. Smith, based on your experience and your
14 findings here, and plus the testimony earlier in the trial to the
15 effect that the deceased was five feet three, that the gunshot
16 wound occurred about here, sixteen gauge shotgun, exited in the
17 rear, do you have an opinion as to where she was at the time she
18 was struck?
19 MR. SLAYTON: Your Honor, I object to the
20 question.
21 THE COURT: All right, state your grounds of
22 the objection.
23 MR. SLAYTON: The grounds of the objection,
24 Your Honor, are based in part on the testimony of the

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1 doctor who testified here earlier that it would be
2 impossible to determine whether the deceased was lean-
3 ing over, standing up, had her head turned at an angle
4 when she was shot; for that reason could not tell what
5 her position was because the trajectory of the rounds
6 that hit her depend entirely upon the position of the
7 gun, and in as much as you have two unknowns, that it's
8 impossible to reconstruct the position of the body at
9 the time she was hit.
10 The second reason for the objection, Your
11 Honor, is that it's entirely and solely for the province
12 of the jury to make this determination and not for this
13 man to come along and make certain assumptions that
14 what he found on the 6th of February was in the exact
15 condition that existed there on the night of this
16 accidental shooting.
17 THE COURT: Mr. Huggins?
18 MR. HUGGINS: If Your Honor pleases, Dr.
19 Oxley never went to the scene, was a pathologist and
20 medical examiner. We could not ask him this question.
21 He didn't have the facts before him. He didn't go to
22 the scene. Mr. Smith did, plus Mr. Smith is a trained
23 criminologist whose credentials have not been challenged.
24 He's testified in many courts to the conclusions here.

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1 Now, he has all the facts that were available at the
2 scene plus all the other, plus the detailed or even
3 microscopic examination that Dr. Oxley didn't have.
4 And under these circumstances he very validly can
5 testify. Now, there is nothing wrong with a acknowledged
6 expert, but the fact is that he is expressing an opinion
7 as to the location which is a key factor in this case.
8 MR. SLAYTON: Your Honor, this witness is
9 being questioned to state his opinion because he's been
10 qualified as an expert. The Virginia Rule is that
11 the hypothetical must embody all the material facts
12 which the evidence tends to prove affecting the question
13 upon which the expert is being asked to state an
14 opinion.
15 The positive evidence by the Commonwealth's
16 own expert witness is that with these two factors being
17 unknown, that it's impossible to draw that conclusion.
18 THE COURT: Now, Dr. Oxley was going on the
19 strength of the examination of the skull and the position
20 of the guns. That's all he was talking about.
21 MR. SLAYTON: I recognize that, Your Honor,
22 but in as much as the Commonwealth has the burden of
23 proving the case beyond a reasonable doubt, and the
24 doubt goes with the defendant throughout every stage

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of the trial, and if this is a factor which raises a reasonable doubt, I submit to the Court it's error for this man to state an opinion that is contrary to what the jury might believe.

THE COURT: Objection overruled.

MR. SLAYTON: Exception to the ruling of the Court, Your Honor.

A. Based on the findings of the blood on the refrigirator, relocating the chair, the blood around the chair and the lack of blood on the seat, the small amount of blood on the back of it and the victim at the time that she was shot would have had to have been setting in that chair.

Continuing by Mr. Huggins:

Q. Now, Mr. Smith, I show you Commonwealth's Exhibit Number 47 and ask you to identify it.

A. Yes, sir, this is part of the inside of the ceiling of the Compton mobile home that I removed on the afternoon of the 6th of February.

Q. Now, would you step down to Deputy Collins' diagram and show on this diagram what position this was?

A. I'm assuming this is the chair here, the refrigirator, the ceiling that I removed, the support; there is a little

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1 metal support that runs across the ceiling that the tile lays
2 in, runs from this closet across the room here. And the tile
3 was removed or cellutex was removed just in front of the chair
4 directly over it, is where this was. It wasn't looking straight
5 up like this. It wasn't quite directly over it. It was just in
6 front of it, just a little bit, where the cut piece of cellutex
7 was that I removed.
8 Q. Now, did you measure the angle between this and the
9 exit point in the roof?
10 MR. WHITEHEAD: In the what?
11 MR. HUGGINS: In the exit point in the shot
12 in the roof.
13 A. This cellutex that was removed, the hole on the
14 inside followed through a hole out of the roof of the trailer,
15 metal part, and before this was removed, a ruler was placed in it,
16 laid into it all the way through the top, outside of the trailer
17 and part of it inside. And without the necessary equipment to
18 make a specific determination of the angle, we worked on the
19 theory that either lying at forty-five or none, and it was running
20 less than a forty-five degree angle, and that was about as close
21 as we could, I could get without instruments to go further.
22 Q. In which direction were they going?
23 A. The angle.....
24 MR. WHITEHEAD: We would object to the specu-

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1 lation on this piece of the ceiling, because it's never
2 been actually connected to the weapon. Mr. Mauer
3 testified it was approximately a twenty-five degree
4 angle. He didn't have the benefit of the roof, obvious-
5 ly, but it is no evidence here to connect this to the
6 weapon or to the case.
7 THE COURT: Well, it's relevant. I overrule
8 the objection.
9 MR. WHITEHEAD: Exception.
10
11 A. Using the pointer, here, the cellutex on the inside
12 of the trailer or inside over the chair, would have been here.
13 The outside hole of the roof would have been here, angle between
14 the two, which would indicate that the weapon was fired, or the
15 charge that went through the roof, was fired from on back in
16 front of the chair further away than where the hole was in the
17 cellutex. In other words, I would have been standing in front of
18 the chair, and it would have had to have been like this.
19 MR. WHITEHEAD: If Your Honor pleases, let
20 the record show the defendant is using his arm and
21 pointing with a stick. It's speculation, rank specula-
22 tion to go down and create something that didn't
23 exist, and we object to it.
24 THE COURT: Objection overruled. Proceed.

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MR. WHITEHEAD: Exception.

Continuing by Mr. Huggins:

Q Now, Mr. Smith, did you observe the entire scene while you were there?

A Yes, sir.

Q If you would step down a moment. It is in testimony by Mr. Mauer that this shot would have had to have been made from several feet away. Now, you have just testified as to the angle. Did you find any evidence of footprints in any of the blood in this area?

A No, sir.

MR. HUGGINS: Your witness.

CROSS-EXAMINATION

BY MR. SLAYTON:

Q Nr, Smith, when you went to the scene of this alleged offense on February 6th, is this the first time you went there?

A Yes, sir, it was.

Q Now, the offense is alleged to have occurred on January 29th?

A Yes, sir.

Q How did you happen to go there on February 6th?

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1 didn't they?

2 A. I would assume so.

3 Q. So they just told you where they wanted you to look

4 and you did it, isn't that right?

5 A. Yes, sir, I looked over the mobile home.

6 Q. And when you got there, was the table in the position

7 that's shown on that chart?

8 A. We had to move it just a little bit to get it back

9 in its proper position. Again, you could see the circles where

10 the legs were standing.

11 Q. Now, how did it get moved?

12 A. I don't know. I'm assuming it was moved by Sgt.

13 Collins or someone prior to my arrival.

14 Q. But, anyway, you had to put the table back to get

15 it in its proper position?

16 A. That's correct.

17 Q. And you have no way of knowing how it was on the

18 night this lady was shot, do you?

19 A. Well, when the blood hit the floor it had to have

20 been setting in one particular spot, because where it was setting

21 on the floor, when you lifted the table up, there was no blood

22 there.

23 Q. All right, and you told us about moving one of the

24 chairs. What else did you move in there?

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1 A. The table and the chair that was put back in its
2 place, and that was all other than photographing and measuring.
3 Q. Now, who gave directions about where to move the
4 table to?
5 A. I did. I was the one doing it.
6 Q. You were moving the table around?
7 A. Yes, sir, the table was setting, but based on the
8 legs, where they were making contact with the floor, when the
9 blood first hit the floor, the table was an inch or so out of
10 position, so I simply grabbed the legs, lifted it up and set it
11 back in those spots, the same as I did with the chair.
12 Q. From your examination of the scene after you got
13 there, could you tell what kind of weapon had fired the shot that
14 caused the scene that you found when you arrived in February?
15 A. I didn't know what type of weapon had been used.
16 After looking at the scene I had an opinion on it.
17 Q. But you were told by these gentlemen what was used,
18 were you not?
19 A. Yes, sir, I was told later on that day when I asked
20 as to what type of weapon was suppose to have been used.
21 Q. And were you told where the weapon was found?
22 A. Yes, sir, Sgt. Collins told me where it, showed me
23 where it had been found.
24 Q. And you assumed that what Sgt. Collins told you was

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accurate, and you went on that assumption, is that right?

A. Well, he had the photographs that I was looking at, and based on what he was telling me and the photographs that he had, yes, sir, I think he was pretty accurate in how he was showing me that it was laying.

Q. And how far was that chair away from the refrigirator that you showed the jury pictures of?

A. The chair was approximately four foot from the refrigirator.

Q. Did you measure that?

A. Yes, sir, I did.

Q. And it was four feet away?

A. Yes, sir.

Q. Now, you told the jury that in your opinion whoever fired that gun had to be pointing at the ceiling when that shot was fired through the ceiling, isn't that right?

A. Not pointing the gun.

Q. Well, that's the demonstration you gave.

A. What I'm saying is that the gun was held back like this and hit the ceiling and then kept on at an angle making the exit hole further downward the trailer than the entrance hole. So it had to have been up at an angle.

Q. Why couldn't it have been done by someone sitting?

A. It could have, but the gun still is at an angle.

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1 Q. All right, I grant you that, but it doesn't have to
2 be the way you demonstrated it to the jury?
3 A. No, sir, it wouldn't have had to have been standing.
4 Q. Now, the decedent was five feet what?
5 A. I was told it was five foot three on the autopsy
6 report.
7 Q. How tall would she have been sitting in that chair?
8 A. This I could not answer. I don't know her measure-
9 ments from her waist line up. The trunk on a person from the
10 waist to the shoulders will vary a little bit, so this measure-
11 ment I do not have.
12 Q. Wouldn't that make a difference in your testimony?
13 A. With a refrigirator being five foot, the victim being
14 five foot three, and the area that the blood is going down and
15 the blood is going up, then it had to be somewhere less than
16 four foot eight inches, six inches.
17 Q. Suppose she was sitting down in a chair like that?
18 A. She could have been.
19 Q. Suppose she was walking?
20 A. It would have dropped the lower blood patterns a
21 little bit.
22 Q. Not if the person holding the gun were sitting?
23 A. Not necessarily, depending on the angle. Now, it
24 could have actually raised it a little bit.

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Q. That's the point I'm trying to make. If you and I were sitting down here on this floor, the angle of the gun being what it is, and within but not more than ten feet away, you're still going to get the same effect you've just testified here to, wouldn't you?

A. You would get basically the same effect, yes, sir.

Q. So, the woman may not have been sitting, isn't that correct?

A. She had to have been sitting. If she was standing up it would have put it up over top of the refrigirator.

Q. Suppose she was in the process of either getting up or stumbling forward?

A. That could be logical, yes.

Q. Either one of those positions have resulted in your findings being as you have testified here to the jury?

A. That's correct. If she was setting down in a chair like this, if she was leaning forward a little bit or leaning back a little bit or like this, it could have been the same as we found it. She definitely couldn't have been standing up.

Q. All right.

A. But the variations like this, or back like this, yes, that could have occurred and still been basically the same pattern on the refrigirator.

MR. SLAYTON: Thank you, sir.

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IN OPEN COURT

August 2, 1977

CASE CONTINUES FROM AUGUST 1, 1977

ALVIN M. TALLEY, the witness, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SLAYTON:

Q. Tell the Court and the members of the jury your name, please, sir?

A. Alvin M. Talley.

Q. Where do you live, Mr. Talley?

A. In Glenwood, suburbs of Danville.

Q. How long have you been employed by the Sheriff's Department of Pittsylvania County?

A. Approximately ten years.

Q. Mr. Talley, did you have an occasion to see Mr. Watson Compton on the night of January 29, 1977?

A. Yes, sir, I did.

Q. Where did you see him?

A. At Airport Sunoco east of Danville.

Q. Approximately what time did you see him?

A. Approximately 8:50.

Q. Tell us what you observed when you arrived there, please?

A. I observed Mr. Compton setting next to the cigarette machine kinda bent forward, crying and emotionally upset.

Q. Said he was crying when you saw him there?

A. Yes, sir.

Q. What did you do when you got there?

A. I spoke to him and spoke to the service station attendant, Gene Street. And told him I wanted to talk to him about the shooting and advised him of his rights.

Q. And what happened after that?

A. He said he didn't want to talk about it.

Q. And what did you do next?

A. We waited for his wife---he was waiting at that time I arrived for his wife to call him, and he was waiting for that call. And asked me would I wait a few minutes and I did wait.

Q. How did you happen to come to the service station on that particular night?

A. This was on the strength of a call from the Sheriff's Office . To go there that Mr. Compton was at the service station.

Q. And after you waited there for a few minutes what

happened next?

A. We proceded to the Carriage Hill Trailer Court. At the trailer he resided in.

Q. As you drove along the highway there how far was it from the service station to the trailer?

A. I would say it was about six miles----something like that the best I could estimate it.

Q. How long did it take you to make the trip?

A. I don't know, just a very few minutes. The most consuming portion of the trip was going up Riverside in Saturday night's traffic. The night traffic was heavy.

Q. Anyone else in the car with you besides Mr. Compton?

A. No, sir.

Q. Where was he seated in the car?

A. In the front beside of me.

Q. As you drove along the highway what, if anything, did he do or say?

A. He had his hands like this (indicating) hitting on the dashboard and crying a great deal.

Q. How long have you been in police work?

A. About ten years.

Q. Had you ever seen anybody as emotionally upset as this man was?

A. No, sir. Police work or anywhere else I've never seen anybody like that at no time.

Q. When you got to the trailer what happened?

A. We remained in the trailer--I mean, correction, in the vehicle.

Q. You just sit there in the car with him?

A. Yes, sir.

Q. And how long did you sit there?

A. I expect it was about thirty or forty-five minutes, approximately, from the best I remember.

Q. What were you waiting for?

A. We were waiting for Mr. Gilbert and Mr. Riddle to go into the trailer a portion of that, approximately, forty-five minutes. Then Mr. Collins had been informed and he was en route to the trailer. We were waiting for him to arrive too.

Q. Was Mr. Compton still in the car with you during all this time?

A. Yes, sir.

Q. Did he continue to be physically upset, disturbed?

A. Yes, sir.

Q. Did you go in the trailer?

A. No, sir.

Q. Did Mr. Compton go in the trailer?

A. No, sir.

Q. Did anybody go in the trailer while you were there?

A. I believe Mr. Gilbert and Mr. Riddle went in. I'm not sure I wasn't looking at the trailer. We were parked looking directly north and his trailer was sorta to the side over there.

Q. Do you know whether or not the trailer was locked?

A. No, sir, I don't know.

Q. You said that this man was very upset and he was very emotional. Did he say anything, or did you observe anything about his actions while he was with you?

A. There was a car pulled up in the trailer park facing in the direction in which I was parked. And he was afraid that was some---this is what he said---I asked him what he was afraid of and he said, "I'm afraid it's her son or some of her people". SAid, they had been threatening him. It was---it looked like a Chevett, kindof a medium size vehicle the best I could tell by the grill. But the car turned around and went back out the exit. It didn't proceed south.

Q. All right, thank you.

You got detoured to the Sunoco, right?

A. I never did go to Mrs. Compton's residence. I got detoured back to the Sunoco.

Q. And when you got to the Sunoco Station you saw Mr. Compton next to the cigarette machine?

A. Yes, sir.

Q. Did you know who Watson Compton was?

A. Yes, sir.

Q. You had known him before that day?

A. Yes, sir.

Q. And he was sitting there?

A. Yes, sir, sitting kinda like this. (Indicating)

Q. Who was the first person you talked to when you got out of your vehicle?

A. I spoke to Mr. Compton and Mr. Street.

Q. What did you do just say hello?

A. Yes, sir.

Q. And then did you tell Mr. Compton what your business was---why you were up there?

A. Yes, sir.

Q. What did you tell him?

A. I told him I wanted to talk to him about the shooting.

Q. What did he respond to that?

A. He said he didn't want to talk about it. He wasn't telling anybody nothing.

volunteer any statements to you, or just volunteer any statements to anybody?

A. Well, he was talking. At one point he said, "God said Don't taketh what you can't giveth back".

Q. Did he say anything else?

A. He told me he was glad that I came to pick him up and he was ready to go to Chatham.

Q. Did he ever say, "Oh God, why did I do it"?

A. Yes, sir.

Q. How about, "Oh why did it have to happen to me"?

A. Yes, sir, he said that.

Q. And all these details took place at the Sunoco Station?

A. Yes, sir. That particular statement, "Oh God, why did I have to do it" And he was glad that I came for him and he was ready to go to Chatham. And at that point we were ready to proceed to the trailer park.

Q. So he got in your vehicle?

A. Yes, sir.

Q. Do you know how he got to the Sunoco Station?

A. He drove his little gray Toyota. At least it was his car and I imagine he drove. I'm not sure. I couldn't say for sure, but his car was there.

Q. And did you drive to Chatham or did you drive to the trailer court?

A. No, we----he left his car at the Airport Sunoco.

Q. Where did you and Mr. Compton go is what I'm getting at?

A. Oh, to the Carriage Hill Trailer Park.

Q. Did Mr. Compton want to go back to the trailer court?

A. No, sir.

Q. Did he tell you----how do you know that?

A. He said that about probably five to ten times he didn't want to go back.

Q. Did he say why he didn't want to go bac?

A. He didn't say why, he just didn't want to go back.

Q. You say it's about eight miles from the Sunoco Station to the Carriage Hill Trailer Park. Is that correct?

A. Five or six, I'm not sure.

Q. How did you get----how did you---what roads did you take?

A. 58, Riverside Drive and the Mount Cross Road. I don't know the number of the Mount Cross Road.

Q. Most of the journey was on Riverside Drive isn't it, 58?

A. Yes, sir.

Q. Once you arrived at the trailer you remained with Mr. Compton in your own vehicle?

A. Yes, sir.

Q. Did anybody request Mr. Compton to get out of the vehicle?

A. Yes, sir. Mr. Riddle and Gilbert did.

Q. For what purpose?

A. They wanted him to unlock the trailer door.

Q. They what?

A. They wanted him to unlock the trailer door.

Q. How did they get the trailer door unlocked?

A. I'm not sure who gave them the key. Or they got the key, I'm not sure whether I gave it to them or Mr. Compton.

Q. How long did you and Mr. Compton remain at the trailer?

A. In the car?

Q. In the car at the trailer?

A. I expect it was about forty-five minutes the best I can remember.

Q. Where did you go thereafter?

A. To Chatham to the Sheriff's Office.

Q. When you got to Chatham you were with another deputy, correct?

A. Yes, sir, Mr. Gilbert.

Q. And Mr. Compton?

A. Yes, sir.

Q. I believe that was the only part you played in this investigation, the initial part?

A. Yes, sir.

Q. Back up at the Sunoco Station now when the defendant, Mr. Compton, made the statement, "Oh God, why did I do it" was anything said thereafter after that statement?

A. Before leaving the Sunoco?

A. Uh-huh.

A. The best I remember the last statement after that, "Oh why did it happen to me". And then he told me he was glad I came to pick him up he was ready to go to Chatham.

Q. I'm not sure that I heard it. What time did you receive the initial call on this case?

A. It must have been about 7:30. I was on 360 the very first phase of it. Then I had to stop at a telephone and call Mrs. Compton and then I had to get over to 729 and back up to the service station.

Q. No further questions.

RE-DIRECT EXAMINATION

BY MR. SLAYTON:

Q. Are you testifying from notes you made during your investigation?

A. Portions, yes, sir.

Q. Sir?

THE COURT: I don't think we are doing that. Now I take a view different from all of you in these things. I don't think the defendants entitled to make a statement, bounce if off the wall and repeat it as being admissible in his behalf, unless it's a declaration against his interest on admission. He can't walk around to forty people and say it was an accident then bring forty people in and say I said it was an accident. Now, on the other hand if you are going to take a statement from him the whole statement has got to come out. But you can't echo a favorable statement by going out and repeating it forty times. Now, you can ask him on re-direct the whole statement that this man made, including that part of it. Okay.

IN OPEN COURT

MR. SLAYTON CONTINUES:

Q. Mr. Talley, did you make a report following your investigation on Saturday, January 29, 1977?

A. This was the day subsequent to the incident I made the report.

Q. This report is dated January 31st?

A. Yes, sir.

Q. In that report are there any other statements that the defendant made which have not been testified to by you?

A. It was an accident and I did not mean to kill her. He said that constantly.

Q. All right, sir, thank you.

MR. JONES: No further questions.

WITNESS STANDS ASIDE

****** ******

R. G. HOLBROOK, next witness, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WHITEHEAD:

Q. State your name to the ladies and gentlemen of the jury, please, sir?

A. R. G. Holbrook.

Q. Mr. Holbrook, your occupation?

A. Private Investigator.

Q. I believe you formerly were employed by the Police Department for the City of Danville. Is that correct?

A. I was.

Q. How many years?

A. Five years.

Q. How long have you been a Private Investigator?

A. Eighteen months.

Q. Mr. Holbrook, did you have an occasion----- I believe you were retained by us to assist in this investigation. Is that right?

A. I was.

Q. When did you first go to the trailer of Watson Compton, Carriage Hill Trailer Park?

A. The afternoon of February 1st.

Q. The afternoon of February 1st?

A. Yes, sir.

Q. It's in evidence here that nothing was touched from January 29th, a Saturday night, until February 6th, a Sunday, when a man named Smith went up there with a Crime Lab. How many times did you go up to the trailer and into the trailer and why?

A. I was there February 1st in the afternoon. I was there later that night. I was there two times on the 2nd. And I was there two times on the 3rd. The purpose of these visits were I was looking for any kind of evidence that I felt may help us build a case.

THE COURT: Well, there's no dispute about that.

MR. WHITEHEAD: I don't assume it would be. Mr. Huggins you told us.

THE COURT: But I'm not gonna permit the conversation. The objection is sustained.

Q. Anyway what did you do when you went up there, Mr. Holbrook, did you disturb anything in the trailer?

A. Yes, sir, I did.

Q. And you went up there on how many occasions between the 29th and the 6th of February?

A. I was there six times in a total period of three days. Lst, 2nd and 3rd.

Q. Now, Mr. T. A. Smith has testified that the table and chairs were put in the same position they were when this great crime was suppose to have happened. Do you have anything you can add to that?

A. When I arrived there the afternoon of February 1st the table was not in the dinning area.

Q. Was not in the dinning area?

A. No. I took a picture that afternoon the way it was when I first arrived there.

Q. Where was it?

A. There is a little alcove in the back of the cooking

area of the kitchen leading to an exit door, back door. The table and several of the chairs had been pushed up in that alcove.

Q. All right, sir. Mr. Holbrook, there is a diagram over there I think on that blackboard.

A. Yes, sir.

Q. Can you familiarize yourself with----orientate yourself to that diagram?

A. Yes, sir.

Q. All right, sir. Now this is what day that you first went up there?

A. February 1st.

Q. February 1st. Two days after the shooting?

A. On a Tuesday.

THE COURT: Three.

Q. Three---Tuesday----all right.

A. These two chairs here and this table had been moved over in this area. Pushed back in this area.

Q. How could you tell they were pushed back?

A. Well, there were drag marks across----there was a pool of blood here where the body had been lying. There were scuff marks where the table had been shoved across-----

Q. Drag marks?

A. Well, where the leg---the table leg had gone through the blood.

Q. All right, how about the chairs?

A. These two chairs were not----they had been moved---shoved over to this alcove here along with a couple of trash cans.

Q. How about---any marks about the chairs. He said he could set the chair legs right in the spots of blood where the blood didn't go around the chair?

MR. HUGGINS: Your Honor, please, if Mr. Whitehead wants to testify let him testify---

THE COURT: Don't lead him just ask him a question.

MR. WHITEHEAD: All right, sir.

Q. Did you replace those chair legs where the spots were where there wasn't any blood. Where the chair legs were suppose to have been sitting?

A. No. Under the two chairs there was not a sufficient amount of blood. It wasn't any place that I could place the chairs back because if I put the table and chairs back like I saw it----I tried to reconstruct the scene. I drew a diagram of it and I showed it to Mr. Watson, I mean Mr. Compton. He said----

THE COURT: Don't tell us what he said.

A. But I later went back up there with a deputy sheriff and he showed me----

Q. All right, sir. Another deputy sheriff was up there that night. His name hasn't come out?

A. No, it has not. I haven't been in the courtroom, but he was there the night of the crime. He---

Q. Well, let's don't go into that. You took photographs of those drag marks there?

A. I did. I took pictures the day I was there. The first day I was there.

Q. Are you familiar with the refrigerator, Mr. Holbrook?

A. Yes, as far as the location. I'm not familiar with the make or anything.

Q. Were there spots of blood on the refrigerator?

A. It was blood all along the top of the refrigerator and, of course, it had spattered down from the refrigerator.

Q. How about above the refrigerator? They brought---it's a photograph here somewhere---

THE COURT: Don't repeat the evidence, Mr. Whitehead. Just ask him about the marks above the refrigerator.

MR. WHITEHEAD: All I want to do is see the photographs, your Honor, of the refrigerator if they are here.

Q. Mr. Holbrrok, did you examine the area above the refrigerator where the cabinets and wood was?

A. Yes, I did.

Q. What did you find above the refrigerator?

A. All along the top of the area of the refrigerator and the cabinets---there were built in cabinets along this space here---there were several spots of blood above that area.

Q. Above the refrigerator?

A. Above the refrigerator. Not an excessive amount.

MR. WHITEHEAD: Do you have the ceiling, Mr. Clerk?

THE COURT: That piece he's talking about---that Exhibit---it's in there.

Q. Do you recognize anything here?

THE COURT: Referring to them by number, Mr. Whitehead.

Q. Referring to Commonwealth's Exhibit 54, 53 and 62 it purports to be (not audible)

A. I have never----I couldn't identify it from the picture. That's the first time I've seen it.

Q. Can you identify Commonwealth's Exhibit Number 49 and Number 50? Number 50 showing the refrigerator with blood on it.

A. Yes, sir.

Q. Now can you show the ladies and gentlemen of the jury where you found blood above the refrigerator?

A. This is Exhibit 49. There were several spots of blood above the top of the refrigerator here in the left and even on the right. The blood spots here right under the bottom of these pictures are above the level of the refrigerator.

Q. Mr. Holbrook, I show you Commonwealth's Exhibit Number 47, which purports to be an area of the ceiling.

A. Yes, sir.

Q. Removed on February 6th, a Sunday. Did you see that before?

A. Yes, sir, I did.

Q. Where?

A. This was in the ceiling right over the dining area in front and to the right of the refrigerator. The larger hole here had----

Q. Was that piece of ceiling observed by you or anyone else in your presence while you were up there on four occasions?

A. It was. I was trying to----I don't have any doubts what this big hole was caused by, but I was trying to determine what caused this smaller impression.

And I noticed something was stuck up in there and I took a pin knife and dug it out and it was the cap to a shotgun shell.

Q. Which you have with you?

A. Well, it's in that folder over there.

Q. All right, sir.

A. It was a purple cap. I think the Commonwealth has a purple expended shell. It was laying in front of the refrigerator. A purple cap that goes over the top of the wadding in a shotgun shell.

Q. What about the hole, go ahead?

A. Well, I took a pin knife and dug it out, slid it out the side. And, of course, we progged around in this hole here trying to determine the angle.

Q. What did you prog around up there with?

A. Well, of course, the shotgun had been confiscated. I would like to have had it. But I used, I don't know whether it was a broome handle or a mop handle. I was trying to determine the angle that the shot---

Q. You progged around inthere with a broome handle or mop handle on what day?

A. This was on February 1st.

Q. February 1st. All right, sir. When you went up there on February 1st, Mr. Holbrook, did you go through the trailer?

THE COURT: Okay.

MR. WHITEHEAD: We will let him mark them for identification that he found these items.

THE COURT: Without going into what they are.

MR. WHITEHEAD: Right.

THE COURT: Okay.

IN OPEN COURT

MR. WHITEHEAD CONTINUES:

Q. Mr. Holbrook, for purpose of identification I show you---

MR. WHITEHEAD: Do you want the certificate all as one?

THE COURT: I guess it is.

Q. Mr. Holbrook, this is Defendant's Exhibit Number 1 subject to further identification. Can you identify that?

A. This is the plastic cap that I removed from the small indentation of the ceiling.

Q. The ceiling wasn't touched at all before February 6th?

A. That's right.

Q. Where did it come from, Mr. Holbrook?

A. I removed it from this smaller impression here.

Q. I show you for further identification a picture. Can you identify this?

A. This is a picture I made. It was made in the living room.

THE COURT: Okay.

MR. WHITEHEAD: We will let him mark them for identification that he found these items.

THE COURT: Without going into what they are.

MR. WHITEHEAD: Right.

THE COURT: Okay.

IN OPEN COURT

MR. WHITEHEAD CONTINUES:

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Q. The ceiling wasn't touched at all before February 6th?

A. That's right.

Q. Where did it come from, Mr. Holbrook?

A. I removed it from this smaller impression here.

Q. I show you for further identification a picture. Can you identify this?

A. This is a picture I made. It was made in the living room.

A. As I said earlier the thickness of the blood there in the dining area had coagulated to a certain degree. Was a jelly like substance.

Q. But any on the walls or table or chairs itself was dry would you say?

A. Yes, sir.

Q. And the picture I showed you of the refrigerator and the area around the refrigerator is substantially what you saw that day?

A. Well, there is one area that is not included in that refrigerator. Above the top of that refrigerator there were some blood spots too. It's not included in either of those pictures.

Q. There were blood spots over quite an area actually, with heavier concentration in some parts than others. Is that correct?

A. Would you repeat your----

Q. There were blood spots over quite an area in this trailer?

A. Yes, sir.

Q. Pieces of brains laying around too?

A. Yes, sir. Even after I got there.

Q. You put a broome stick, or something, through this shotgun hole in the ceiling. What direction did you

A. What direction?

Q. Uh-huh.

A. I'm not sure I understand.

Q. From the point of entry to the point of exit would it have been towards the street or towards the bedroom area?

A. Towards the street.

Q. Towards the street. That would be from the door to the right from this diagram in that general direction?

A. Using the big hole if we were facing, standing here facing, it would be in this direction.

Q. Right. And you saw scuff marks in the blood. Something had been shoved aside?

A. Scuff marks in the blood where the table had been.

Q. Yeah.

A. Yes, sir. On February 1st.

Q. I think that's all.

RE-DIRECT EXAMINATION

BY MR. WHITEHEAD:

Q. MR. WHITEHEAD: Any objection? (Showing pictures to counsel for Commonwealth)

MR. HUGGINS: Your Honor, I have no real objection to this particular picture, but I

THE COURT: Only things that were admitted.

Q. Who are you associated with?

A. Paul M. Stanley.

Q. He was asking you about your qualifications?

A. Who am I associated with?

Q. Mr. Huggins was?

A. Yes, sir.

Q. Did he attempt to hire y'all in this matter?

MR. HUGGINS: Your Honor, please-----

THE COURT: I don't think that makes any difference.

MR. WHITEHEAD: Okay. We will withdraw that.

THE COURT: Strike that.

Q. Your witness.

MR. HUGGINS: I have no further questions.

WITNESS STANDS ASIDE

****** ******

BILLY McGHEE, next witness, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WHITEHEAD:

Q. State your name to the ladies and gentlemen of the jury, please, sir?

A. Billy McGhee.

Q. Mr. McGhee, are you familiar with Carriage Hill Trailer Court?

A. Yes, sir. I'm the manager of it.

Q. You were manager on January 29th of this year?

A. Yes, sir.

Q. Do you recall that Saturday when tee shooting occurred, Mr. McGhee?

A. Yes, sir.

Q. Did you happen to go down there that afternoon, or that evening?

A. Yes, sir. We were having a little oil problem up there that day.

Q. Having an oil problem?

A. Yes, sir. We was about to run out of oil and I was going around telling everybody to cut their furnaces down where we would have enough to last.

Q. All right. Energy crisis.

A. Sir.

Q. Energy crisis.

A. Yes, sir. And I walked in the house. They invited me in.

Q. In the trailer?

A. In the trailer.

Q. All right.

A. And I-----

Q. Was Mrs. Compton---Mrs. Ratliff there--Hattie Ratliff--was Hattie Ratliff there---do you know her?

A. I just saw her---just in and out.

Q. What did she say to you---did she offer you anything?

A. She offered me a drink when I walked in the house.

Q. All right.

A. And I refused.

Q. What time approximately was this, Mr. McGhee?

A. I would say roughly around six o'clock.

Q. All right, sir. What was her condition at that time as you could observe?

A. As I observed she said she was getting over the flu. Either she was intoxicated, or she appeared to me like somebody that was getting over the flu.

Q. All right, sir. Mr. McGhee, later on I direct your attention to about two weeks later. Did there come a time that you went back to that trailer after this was all over with?

A. Yes, sir.

Q. What did you do---what was the purpose of it?

A. I went down to clean the house up and patch a hole, the hole in the roof.

Q. Now, I direct your attention to blood. Did you see blood there with reference to the refrigerator and the wall?

A. Yes, sir. There was blood splattered on the ceiling, refrigerator---

Q. Up on the ceiling ?

A. Up on the ceiling.

Q. Where was that on the ceiling with reference to the refrigerator?

A. I would say from where the hole was at in the ceiling towards the kitchen. All the way across that part of it it was splattered.

Q. Small spots?

A. Yes, sir.

Q. And you cleaned it up yourself personally?

A. Yes, sir.

Q. Your witness.

NO QUESTIONS BY COUNSEL FOR COMMONWEALTH

WITNESS STANDS ASIDE

****** ******

WATSON COMPTON, the defendant, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WHITEHEAD:

Q. State your name to the ladies and gentlemen of the jury, please, sir?

A. My name is Watson Compton.

Q. Mr. Compton, how old are you?

A. Forty-five years old.

Q. And what was your occupation, Mr. Compton, up until January 29th of 1977?

A. I was Compliance Fieldman for the ASCS Officer here in Chatham, Pittsylvania County.

Q. And how long had you held that position with the ASCS Office?

A. On regular basis it had been twelve years and I worked for them part time three or four years before that in the field.

Q. All right, sir. Where was your home, Mr. Compton?

A. My home was on 713 Kentuck.

Q. Down at Kentuck?

A. Yes, sir.

Q. You are a life long residen of Pittsylvania County?

A. No, I moved out of Halifax County in 1949. And in Pittsylvania County most of the time since.

Q. All right, sir. Mr. Compton, of course, you recall the date, that Saturday, January 29th of this year?

A. Yes, sir.

Q. Can you tell the ladies and gentlemen of the jury what happened there in the trailer that evening beginning around six or seven o'clock. Just relate to them in your own words what happened and what took place?

A. Well, Hattie and I came in about six o'clock that afternoon. I stopped by Mr. McGhees and paid him the rent for 8C the trailer was setting on.

Q. Is that the Mr. McGhee, the gentleman, that just testified?

A. Yes, sir.

Q. All right, sir.

A. My trailer I bought and had to pay rent, see, for where it's sitting at. And when I was at Mr. McGhees he told me that the oil was sortage and he might have to cut the oil off the trailer. And I talked to Mr. McGhee five or ten minutes and came on down to the trailer with Hattie. It was about six o'clock when we got in. And on the way down we discussed about cadling somebody about the situation because it was children in the park and we were concerned about it.

She said she would call the mayor and I told her I would call Mr. Weatherford that had the control through the oil company on deliveries.

Q. She did call Mr. Clark, the mayor?

A. Yeah, she called----

Q. What was her condition , Mr. Compton?

A. Hattie when we arrived she had had a few drinks. Not a whole lot, but had a couple of drinks that afternoon.

Q. What was her condition otherwise----have you seen these exhibits, these pills over here?

A. Yes,sir. I'm familiar with those.

Q. Defendant's Exhibit 7, 8 and 9. Were there more than these there?

A. There was more bottles. Hattie was sick. She had rheumatoid arthritis.

Q. Rheumatoid arthritis?

A. Yes, sir. In her legs and so forth.

Q. Were those her pills?

A. Yeah, these are her pills.

Q. What were they---do you know what they are?

A. Some cortisone she was taking . Some pain pills and valium.

Q. Valium and darvocet. Did she have other pills rather that these?

A. I think she had vitamin pills she also had to take.

Q. Was she talking pills on January 29th, that Saturday?

A. Yes, sir. She had to take pills daily for the problem she had.

Q. And what would happen to her when she was taking these pills and drinking liquor, Mr. Compton? Tell the ladies and gentlemen of the jury.

A. Well, what she drinked had a whole lot more effect on her than the average normal person.

Q. How do you mean?

A. Well, she would get unsteady on her feet and a lot of time if we had any disturbance it would upset her--- get her irrational.

Q. Get irrational?

A. Yes, if she was disturbed or upset about any particular thing.

Q. All right, sir. Did she get upset that evening on January 29th?

A. Yeah, she did.

Q. All right, what happened other than the oil business? Did she get upset about that?

A. Well, when we arrived in the trailer she had talked to her son that morning. She was suppose to have lunch with him the next day on Sunday and had called him.

I reminded her to call. She was suppose to call. After the call was over with very short she asked me did she appear like she was drinking or drunk to me. I said, "not particular"but I said, "if you were talking to your son he could pick it up the way you were talking a little loud".

Q. How many children did she have, Mr. Watson?

A. She had two children.

Q. Two children. Were they with her or with her husband?

A. They were with her husband.

Q. She had left them. So go ahead.

A. After she called her son we had been discussing about the final papers. We were trying to get married in February, the 1st of February.

Q. Who's we now?

A. Hattie and I.

Q. You and Hattie were going to get married?

A. Yes, sir. And I hadn't gotten the final papers. I should have gotten them back in December 28th. So I had to call and ask the ex-wife, Nancy, had she got hers or what happened to my filing the merger.

Q. All right, what is your relationship with your wife and family, Mr. Compton, good, bad, poor or what?

A. I have had no problems with my family since I left home. I haven't been down to their house, or talk

to my ex-wife very seldom except just to pick the children up. And I had visiting privileges, unlimited visiting privileges with my children.

Q. Y'all got along good?

A. No problems.

MR. HUGGINS: Your Honor, I object.

MR. WHITEHEAD: I withdraw that.

THE COURT: Just stop the leading.

Q. Go ahead Mr. Compton, so what happened?

A. Hattie had made the call to her son. And I thought about what we had been discussing and I called the ex-wife and asked her had she got her merger. And Hattie came out the bathroom at the time I was talking to her, came by the table long enough to realize who I was talking to and reached over and hun the phone up. Took her hand and cut the phone off.

Q. Cut it off?

A. Cut it off.

Q. What comment did she make---what did she say?

A. She said, "you are talking to that bitch again on the telephone". And she sat down and I hung the telephone--the receiver on top. It was already cut off. And I explained to her what I was calling about. About we was discussing the merger and I hadn't got mine.

And that seemed to settle Hattie down. And we made several calls. I called Mr. Weatherford's home about the oil. And Nancy didn't understand what cut her off so she called back and I answered the telephone. This is the ex-wife---

Q. Nancy Mylum?

A. Nancy Compton.

Q. All right.

A. And asked why did I hang up and I said, "I didn't, Hattie cut us off". And then we discussed a few minutes about the merger and started discussing about-- we got a son that wanted to go down and stay with my brother some that was living with Nancy---started discussing that and the telephone was cut off again. I was thinking that Nancy had finished the conversation. And in a few minutes she called back and says, "what happened. What did the telephone cut off about". I told her I thought the conversation was concluded. I didn't know---I didn't cut it off. So we finished discussing it and Hattie was, I think she was walking in the kitchen fixing another drink, or had another drink, She got very upset about it and said, "that if that bitch calls you back anymore", said, "I'll kill her".

Q. Kill who?

A. Nancy. Talking about Nancy Compton.

Q. Your ex-wife?

A. The ex-wife.

Q. Can you tell us whehter or not you were divorced at that time?

A. Yeah, the divorce was final.

Q. Had been final. All right.

Q. It was final the 28th of December, 1976.

Q. All right.

A. So Hattie was very upset and several other telephone calls---Mr. Clark called back and talked to Hattie. I talked to Mr. Clark a minute-

Q. What did you talk to him about?

A. I knew Mr. Clark was out of his jurisdiction, out of the city of Danville where we were that he couldn't give us any assistance. And I told him I appreciated his efforts and that we were in the county and thanked him for his time for calling back. And then I made a final call later on. It wasn't too much time expended I tried to get Mr. Weatherford again. He was out on the farm he wasn't at home. I talked to his wife, Mrs. Alma Weatherford.

Q. All right.

A. And Hattie was coming out of the kitchen and set there in the chair and said, "if you are talking to that bitch again I'll go down there and shoot her, kill her".

Q. Who is this?

A. Talking about Nancy.

Q. How did you take that--what she was saying?

A. Well, at this time---

Q. Seriously or not?

A. To control Hattie----but I was kinda afraid she would leave with the gun. I couldn't control her. So I went to the closet to hang my coat up and partly--- she had this handgun she kept on the nail in the closet inside the door. She would carry it back and forth with her to her apartment for protection. She was kinda scared traveling by herself. And the gun was gone. And I asked her where was it and she said she didn't know. And I didn't know whether she knew or not. Whether she had it in her pocket. I hadn't been in the room all the time.

Q. Let me ask you this, Mr. Compton, why did you become alarmed when she said she was gonna do something to Nancy?

A. Well, she was getting more upset and---

Q. Anything happen before with her and Nancy?

A. Well, she left the apartment one night, early part of the night. We had been discussing why she was having problems and I wasn't having any problems with the family I left. And I told her, I said, "people don't act like that. They don't have that type of trouble". So she said, "I'm going down there and see what a good bitch you left". And she left the house.

Q. What was her condition---when was this that she left and went down there?

A. It was three or four months before this.

Q. And what was her condition that evening when she went down to Nancy Mylum Compton's house?

A. She had been drinking beer that afternoon. A little high.

Q. And you knew that she had been down there before?

A. The next day she told me she had been down there. After this, she left that afternoon and the next day she told me she went down there. Walked in the house and talked to Nancy. The only thing I can say then they didn't have any trouble. And I was afraid that I couldn't control Hattie. So after I looked and the

gun was gone----

Q. Now we are back up in the trailer?

A. Back in the trailer.

Q. January 29th?

A. Yes, sir.

Q. All right.

A. I had this shotgun sitting there, a hunting gun of mine. The one over there, that I moved in the trailer for protection against intruders. I also--I've done some hunting, bird hunting. I hadn't that year.

Q. All right.

A. And I turned around and asked her again about the gun. And she still denied having it or anything, or knew where it was. And I saw the shotgun setting there.

Q. Where was the shotgun?

A. The shotgun was sitting in the closet by the door.

Q. Is that the closet on that diagram?

A. Yes, sir.

Q. One by the front door?

A. The one by the front door.

Q. All right, sir. What happened?

A. And the gun was in view so I decided I had better get the gun and check it and put it back in the back closet with the other gun. I do have another hunting

gun. It's a 22 rifle. It's in the back closet.

Q. What do you mean back closet?

A. That's in the back bedroom in the closet.

Q. Back in the back of the trailer?

A. Yes, sir. I took the gun up----I hadn't had my hands on the gun in a long time I didn't know whether it was loaded or unloaded. I sat down to the table and I set the gun on my knee and pulled the slide back on it pointing over to the corner of the kitchen away from her. I pulled the slide back and a shell came up and I saw the gun was loaded. When it went back I heard her chair scrape, go back against the wall and I realized she was getting up from the table--from the end of the table. And realizing the gun was loaded I went to grab the safety on it. It scared me.

Q. All right, sir. Was the safety on or off?

A. I'm not sure. I was grabbing it and had my hand on it and she had come up, she was coming up in a crouch. I could see her out the corner of my eye and she shoved the table around when she got up. And I was still looking down and the gun exploded and went off.

Q. Was the safety on or off?

A. The safety was off. The gun was loaded it went off.

Q. The gun exploded. What's the next thing you remember?

A. Well, I looked up after the explosion. I looked up to see---looked up at the ceiling to see where it went through at, and it wasn't no hole there. Hattie was coming in from towards the refrigerator. She was falling forward. She was turned sideways to me I couldn't know if she was shot or whether she had got her feet tangled up, because she did stumble a lot because of the arthritis. She did have bad legs. And I jumped up still hold the gun----

Q. Did you look at her?

A. I couldn't see her entire face. I just saw her from the side.

Q. What did you see?

A. I didn't see anything. I mean I didn't see whether she was shot or not. And I jumped up to grab her to keep her from falling over in the table. And when I did my hand went up---it was my left hand---and missed her chest and caught her in the face and that's where she was shot at. And I couldn't hardly know what happened to the gun after that. I tried to grab her. I grabbed her with both hands and she still slipped away from me and went on the floor. And I went to the telephone---the telephone had been knocked off the table, it was on the floor. And I got on the floor

and called the operator for help. I still hadn't looked at Hattie real close. She was laying there and I talked to the operator, dialed 411. And I realized while I was talking that it was out of town assistance. So I explained to her several times and the operator said, "calm down and tell me over again". And I told her where I was in the trailer, the number and who I was, it was in the county and what road it was on. And asked her twice if she got it right. She said, "yeah, I got it right. Hang up and I will call somebody". And then I tried to crawl over to Hattie. I crawled over to her and there was nothing I could do. So I went back to the telephone to call again and I noticed blood all over my hands and telephone. I had it on my pants where I was on the floor. And I went to the bathroom and started washing my hands and I said, "what am I doing in here". So I went back to the telephone and the only number I could think of then was my old home number, my ex-wife and I called her. Told her what had happened and to send me some help---to come up. And she said she couldn't come up she didn't know exactly where the trailer was. And I asked her to do something, call somebody. And I was sitting there,

kneeling there looking at Hattie and I just don't know what happened. I went into shock or something. I couldn't stand to stay there. So I told her I would meet her at the Sunoco Station approximately half way. So I walked to the door and stood and looked a minute and I couldn't stand what I was looking at so I cut the light off, I guess,. All of them are push buttons and I automatically locked the door because I always lock the door of the trailer I go out when I'm there by myself.

Q. Mr. Compton did you love Hattie Ratliff?

A. I did.

Q. Did you intend to kill her?

A. No, sir. I did not intend to hurt Hattie.

Q. How many shots do you remember, Mr. Compton?

A. I only remember the one shot when I jumped up.

Q. Do you know where that hole up in the trailer came from?

A. It came from a shot. I looked everything over before I walked out the door and I saw the holes in the ceiling, but I don't remember that shot.

Q. You don't remember the other shot?

A. No, sir.

Q. Was it first or second?

A. It had to be the second cause when one shot went off

and when I jumped up with the gun still in my hand was the only time it could have been.

Q. You went into the Sunoco Station. Is that correct?

A. Yes, sir.

Q. And you told the people down there what happened?

A. Yeah, I got to---

Q. Do you remember Mr. Steet, Mr. Jefferson?

A. I told Mr. Jefferson---and Mr. Street both were in the same room.

Q. You saw Mr. Talley?

A. I told Mr. Jefferson to call the State Trooper--- call the Sheriff's Department.

Q. You saw the deputies?

A. Yes, sir.

Q. Did you tell them what had happened?

A.M Mr. Talley asked me about it and asked me did I want to talk about it and gave me my rights. At that point I didn't feel like I was able to or could. I told him I didn't. I was crying, praying---since he has said something that comes back to me. I know he misquoted me. I said, "Oh God, why didn't it happen to me if it had to happen".

Q. Why didn't it happen to me?

A. Right. Cause I had rather it been me.

Q. How long had you known Hattie Ratliff, Mr. Compton?

A. I had seen Hattie and known her for maybe several years. She worked at Neal's Warehouse when I worked with the Agriculture Department as a Market _____ in different warehouses.

Q. And y'all had been going together how long?

A. We had been talking to each other in the warehouse we hadn't been going together. I think I went with her over to Reidsville several times when she went over to her daddys before I actually left the other person---my other wife.

Q. Mr. Compton, you were talking about the handgun. Is this the gun---Defendant's Exhibit Number 10---do you recognize this?

A. Yes, sir, that was hers.

Q. Now, what was involved with the pistol on Saturday, January 29th?

A. The pistol usually always hung on this mail inside this closet by the front door and it wasn't there.

Q. And why were you looking for it?

A. Cause Hattie said she was going down there and kill Nancy. I was afraid that she might leave the house with it.

Q. All right, Mr. Compton, would you do me a favor.

Would you show the ladies and gentlemen of the jury your right hand. Is that the hand you were working that shotgun with?

A. Yes, sir.

Q. What happened to your fingers?

A. They were cut off in the high school work shop when I was a sixteen year old boy.

Q. All right, sir. Can you bring your chair down here and show the ladies and gentlemen of the jury exactly what you were doing with that shotgun from the time you got it out of the closet until you went back and sat down in that chair?

A. I taken the gun out of the c-oset and had it pointed upwards---

Q. And where was the table and where was Hattie?

A. Sitting in front of me and Hattie was sitting across the table.

Q. All right. The table was in front of you and where was Hattie?

A. She was sitting across the table and I had the gun over towards the corner of the kitchen away from me. And I was ejecting the shell---this shell appears to be hanging---and a shell came out.

Q. A shell came out?

A. A shell came out of it and I realized it was loaded, and I realized she was getting up. And when she did she shoved the table into it.

Q. All right, what happened?

A. The gun slipped off my leg---I just grabbed at it--- I was looking at the safety and when I was looking down to get the safety is when it went off. I grabbed it. The gun exploded up at whatever angle it was.

Q. You dont know what angle it was?

A. No, I don't know what angle it was.

Q. Which one of your fingers touched that triger?

A. I don't know.

Q. Do you know that?

A. No, I don't. I just grabbed at the gun like that.

Q. And you do know the first shot was the one that hit her?

A. Yes, sir.

Q. Tell us exactly what you did after the gun exploded?

A. She was coming away from the refrigerator.

Q. Coming away from the refrigerator?

A. I jumped up to grab her. She was stumbling over towards the table right there. And I don't know whether she just stumbled or not cause she was turned away from me.

Q. Did you grab her---where?

A. When she came towards me I grabbed her at the chest and my hand missed and she was slumping fast. I just grabbed her right in there.

Q. And what did you see?

A. When I pulled my hand back it was full of blood and blood was squirting all over the kitchen rug.

Q. And what about her head, Mr. Compton?

A. I couldn't see that much of her face until after she hit the floor under the table lying there.

Q. And what happened to you?

A. That's when I was trying to call for help on the telephone.

Q. Well, what did you do after---with the shotgun?

A. I don't know what happened to the shotgun.

Q. Did you go down on your knees?

A. Naw.

Q. Did you get down on the floor with her?

A. I went part the way down with her and the gun was gone. I didn't really know where the gun was until I was fixing to leave.

Q. Do what?

A. When I was leaving the trailer I just stood over there and looked.

Q. When you went out?

A. When I left the trailer just before I walked out the door I just looked back at the whole thing and I noticed the gun laying close to the door.

Q. All right, Mr. Compton, how about coming over here to this diagram. We are referring to the diagram now. Can you orientate yourself to the diagram?

A. The diagram is not exactly as it was a moment or two before it happened.

Q. All right, what wasnot right?

A. Well, this table is not exactly round, it's an oval shaped table.

Q. All right.

A. My chair--this chair that I was sitting in was setting here at this end.

Q. And do you see the telephone?

A. The telephone was moved over on the table at the time we was making telephone calls.

Q. From where?

A. From this corner right here.

Q. Do you know where the front door is?

A. The front door is over here a little closer to the closet. It's out of proportion here.

Q. All right. Where is the closet?

A. Setting right here.

Q. All right, where was Hattie?

A. Hattie was sitting with her back against this wall right here in this chair. And she had her coat on it---something else to worry her. When Mr. McGhee came in she was sitting here. She would move around to her coat. I don't know whether she had her pocketbook in the same chair or not.

Q. She wasn't sitting in the chair over there in front of the refrigerator at all?

A. No, sir. She was sitting back against the wall. This wall comes out further than the picture shows.

Q. All right, sir.

A. She was against the stop. The table was long ways this way. When she did she moved the table around with her. She was always a little stumblingly or slow getting up with her arthritis.

Q. What do you mean about stumblingly or slow getting up with her arthritis?

A. Well, Hattie, she had fallen a lot. Sometime she had an operation on her legs. Sometimes it works and sometimes it don't until she gets going.

Q. She had had operations on her legs?

A. Yes, sir

Q. So what caused the gun to go off, Mr. Compton?

A. She knocked---she pushed the table around as she came and I was looking down and when the table hit the gun it went off beside my leg.

Q. It went off beside your leg?

A. Yes, sir.

Q. Did you know she was in this area over in here around the refrigerator?

A. No, sir. I didn't know how far she had advanced out of the room or anything. I just out of the corner of my eye---I sorta heard the table--chair scrape the floor and drop against the wall. I didn't know how far she had got around. It surprised me her coming from the direction she was coming from. I couldn't exactly figure that one out.

MR. WHITEHEAD: Would it be alright for him to put on there, your Honor, where was was and where he was on that diagram?

THE COURT: Don't mark it just put a spot there. Don't write on there what it is, let him mark it.

Q. Mr. Compton, can you draw on that diagram where you were sitting before the shooting and where Hattie was sitting?

A. Hattie was sitting in this area here.

THE COURT: Now mark it.

Q. Hattie was sitting in this area here?

Q. Where were you and where the chairs?

A. The chair was sitting in this area right in here

Q. All right.

A. The table was oval not round.

Q. All right, which was was the table?

A. Over here in the dining area.

THE COURT: All right. Proceed.

Q. You have looked at those photographs haven't you? Which way have they got the table turned in the photographs?

A. The table is turned cross---the oval is turned different.

Q. Tell us then how they got it wrong in the photograph?

A. In the photograph the table is turned this away.

Q. You mean long ways that way?

A. Long ways that way.

Q. It wasn't that way?

A. It wasn't that way. It was long ways-this is the long way of the room, walking space here, just an oval table running that away along with the side window there.

Q. What was in that chair under the table right there where they said she was sitting---who was sitting there?

A. Nobody was sitting there.

Q. Nobody?

A. The chair was empty--this chair here.

Q. Do you know how blood got on the back of the chair, or it wasn't any in the seat, or anything about that?

A. The chair was between Hattie and I. When the gun went off and when she comes from towards the refrigerator she fell around that chair--came around it.

Q. Did she it the refrigerator, or brush against it?

A. Yeah, she come back away from the refrigerator.

Q. And came around the chair and hit the floor?

A. Came around the chair sideways when I caught her.

Q. Where did you possibly get a hold of her--try to catch her?

A. I caught her before she reached the table cause I knew if she fell on the table, stumbled and fell on the table, she was gonna hurt herself. That's the reason I jumped up to catch her and hold her away from the table. She had fallen in the trailer before and bruised her leg.

Q. All right, Mr. Compton, I show you some exhibits. I show you Defendant's Exhibit Number 2. Was that an accurate photograph of the living room of that trailer, or a part of it?

A. Yes, sir. That was the bookcase in the corner of the living room.

Q. Part of the living room?

A. Part of the living room.

Q. And that was who?

A. That was Hattie and myself---a picture there.

Q. And had you seen this down there in the trailer in the living room?

MR. HUGGINS: Your Honor, please, we object to this. What relevancy is it?

THE COURT: He can identify the handwriting.

A. Yeah, this is Hattie's writing on this envelope here.

Q. What's the date of the envelope--postmark?

A. January 26, '77.

Q. What does the handwriting say---can you read it?

A. Yes, she was writing Hattie Henry Compton. Writing the children's names, her name, Compton.

Q. Hattie Compton?

A. Keith W. Compton. She was laying by the telephone----

Q. Is that her handwriting on the back?

A. Yes, that's mine and hers both I think---yeah.

Q. What does that say right there---whose handwriting is that?

A. I wrote that.

Q. You wrote that?

A. Yes, sir

Q. What does that say? Was that after January 26th?

A. Yes, sir. Says ----------(Defendant gets emotional)

MR. WHITEHEAD: Could we take a minute, Your Honor, for him to compose himself a little bit.

THE COURT: I think he's alright now, aren't you?

MR. WATSON: Yeah, I'm alright.

A. Stating my sentence, "Baby I do love you with all my body, soul and heart".

Q. What were y'all doing sitting there writing to each other, or what?

A. Just scribbling more or less.

Q. When did y'all write all this?

A. It was affter the letter was postdated January 26th.

Q. Mr. Compton, I show you this. It wasn't quite Valentines Day yet. Did you know about that?

A. Yeah, Hattie told me she had me a Valentine all ready. I knew she had it in her drawer.

Q. Did she tell you she had written something in it?

A Yeah, she always writes----

Q. Is that her handwriting?

A. Yes, sir, it's Hattie's handwriting. She usual wrote me things she couldn't tell me.

Q. When is Valentines Day?

A. February 14th.

Q. Mr. Compton, a portion of this is Exhibit Number 5, purports to be a letter. Is that her handwriting?

A. Yes, it is Hattie's handwriting. A letter that she gave to me.

Q. When did you get that?

A. I don't know exactly when she wrote to me. Whenever she got troubled she would write to me and leave it on my table in my trailer or apartment.

Q. I show you some other papers. Do you recognize these?

A. Yes, these are letters Hattie had written and give me.

Q. Later on in the day?

A. Yes, sir.

Q. Is that her signature?

A. Yes, sir.

Q. Can you identify those two?

A. Yeah, they are Hattie's writing.

Q. Did you receive them sometime in January?

A. Yeah.

Q. Mr. Compton, I show you two drawings. Can you identify those? Who drew those?

A. That was my drawing.

Q. This was?

A. Yes, sir.

Q. Whose writing is that there?

A. That's Hattie's handwriting.

Q. Hattie's handwriting at the top?

A. Yes, sir.

Q. When were they drawn?

A. They were drawn back about the middle of summer time--later on in the fall. Just some ideas on some houses.

Q. Y'all were gonna build a house?

A. We were planning to build. Yes, sir.

Q. What is the inscription at the top of that one in Hattie's handwriting?

A. Says, "Watson and Hatties home." "A home is where the heart is". "I love Watson".

Q. Mr. Compton, you heard the testimony of Virginia Carter about something that happened about October 1976?

A. This was also connected with Mrs. Wilson's testimony.

Q. The same time with the Wilson's?

A. Yes, sir.

Q. All right, sir. When was it approximately?

A. Well, the date Mrs. Carter stated--Virginia Carter--

Q. Sometime in October?

A. Yes, sir.

Q. All right, sir.

A. Hattie had supper with me that night and was suppose to have seen her children or something. She had a few beers and she wanted to go out and see her children. And it just only took a few beers to

make her higher than normal would with this medicine she was taking. I told her I thought it was best for her not to drive the car and go out. She had her own car with her.

Q. What was the status of her operator's license on January 29th?

A. January 29th, Hattie, she had got a ticket for driving under the influence on Riverside Drive.

Q. All right, sir. Let's go back to October now. You told her not to go out?

A. I told her not to go out. She was gonna look for them probably find them at the skating rink, or something. I told her I didn't think she should drive. So, she walked out the door anyway. I didn't know whether she was walking out to cool off or actually leave. I looked she walked down the street aways and then came back toward the Wilson's house. And I had gone on back and sat down before I saw which direction she was going in. I thought maybe she was coming back into the trailer, she hadn't taken the car. About five minutes later I called over to the Wilsons and asked them was she over there and talked to Mrs. Wilson. And she said yes she was over there at the house. I thanked her and hung the

telephone up. In a few minutes I walked across the road and I saw Hattie's car. Her keys were laying on the table where he had left them. That's one reason she hadn't left her keys were in my trailer. And I picked the keys up and put them in my pocket and walked across the street to the Wilson's trailer. Knocked on the door and Mr. Wilson invited me in. I went in and sat and talked to them a few minutes and asked Hattie did she want to go back to my trailer or go home. I don't know exactly how I stated it, and she said, "no, she didn't". So instead of arguing or anything I think Mr. Wilson did say I don't want no trouble here or anything. So I reached in my pocket---

Q. Did you have any kind of knife with you?

A. No, sir.

Q. Did you ever say anything about a knife?

A. I didn't mention a knife to the Wilsons

Q. All right.

Q. So I reached in my pocket and got Hattie's keys out. She was sitting just aways from me across the room, less distance than it is from you to I, and I pitched the keys over to her. And I said, "well here's your car

keys, make up your own mind". I wasn't gonna---she appeared to be feeling fair and I didn't want to start any argument and I walked out and went back to my trailer. And five or ten minutes later she came over to the trailer and opened herself another beer and stayed in the kitchen a while and then walked back towards the bathroom. And I looked, she had been gone three or four minutes, or longer than usual, and I looked back and the door was open, the light was shinning out in the hallway. And I got worried about her so I walked back and when I walked in she had picked a pin knife up off the back dresser where I usually take the stuff out of my pockets when I come out the field, and she had slashed her left wrist with it.

Q. She had cut her left wrist with the knife?

A. She had cut her left wrist.

Q. Is that where the knife got into it?

A. And then I went in and caught her arm--both hands and pulled the knife out of her hand. And she grabbed the knife back by the blade and I couldn't get it away from her. So I did smack Hattie to make her turn the blade of the knife loose to keep from cutting the palm of her hand.

Q. She grabbed the knife by the blade?

A. Right. When I did her head went around and hit the towel rack and put a big bruise on the side of her face there. I think when I had to slap her,a little blood was in the corner of her mouth , to keep her from splitting her hand open. I put the knife up, cleaned her wrist up and bandaged it. And she looked at her face in the mirror and saw the bruise and got hystricial about it. She called her sister, Virginia, and I didn't really know whether she had made connection, she talked on the telephone. I didn't know who she was talking to or anything. And in a little white-----

Q. Go ahead what happened?

A. Virginia came to the door.

Q. What was Virginia's condition?

A. Well she looked like she may have been drinking. I'm not sure.

Q. All right.

Q. But she---I've never seen her act this way. I opened the door and she said, "is Hattie here", and I said, "yes, she's here". She just bursted on into the house. She was dressed in a blue nightgown with a robe.

Q. Had her nightgown on.

A. Yes, sir.

Q. All right.

A. And they started discussing the keys--wondered where the keys were. Hattie was looking for her car keys. Virg.nia told her to settle down she wasn't going to her house making noises the kids were in bed. And Hattie was getting more disturbed. Virginia started getting upset. And Hattie made the remark that if I don't get the keys that her sister would shoot you, she's got a gun with her. And when she did Virginia stood in the living room floor and went in her pocket and started partially out with the gun that she had.

Q. What kind of gun was it, Watson?

A. It was an automatic gun. I don't know whether it was chrome plated or---

Q. And had you ever seen it before?

A. No, sir.

Q. What did she do with the pistol, shoot it?

A. She didn't bring it all the way out. She dropped her hand back in her pocket and walked back towards the bathroom. I went to the closet to get Hattie's Coat out. It kinda shook me, Virginia's actions. I knew she had a gun and that gun there was sitting in the closet. I check it and it was empty.

Q. That's this thing right here?

A. Yes, sir.

Q. Did you ever put a gun on Virginia?

A. I was sitting there with the gun sitting on the floor with the barrel down hoping they would leave, or find what they wanted. I told Hattie, I said, "check your pocketbook". So she dumped her whole pocketbook on the table and Virginia walked up and took the gun out of my hand----

Q. This gun?

A. Yeah, and started to point it towards me and instead of that she set it in the corner. And I told them it was best for them to leave. I mean I didn't know what was gonna happen.

Q. Did they go on then?

A. Well, Hattie found her keys when she dumped her pocketbook, picked them up and left. And she wouldn't let Hattie drive her car.

Q. Had Hattie related to you other occasion in which she attempted or had tried to take her life, Mr. Compton?

A. Hattie cut her wrist three times since I've known her in twelve months.

Q. Three times in twelve months?

A. Yes, sir.

Q. Your witness, Mr. Huggins.

COURT RECESSES FOR LUNCH FROM 12:00 to 1:00 P.M.

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OPEN COURT RESUMES

THE COURT: Now the direct examination has been completed has it not?

MR. WHITEHEAD: Yes, sir.

THE COURT: All right, Mr. Huggins, you may proceed.

CROSS EXAMINATION

BY MR. HUGGINS:

Q. Mr. Compton, you had known Mrs. Ratliff for a number of years?

A. Yes, sir.

Q. And after you started going with her you learned her full medical history---y'all talked incessively didn't you?

A. Well, I didn't learn her history in the beginning. I found out things about Hattie as we associated together.

Q. You knew she had been in a bad automobile accident several years before?

A. She told me about that.

Q. You knew that her health was very bad?

A. I didn't know to what extent her health was. I took her as I saw her.

Q. You knew she had very bad knees?

A. I knew she had trouble with her knees.

Q. You knew she had been operated on, on her knees among other things?

A. Yes, sir.

Q. You knew that the arthritis was very bad?

A. I didn't know the extent of her arthritis. Only what she told me and that was very little at times.

Q. You knew that she was in considerable pain on many, many occasions, didn't you?

A. Well, I would have to ask her, she didn't tell me.

Q. There were times when she had great difficult in walking according to your own testimony?

A. At times, yes, sir.

Q. There were times when she couldn't walk at all, weren't there?

A. Not when I knew her.

Q. Did she have more trouble when she would first get up if she was in a sitting position?

A. Well, it wasn't any continious thing. No certain

pattern of her trouble that I knew of. But it would make a difference in her.

Q. She took medication daily that had been prescribed by various physicians?

A. As far as I know.

Q. You have already testified as to what they were--- pain pills, cortisone, librium, valium?

A. That's what she explained to me they were.

Q. This is some of the stuff she took daily?

A. Yes, sir.

Q. Dr. Ogden's prescription, Dr. Updike's prescription, another prescription from Dr. Ogden. She was 5 feet 3, wasn't she?

A. So far as I know.

Q. She was a small lady?

A. That's true.

Q. Who loved you a great deal as you have testified to, and you loved her?

A. That's true.

Q. When did y'all first start living together, Mr. Compton?

A. We didn't continue to stay together. First she came down after she left her sister's house where she moved into, staped a while, she left. Well in the

twelve months period of time, or whatever, fourteen months, I think she had four or five different apartments. And she had to leave her sister's house the way------

Q. Well, when did y'all start living together?

A. Living together?

Q. Yes, sir.

A. I don't know the exact date. She stayed at my place for a while, between the times she got her apartments. I don't know the specific date on it.

Q. As much as a year?

A. No, sir.

Q. When did you get your trailer out there?

A. I think it was the last of August.

Q. The last of August?

A. I believe so.

Q. Did she move in with you?

A. Yes, sir.

Q. Moved all her belongings in with you?

A. I don't know whether it was all of them or not.

Q. You have submitted this list of items that was turned over to the Administrator of her estate that counsel has. Did she move these items in then or later on or what?

A. She moved them in later, because we intended to get married and that was my residence. And I told her if we were gonna get married February 14th that if she wanted to she could move some of her belonging in there.

Q. And she stayed out there most of the time didn't she from August on?

A. We saw each other each day.

Q. And over a period of time her love for you grew. And your love for her grew?

A. That's true. I speak for myself, sir.

Q. Well, you had little doubts about her love. You introducted her love letters?

A. Well, she showed me her love everyday that we were together.

Q. And y'all planned to get married in February?

A. Yes, sir.

Q. When did you first plan--when did the wedding plans first develop, August, September or when?

A. Well, we were planning to get married, I say, fourteen months before. The wedding plans started when we frund out that the divorce was getting finalized. That's when we started the actual wedding plans.

Q. Now, during this fourteen month period did her health deteriorate any?

A. If you are asking me I didn't know the extent of her healthness or her sickness before. But I know during ther period she stayed on a fair level. She had good days and bad days.

Q. Good days and bad days. Was it significally better or worse during this fourteen month period?

A. She could go practically three months without any problems and then she could go three or four weeks with the problems.

Q. Had she been hospitalized that last six months before her death?

A. No, sir, not as I know of.

Q. Now, was she a small lady?

A. Compared to who?

Q. Compared to yourself. Was she smaller in statute?

A. If I were a lady she would be a small lady.

Q. And you testified that because of the medication she was taking the drinking seemed to, on occasions, irritate her or aggravate her?

A. The drinking itself, the medication didn't aggravate her. It was the circumstances that she received from her family sometimes. But it did carry her

beyond a point of what she was drinking I think.

Q. Did she drink heavily?

A. When she drinked, yes.

Q. Did she drink daily?

A. Not every day. No, sir.

Q. drink more days than not?

A. Sir.

Q. Did she drink on most days?

A. No, sir. I can't say---about a week or whatever. I don't think she drinked more or less.

Q. Now, during that period of time from August on when was the first time that Mrs. Ratliff moved out and got her own apartment?

A. This incident that was testified to by Mrs. Carter, Mrs. Wilson.

Q. That's in October?

A. Whatever day it was. I don't recall the exact date. It was October, yes, sir.

Q. She moved out?

A. Yes, sir.

Q. Where did she move to?

A. She moved to the Ruxton Apartments.

Q. Ruxton Apartments?

A. Yes, sir.

Q. Did she maintain that apartment up to the time of her death?

A. She paid rent and maintained it. Yes, sir.

Q. Now, it's in testimony, yours as well as other witnesses, that the lady moved out in October. When did she return to the trailer, return to resume her relationship with you?

A. Within three or four days.

Q. Within three or four days?

A. Yes, sir. She came to the trailer.

Q. Y'all resumed your relationship?

A. Yes, sir.

Q. And did she move out again after that?

A. She had her own place. She moved in and out as she wished to.

Q. My question to you, Mr. Compton, is did she move out anytime after that?

A. Move out of where?

Q. Out of your trailer back over to Ruxton?

A. She stayed at the trailer once and a while. She stayed over there some. I can't specify what particular day and hour or what.

Q. Now, back on January 29th what was the condition of your health, sir?

A. No, sir. It was seasonal. A few days out of the year.

Q. And then you would go out, many people do, take a few days off and hunt doves in dove season, hunt deer in deer season?

A. A very few days.

Q. And you used this gun?

A. Yes, sir.

Q. Now, Mr. Compton, before I go further, show me, I realize you have two fingers off your hand, would you show me how you would normally fire this if you were hunting?

A. Well, usually I would hunt with the safety off because these finges don't give me enough time in hunting game. I hunt by myself. Like dove hunting you get a dove stand and deer you get on a deer stand by yourself. I usually put the safety off because I can't handle the safety and the shooting of the gun at the same with with no fingers on it. Usually I keep the safety off and keep it up and when the game comes in sight and that's the finger I use to fire it with. This finger won't work. I mean you can't use it for hunting purposes.

Q. So you use this finger.

A. Yes, sir. It's the only one I have left to use.

Q. What did y'all do earlier in the day?

A. Well, I didn't stay with her the entire day. I left the trailer for a while. Got up and I cooked breakfast while Hattie was sleeping and cadled her for breakfast. Spent sometime at the breakfast table talking and eating. I told Hattie I had to go over to my son's trailer. He lives in the other part of town in another trailer court. That he needed to do his laundry. He didn't have a washing laundry in his trailer. I told her I would give her an hour or so to do what she wanted to do. Straighten up the dishes and whatever she wanted to do. To dress herself and so on. So I left and went over to my son's trailer and stayed with him about an hour and a half helping him get his clothes together and straightening up over at his place. I brought him back to wash his clothes. We stayed there until about, I think he got through about 12:30. And we left from there and went to Reidsville to visit her father in the hospital and then we came back home.

Q. To visit her father in the hospital. What time did you go over there?

A. I wasn't keeping up with the time of day, but we was trying to get over there before the main visiting hour. Somewhere between three and four o'clock. I don't know exactly.

A. Yes, sir.

Q. Now, what did she do when she got back to the trailer?

A. The same thing that I have already testified to. She called her son and so forth.

Q. Yeah.

A. Well, she mixed another drink, sat down at the table and I told her to call Tony. She was suppose to call him back about Sunday.

Q. You said you told her to call Tony-----had Tony called?

A. She had talked to him earlier that day about ten o'clock or something.

Q. Had you?

A. No.

Q. You hadn't talked to Tony at all that day?

A. I had not at all.

Q. And then she started---she took a mixed drink and then what happened?

A. She asked me did she sound like she was drinking--- did she act like---sound like she was drinking that Tony had hung the telephone up and accused her of drinking. I told her, "yes". I said, "your son can pick it up when you have had a drink".

Q. Now at this point had you and she been arguing at all?

A. No, sir.

Q. Not at all at that point?

A. No, sir.

Q. Is this about the time the argument started according to you?

A. No, sir.

Q. There was no arguing at this point?

A. No, sir.

Q. This was what time---six o'clock wasn't it?

A. Six or after six.

Q. Okay.

A. Sometime --six or seven---between six and seven o'clock.

Q. Between six and seven?

A. Yes, sir. It was after six.

Q. What time would you say the argument started?

A. When the argument between us--she was fussing about the telephone call that I made to the ex-wife.

Q. Was she loud in her conversation?

A. Yeah, she was very loud and before I could calm her down and tell her what it was about and why I made the call then she calmed down.

Q. Then later on did she get loud again?

A. She was just getting louder each time and more irrational.

Q. Louder and more irrational?

A. Yes, sir.

Q. Did you raise your voice at her at all?

A. If I did it was to tadk so she could hear me over her conversation. I wasn't shouting at her because she didn't understand what was happening I was trying to explain it to her.

Q. So between---sometime after seven how many telephone cadls would you say that had either been made to your home or you had received, or you had made?

A. After seven?

Q. Uh-huh.

A. It was about six or seven calls made. I don't have the time. I would be guessing, I don't know.

Q. You made a number yourself to your former wife?

A. No, sir. I made one call to her.

Q. Your former wife made several to you?

A. Made two calls back.

Q. Mrs. Ratliff made calls?

A. She called Tony and Mr. Bob Clark.

Q. Everything is going nicely at this point?

A. I don't know what you mean by that, sir. She got mad when I made that first call. Nicely, it was there I don't know whether you would call it nicely or not.

Q. She got mad?

A. She got mad at the first call---calmed down.

Q. That's when you got in the conversation about your ex-wife?

A. In the conversation I was trying to explain to her why the call had been made and what it was about. I was trying to explain to her to get her to settle down.

Q. And what did she say, don't talk to that bitch again?

A. Well, the two or three times that's what she said. Said it doesn't make any difference I'm still going to get that bitch for bothering you or calling you.

Q. She said, "I'm gonna get her"?

A. Then she said she would go down there and blow her damn head off, shoot her.

Q. You knew where she kept the gun didn't you?

A. Yes sir.

Q. Was it in there?

A. No, sir.

Q. Did you check it?

A. Yes, sir. I walked to the closet to hang my coat up.

Q. Did you ask her where it was?

A. I asked her where was the gun.

Q. She said she didn't know?

A. She didn't know and I didn't know whether she was telling the truth about it or not, cause I hadn't been in the room all the time.

A. I didn't know she was as drunk as she was, let's say that. I didn't know she had drinked that much.

Q. You had been with her all day?

A. That's true, but I had also been out the room and I also left her a few minutes a few times.

Q. And you couldn't control her so you went and you got your shotgun out, right?

A. You are running one sentence into another one. I did get the shotgun out.

Q. You got the shotgun out?

A. Yes, sir.

Q. Who had been the last person to handle that shotgun?

A. I had put that gun in that closet myself a month or so before that.

Q. And you keep the shotgun there for intruders?

A. Yes, sir.

Q. You keep the shotgun loaded?

A. Not all the time, sir.

Q. When you put it up you knew it was loaded, didn't you?

A. At the time I put it up probably so. Yes, sir.

Q. And you took the shotgun---now tell us what you were going to do with it?

A. I was gonna check it and put it back in the back closet with the other guns. There had been some

prowlers in the trailer court, plus the fact that one of the deputy sheriff stopped by earlier, a month or so, and said that somebody was breaking in trailer. Mr. Collins.

Q. All right. You were gonna put it back in the back bedroom?

A. I was gonna check it and make sure it wasn't loaded and put it back in the bedroom with the other guns.

Q. Mare sure it wasn't or was?

A. That it wasn't.

Q. Now, Mr. Compton, I know you have testified to this before. Would you come right here, if you would, sir, and show the jury again exactly what you did with that gun after you took it out the closet?

A. I took it out the closet and I didn't want to be walking around the floor fooling with the gun. So I sat down, turned the gun away from the only availabe chair in that area where I had been sitting. Turned away from towards Hattie. She was sitting over there, turned the gun up like this, got the receiver and ejected it back----

Q. Can you operate it and show us?

A. I had this hand here holding it up this way. Had it setting on my knees and I pulled back like this and the shell come out here.

Q. Where did the shell go do you know?

A. Went out to a right angle.

Q. Went out to a right angle. How many shells was in this?

A. If it was loaded it had three sheels in it. I'm not sure.

Q. It went out to the right of you, it ended up over here?

A. Yes, sir. The way I was setting it was bound to.

Q. How can you do that----where were you in relationship to the table?

A. About where the cross is up there on it. As far as I know I had the chair moved around when I got up to go to the closet. I had sat in and out the chair several times. Very close to the table right here.

Q. Were your legs under the table?

A. I'm not sure exactly where my legs were. They were outside some distance, I don't know exactly. I was sitting at that end of the table, she was sitting up there.

Q. And how long would you say that the table was--- 4 feet?

A. Approximately four feet. I never measured it.

Q. No more than four is it?

A. No,sir. Well it could be I don't know. I didn't measure it.

Q. A small oval table in a small dining area of a trailer is what we are talking about?

A. Yes, sir.

Q. And was Hattie---was the chair similar to where you placed it on that diagram---that's where you say she was sitting---you made the X?

A. Yes, I made the X.

Q. Now show us again exactly after you ejected that shot how you were holding the gun and place the table, if you will, in front of us in relationship as to where you were, or how you think you were?

A. What do you mean, place what table?

Q. It was a table right here?

A. Yes, sir. Somewhere in this area in front of me.

Q. And Mrs. Ratliff was---

A. She was sitting over there and I was here with the gun like this.

Q. Hold it like that?

A. When I first ejected the shell out of it I went for the safe guard. I was looking down at the gun and everything happened at one time. The table---she started getting up time the shell came out. The table came towards me, or the chair hit the wall behind me there. I heard that scraping of the chair and she was, I glanced at her out of the corner of

my eye and she was up on the edge of the table getting up leaning over and that's the last time before the gun exploded that I saw her until she was coming away from the refrigerator.

Q. What position were you holding the gun in. I want you to hold it exactly---

A. I don't know what position it was in after the table knocked it off my leg. I was still grasping it like that with this hand trying to hit the safety. What position it went from there I don't know. All I know I grabbed at the gun---

Q. You grabbed at the gun. You were up like this?

A. I don't know what angle.

Q. Like this?

A. But when it started falling all I know I had one hand here on it. It was sitting in this direction and I don't know which direction it went after that. Cause it exploded, powder it burnt my face and everything. What direction the gun took when the table knocked it off of my leg I don't know. All I know I grabbed it with this hand.

Q. Do you think it was at an agnle up?

A. It could have been an angle, I don't know. It just exploded in my hand I grabbed it.

Q. You heard the scrapping and then what happened? Again go back over that.

A. When I realized she was getting up and also realized that the gun was loaded, that a shell was in the gun, I grabbed for the safety to make sure it was on safety.

Q. Did you see her get up or just hear her?

A. I saw her start up out the corner of my eye. I could see her leaning over the table getting up. I heard the bang---

Q. She's coming up?

A. That's all I saw I looked back at the gun and the gun went off and I was looking downward.

Q. And exactly what did she do at that point?

A. I wasn't looking at her when the gun went off. I don't know whether she was coming to me, leaving me or which way she was going, but I know she was moving.

Q. What is your testimony that she did, or her body did, after the explosion in your hand?

A. When I looked up, I was just jumping up , all this explosion she was coming back to me. She was coming from the refrigerator.

Q. Coming from the refrigerator?

A. Yes, sir.

Q. Coming from that direction? From the direction of the refrigerator?

A. Yes, sir.

Q. Now, Mr. Compton, if I'm wrong correct me, on what I understood your testimony to be, but you are saying that while you were playing with the gun over here she was sitting here?

MR. WHITEHEAD: He didn't say he was playing with the gun.

Q. Well, operating the gun. She was sitting here, that you saw her come up out of the chair, yet after the gun exploded she came over from the refrigerator. Is that your testimony?

A. That's the direction she came from. I don't know whether she swung around, but it was directly in front of the refrigerator is where she came out from.

Q. This chair, around this chair?

A. This picture is not in proportion of the trailer.

Q. Let's find one that is. I hand you Commonwealth's Exhibit 25, is that proportionate to it?

A. It has to be proportion to the trailer because it's an actual picture of it, but the angle of the picture makes a difference.

Q. Is Commonwealth's Exhibit 8 a better angle.

A. Does it show the refrigerator in that one. I fail to see it, sir.

Q. Is it your testimony according to this position that she was sitting about here over close to this wall?

A. Yes, sir. Over to the wall. The chair is disarranged there.

Q. And your testimony after she was shot she came this way after the---around behind this chair over next to the refrigerator. That's your testimony?

A. Came around that chair, sir. I do no know which way she came because she was coming through----and I didn't place her with the chair when she came back. All I saw was Hattie.

Q. But the momene she got up the gun exploded. At the time you say she shoved she was over at this chair in that position?

A. I didn't say at the moment. The gun was knocked off my lap, I grabbed it.

Q. Instantly?

A. Sir.

Q. Instantly?

MR. SLAYTON: Your Honor, he is arguing with the witness.

MR. HUGGINS: I'm trying to get him to pin down the time.

A. I cannot pin down the time in a situation like that, sir.

Q. So, there wa' a lapse of time are you telling us that now?

A. No, I'm not telling you anything. I simply said I cannot pin down an instant of a moment, or whatever, you are trying to get at, sir.

Q. The shot------'rs. Ratliff collapsed----and what happened?

A. Sir.

Q. What happened? Repeat for us again what happened once you shot her?

A. I was coming over there at the chair, the explosion went off. I was looking at the ceiling and she came in from right. I caught her with my left hand to keep her from falling on the table. I didn't know whether she had stumbled or got tangled up in the chair or what happened. I was simply trying to catch her from falling on the table and hurting herself. When I caught her I found out she was shot.

Q. She was over the table at that point?

A. She was coming towards the table, sir.

Q. Coming towards the table?

A. Yes, sir.

Q. Was she walking?

A. She was slumping and falling like somebody stumbling.

Q. Was any portion of her body in a chair at that time?

A. No, sir.

Q. No portion of her body?

A. Standing practically full up. I was standing all the way up and I caught at her chest and she was slumping and I caught her right there about this angle.

Q. Well, what did you do then?

A. Well, I grabbed her with the other hand too and she just slumped away from me. I couldn't hold her. My left hand when I first caught her was full of blood and everything and I went to the telephone, which evidently I knocked out in the floor or something. It was off the table on the floor and I called the operator and asked for help.

Q. Where was the gun?

A. Sir.

Q. Where was the gun?

A. I didn't know where the gun was at that time.

Q. You don't know where the gun was?

A. No, sir. I wasn't concerned with the gun at that time.

Q. After you shot her what did you do with the gun?

A. What did I do with the gun?

A. Yeah.

A. I don't know what happened to the gun when I grabbed her. I know I didn't wind up with it in my hand after it was over with.

Q. Did you know there were two shots?

A. Sir.

Q. You know there were two shots?

A. I found out later there was two shots.

Q. The gun fired the second time by itself is that what you are telling us?

A. No, sir. I didn't tell you that.

Q. Well, how did it get fired?

A. I must have still had it in my hand when I caught her the first time.

Q. And fired it again?

A. Evidently I did. Nobody else was there to fire it.

Q. Then would you have dropped it?

A. I dropped it or either it jumped out of my hand if it fired agin. And possibly if I was holding it with one hand it probably jumped out of my hand. I don't know what happened.

Q. Did it land here?

A. As I was leaving the house it wasn't---I didn't pinpoint it to that spot. It was laying in the floor somewhere in that area.

Q. Did you ever touch it again?

A. No, sir.

Q. So where it was laying when the deputies got there would be where it fell?

A. Yes, sir. Where it fell at.

Q. What did you think she was gonna do at that point?

A. Which point is this, sir?

Q. When you say she was coming across, shoved the table?

A. I didn't have any idea at all. I didn't think about it. I didn't think she was gonna get up. Didn't have no idea she would be getting up. I didn't think about it.

Q. You are sitting there, you have just ejected a shot, which goes up to the right?

A. I don't know whether it was going up or down?

Q. And your first reaction when you shot you looked up for a hole in the ceiling, right?

A. When the gun exploded, I looked up.

Q. Now, Mr. Compton, how close were you to Mrs. Ratliff when you first saw here after the explosion?

A. I was a step or so. Possibly a good step, I don't know.

Q. Would you point here where you would have been then and where she would have been?

A. I was directing my attention on her instead of the position I was in the kitchen.

Q. Could you point where she was then?

A. She was falling toward the table or slumping towards the table so it must have been in this area here somewhere. What part of the table I don't know.

Q. Near a chair?

A. I was watching her I didn't look at the chair nor the table. I knew the table was there in front of her, that was the way she was falling.

Q. How did she get under the table?

A. I don't have no idea. She got away from me before she past the level of the table. My hands was bloody and everything, she just slipped right through.

Q. And got under the table. Head first under the table?

A. I didn't know what position she was in until I looked at her when I was calling. I don't know how far she was under the table or how much she was out from under the table.

Q. Was there any considerable quantity of blood on the table?

A. I didn't check the table, sir. I didn't use it, go back to it, I don't know.

Q. Did you do anything after you had shot her---what did you do?

A. I went---after I missed her and she went down on the floor I went to the telephone and called for help. Called the operator.

Q. Called the operator. What else did you do?

A. After I called the operator I hung the telephone up and started crawling towards Hattie, I got a full view of her now she was facing me, to see if there was any life left in her and she was dead. So I started back to the telephone and that's when I saw the blood on the telephone and on my hands, all over me. I went to the bathroom for aminute, sorat a habit, I try to keep my hands clean. I said, "what am I doing". I just run a little water over it, dried it a little bit and come on back to make the other call--to try to call somebody.

Q. And you called Mrs. Compton?

A. Yes, that was the only number I could think of. It was my old home number I had for years. Had to call somebody.

Q. You told her what had happened?

A. Yes, sir.

Q. Told her you had blown Hattie's brains out?

A. I told her Hattie had been shot.

Q. Now how long would you say all this took between the time of the shooting and the time that you left the trailer?

A. I can only estimate the time. At that time I don't know. I mean time didn't mean much at that point.

Q. You talked to your ex-wife once or twice from the trailer?

A. I think I only talked to her one time. She didn't believe it and I was trying to make somebody believe something to help me out.

Q. To help you out?

A. Yes, sir.

Q. You wanted her to meet you at the Sunoco?

A. I wanted her to come to the trailer and she said she couldn't do it because she didn't know where the trailer was. She had never been there.

Q. Just said meet me at the Sunoco?

A. So, I told her to meet me approximately half way at the Sunoco down on 58.

Q. Now, Mr. Compton, you drove on to the Sunoco Station?

A. Yes, sir.

Q. And Mr. Street was there and Mr. Jefferson was there?

A. Mr. Street was there and Mr. Jefferson came in.

Q. Now, you heard Mr. Street testify as to what you said?

A. Yes, sir.

Q. Did you ask to use the telephone?

A. Yes, sir.

Q. And you were having a little difficulty so you asked him to dial your ex-wife. Was that correct?

A. I don't remember telling him to dial. I could have.

Q. And you asked him to call the Sheriff's Department?

A. I was talking to Mr. Jefferson. I asked Mr. Street about using the telephone.

Q. And you heard him testify that you said you had blown your girl friend's head off with a shotgun?

A. I was talking to Mr. Jefferson. I wasn't talking to Mr. Street.

Q. But this is what---Mr. Street was there he heard this. You are not disputing this portion of his testimony are you?

A. Read that again, please.

Q. Mr. Street testified earlier that he heard you say that you had blown your girl friend's head off with a shotgun?

A. I don't think I said it like that. That's his conclusion of it.

Q. You also heard him testify that your statement about having a drink, didn't realize it was loaded, it just went off, didn't you?

A. About having a drink?

Q. Yeah.

A. No, sir. I don't remember saying that.

Q. Are you denying that you said in the presence of Mr. Street and Mr. Jefferson that you didn't realize

the gun was loaded, it just went off?

A. Possibly, I said that. At that stage I didn't hardly know what I was saying, Mr. Huggins.

Q. This was only just a few minutes after the alleged accident. You knew that Mrs. Ratliff lost a better portion of her head. Is that correct?

A. A few minutes.

Q. Thirty minutes?

A. Approximately.

Q. Now you heard Deputy Talley testify as to the statement you made?

A. I heard him testify to some statements. Yes, sir.

Q. Are you denying it?

MR. SLAYTON: Your Honor, I think the witness is entitled to know which statements the officer referred to because we had some difficulty getting all the statement in.

Q. Deputy Talley testified that you said, "God said Don't taketh what you can't giveth back again". Did you make this statement?

A. I may have. I believe in that statement I might have said it, I don't remember saying it.

Q. He also testified you said, "Oh, God, why did I do it."

A. I don't remember saying it that way, sir.

Q. He also testified you said, "why did this have to happen to me".

A. That was a wrong quotation. I said, "why didn't it happen to me".

Q. He also said---Mr. Compton, let's go back just a second. At the time that the gun was fired were you sitting or standing?

A. When the gun was knocked off my leg I was sitting down.

Q. You were sitting down?

A. Yes, sir.

Q. How long did you remain sitting?

A. After the gun exploded.

Q. Uh-huh.

A. Just a few seconds. Long enough to look up and to look to my right to see Hattie. I don't know what time element it was. But it was a shock. Things don't move when you are shocked with an explosion like that.

Q. Mr. Compton, both Mr. Street and Mr. Jefferson asked you about the shooting, didn't they?

A. I don't remember them asking me. Because what little I had said to Jefferson he didn't believe it happened. I don't know whether Street said anything to me.

Q. Did one of them ask you how it happened?

A. I don't remember.

Q. What you were doing sitting there with a shotgun?

A. I dont' remember them saying that.

Q. You didn't tell anyone there at any stage about what you are now claiming, did you?

A. I was trying to get across to Mr. Jefferson that an accident happened. I can't state exactly what was said. I was trying to get somebody to get the police, to get some help.

Q. And you said down there, "I'm not gonna run any further".?

A. I don't remember saying that, sir.

Q. You are not denying you said it are you?

A. If I can recall, Mr. Jefferson said he made the call to sit down. I sat down in the chair. He said sit down and wait the deputy would be there. I could have said it to satisfy him. He left. I didn't want him to be disturbed about me, he was on his way home from work I guess. He did the favor of calling for me.

Q. Mr. Compton, had you ever shot at Hattie Ratliff before?

A. No, sir.

Q. Have you ever shot at her vicinity before?

A. No, sir.

Q. Have you ever shot at anyone or near anyone or ever fired a rifle or shotgun in Carriage Hill Trailer Court?

A. Carriage Hill Trailer Court?

Q. Yes, sir.

A. I haven't fired a gun at no one. What was the question again, sir.

Q. Have you fired at all in Carriage Hill Trailer Court?

A. I fired that gun one time, two times in Carriage Hill Trailer Court.

Q. At where?

A. Carriage Hill Trailer Court.

Q. You mean you fired two shots or fired it on two separate occasions?

A. Two shots.

Q. Two shots?

A. Yes, sir.

Q. Well, what occasion was that?

A. Hattie had gone to see her children or something that night, been down on Riverside. It was early in the afternoon and she couldn't get to see the kids for some reason or other and she was back in the trailer. She was standing in the door with the other rifle I had. She fired it over my head as I came into the door. And backed back into the trailer. And I asked

And I asked her what was wrong with her. She said, "well you can't be gone when I'm not here". She had been drinking some. And I took the gun out of the closet and I said, "well, anybody can fire a gun. Put the gun away". She still had the rifle in her hand still inside the trailer and I walked out the door and shot that gun up in the air.

Q. Was this daytime.

A. Early afternoon.

Q. Early afternoon?

A. Before supper. It was not daylight, no,sir.

Q. What month was this?

A. I have no idea when it was. I didn't take the time -- I didn't write it down. I don't remember.

Q. Did you fire either one of your weapons in the month of November of 1976?

A. No, sir, I did not.

Q. In the nighttime?

A. No, sir.

Q. At Carriage Hill Trailer Court?

A. No, sir.

Q. Did anyone ever routinely drive Mrs. Ratliff's car other than herself?

A. I drove it on occasions for repairs and so forth. When it was something necessary to be done to it.

Q. Other than you did anyone?

A. Not that I know of.

Q. Now, let's go back to this acknowledged incident in Octiber of 1976. Is it your testimony that she slashed her wrist with a knife?

A. Yes, sir.

Q. She slashed her wrist--which one?

A. Her left wrist.

Q. Left wrist. Did it bleed?

A. Yes, sir.

Q. Perfusely?

A. It was bloody enough to run around her wrist. She didn't cut an artery or anything. She just cut through the skin, the top where she cut it this away.

Q. What did she cut it with?

A. Cut it with a pocket knife I had for field work.

Q. Cut it with a pocket knife?

A. Yes, sir. That I laid out after I got home from work on the chester drawers.

Q. Is this when she called her sister?

A. Yes, sir.

Q. Now, you heard Mrs. Carter testify as to what Hattie Ratliff said in her presence about you hitting her, beating her, kicking her?

A. Iheard her testimony. Yes, sir.

Q. Are you denying that happened?

A. Yes, sir.

Q. That Hattie Ratliff ever claimed that to her sister?

A. I don't know what Hattie said to her sister, but it wasn't true. I mean I hadn't did that. I told the jury exactly what happened that night.

Q. But you readily admit that you did go get a rifle?

A. Sir.

Q. You readily admitted that you did go get a rifle--had a rifle?

A. On that night?

Q. Yeah.

A. That's true. It wasn't a rifle it was this gun right here.

Q. Shotgun?

A. Right. It wasn't a rifle with long bullets that she was talking about in her testimony. I don't have such a gun.

Q. You got the shotgun. Well where were they when you got the shotgun?

A. They were in the back like she said.

Q. And you went to the closet?

A. I went to the closet to look for Hattie's coat. After seeing her pistol in her pocket I was gonna let Virginia Carter know that she was in my trailer with her gun that there was also a gun in my trailer that they would leave.

Q. So you got the shotgun out. Were you sitting, standing or what?

A. They came down I set out the way. Set back in the dining area and gave them their freedom to the living room and the front door. I didn't want no more problems.

Q. What were you sitting or standing with the shotgun?

A. I was sitting down facing the living room.

Q. Facing the living room where they were at?

A. Where they were coming from the other direction. With the barrel of the gun down on the carpet at the edge of the living room from the dining area.

Q. Told them if you don't get out of here I'll blow your brains out?

A. No, sir. I didn't say a threatening word to them. I told Virginia Carter, I said, "I also have a gun in the trailer". I did not threaten her with it. In fact, she walked up to it and took the gun out of my hand. I knew the gun was unloaded so it didn't scare me. She had an empty gun. That's when I told them to get out.

Q. And you were afraid that Mrs. Ratliff would go harm Mrs. Compton. You didn't figure you could control her?

A. I was not afraid of Hattie harming her. I was simply trying to stop Hattie from doing anything that would harm Hattie.

Q. Mr. Compton, do you tell the jury that a five foot three lady and the physical condition she obviously was in that you couldn't physically restrain her if you wanted to?

A. I could physically restrain her. Hattie was---I have stopped Hattie before. I've caught Hattie and held her. Hattie would bruise and I was trying to eliminate that. I didn't want to hurt her--do what---

Q. You beat her up before too haven't you?

A. No, sir. I told you what I did, took the knife away from her. That was the extent of it, sir.

Q. Never beat her before?

A. Hattie bruised easily. She could walk by---she had bruises on her. I don't know what conclusion her sister came from it, but I think the doctors would tell you that anybody taking cortisone bruises very easily.

Q. You deny ever hitting her before other than that occasion you admit?

A. That's true. I have caught her and held her sometimes she would get irrational.

Q. Y'all planned to get married. You had bought the rings?

A. Yes, sir

Q. Bought the wedding dress?

A. Yes, sir. Also the suit I was gonna get married in too.

Q. I didn't hear that.

A. Also the suit I was gonna get married in. The clothes she was gonna get married in. She had talked to some preachers tyring to choose one to marry us.

Q. Was Hattie threatening to leave you, Mr. Compton?

A. No, sir.

Q. Hadn't you and she, in fact, had a considerable difficulty a couple of days prior to the shooting?

A. No, sir, not that I know of.

Q. In fact, wasn't she threatening to leave you and call the marriage off?

A. The wedding off?

Q. Yes, sir.

A. No, sir.

Q. In fact, didn't you tell her that that wedding dress would be either her wedding dress or her fu--------

MR. SLAYTON: I object, your Honor.

THE COURT: I think he has a right to ask him that.

MR. SLAYTON: Your Honor, he has a right to cross examine based on the evidence before the jury. That evidence has not come in here today.

THE COURT: I overrule the objection. Proceed.

MR. SLAYTON: Exception to the ruling of the Court.

Q. In fact, didn't you tell her that would either be her wedding dress or her funeral dress?

A. No, sir. I didn't tell her that.

Q. Your witness.

RE-DIRECT EXAMINATION

BY MR. WHITEHEAD:

Q. Mr. Compton, just one or two questions. Did Mrs. Ratliff work regular---Hattie?

A. She had a regular job. She had to miss some days.

Q. She worked down at the Tobacco Museum?

A. Yes, sir.

Q. And before that she had been at Neal's Warehouse?

A. Yes, sir.

Q. Where you met her?

A. Yes, sir.

Q. That's all. Come down.

WITNESS STANDS ASIDE

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THE COURT: Call the next witness

NANCY MYLUM COMPTON, next witness, after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SLAYTON:

Q. State your full name, please.

A. Nancy Mylum Compton.

Q. Mrs. Compton, you are going to have to speak loud enough for all of us to hear you.

THE COURT: Turn this way and talk to the jury.

A. Nancy Mylum Compton.

Q. What is your address?

A. Route 2, Ringgold, Virginia.

Q. Were you and Mr. Watson Compton married?

A. Yes.

Q. How many children did you have?

A. Three.

Q. Are you divorced?

A. Yes.

Q. When were you divorced?

A. In January it was final.

Q. Mrs. Compton, did you receive a telephone call from your fomer husband on January 29, 1977?

A. I did.

Q. How many times did he call your home that day?

he had gotten them or not. I had sent them to him in the mail.

Q. Which papers are those that you had mailed to him?

A. W-2 Form that I had received from school.

Q. And what about the divorce?

A. I didn't have any papers we were just discussing it. We had met with the lawyer but I hadn't gotten any papers. And he asked me whether I had or not and I had not.

THE COURT: He asked you had you gotten the divorce papers?

A. Uh-huh.

Q. How long did that conversation last, approximately?

A. Well, between the phone calls back and forth, which my phone came disconnected, possibly fifteen minutes at the most. I would say something like that.

Q. While he was talking to you could you hear anyone else in the background?

A. Yes.

Q. Did you recognize the voice?

A. Yes.

Q. Whose voice was it?

A. Hatties.

Q. Could you hear what was being said?

A. Not completely. I just heard a loud voice talking.

Q. And then what happened?

A. The phone was disconnected.

Q. You mean the connection between your phone and wherever he was talking from just ended?

A. Right.

Q. And then what did you do after that?

A. Well, he called back and we were talking to finish the conversation. Then my phone has a plug end on both ends, it's a new phone, and it became unpluged and I thought we were disconnected but we were not. So I fixed it and then called him back to finish the conversation which was about probably a minute or two longer. Then I started fixing supper and didn't talk to him any longer.

THE COURT: You did what?

A. I fixed the phone and called him back and finished the conversation that we were talking about, papers and all. And then that was the end of the conversation. I hung the phone up and started fixing supper.

THE COURT: Started fixing supper?

A. Yes. I was in the process of cooking supper when he called.

Q. Did you talk to him anymore that night after your supper?

A. Yes, he called again.

Q. About what time was that call?

A. I couldn't tell you exactly what time because I don't know. It was after we had eaten. I had cleaned up the kitchen and was sitting in the living room listening to the radio. I did not have the televison on so I don't know what time it was really.

Q. What was the nature of that call about?

A. That was when he called he was upset, he was crying, and at first I couldn't make sense out of what he was even talking about. Then finally I asked him again to calm down and tell me what was wrong. ANd he told me over and over again thatHattie was dead. And then he just couldn't stand it, he was upset, he was crying, and I told him again, I said, "calm down and tell me what happened". And he was babbling, crying and saying he was sorry. And I said, "well what happened". And he said"the gun went off". And I said, "what happened". And he said, "I don't know". She's dead, she's gone and I can't stay here". And he asked me to help him and I told him I didn't know what I could do for him. I asked him had he called the police and he said that he had phoned the

operator to call the police. And then he asked me would I call the police. I tried to calm him down. He said, "I've got to leave here". I said, "don't leave there go to the next trailer and talk to someone there". And he said, "well I've got to leave" and he hung up on me. And so immediately I called the Sheriff's Department to see if there was any report and they had not received anything about any kind of disturbance in a trailer park. I waited quite sometime and called again.

Q. Mrs. Compton, speak up a little louder.

A. I waited, I don't know exactly how long I wasn't paying any attention to time at that moment, and I called the Sheriff's Department again and still nothing was recorded. So I waited a good while again and I called again and I asked to talk to Talley, a Deputy Sheriff, whom I know. And I asked him had he heard anything. He said, "no ma'am I haven't". And he said wait a minute I think something is coming in now. So, he said there was acall for something out on the Mount Cross Road, but he didn't know what was involved or what. So I asked him when he found out would he please call me. And that was the end of our conversation.

Q. Why didn't you report to the District Police what you

open and I heard her voice. At first it didn't dawn on me who it was because I never expected her to even come to my house. I didn't even know she knew that much about where I lived, or even where my bedroom was. And when I realized who it was hollering for me, calling my name, I jumped out of bed and started down the hallway and bumped into her in the halway, in the dark. I didn't cut on any lights. And she said, "I want to talk to you". And so I said, "okay, if you want to talk go in the living room and have a seat". I cut the lights on,I went back to the bedroom , I put on a housecoat, cut the ligh off in the bedroom, picked up my cigarettes and went in the living room to talk to her.

Q. What did she come to talk to you about?

A. Well, she just wanted to come to see if I was the type of person that she said everyone said I was and she didn't believe that I was. And she just more or less mostly sat and talked about him.

Q. What was her condition.

A. She was drunk.

Q. Had she ever been to your home before?

A. No, not in my home. She had been by there with him to pick the children up. She had never been in the house.

Q. Now you mentioned some phone calls on the night of January 29th. What time was the first call made?

A. I would put it pretty close to 5:30 because I had just started supper.

Q. He called you?

A. Yes. He didn't call me at first. He called to talk to the children.

Q. Did you talk with him?

A. Yes.

Q. You say you talked about income tax and divorce papers?

A. Right.

Q. This was at 5:30 P. M.

A. Right.

Q. And then the phone quit?

A. Yes.

Q. And then he called right back again?

A. Right.

Q. Again a little after 5:30. It hadn't been but a minute or two?

A. I think so.

Q. And what did you talk about this time, the same thing?

A. We were finishing it up. We didn't complete it.

Q. And it's your testimony that you talked only about fifteen minutes at most?

A. I would say so.

Q. Did you ever call him back?

A. Yes, because my phone come disconnected.

Q. Became disconnected on the second call?

A. Right.

Q. And you called immediately back?

A. Right. To let him know that I did not hang up. I explained to him what happened.

Q. So, this entire conversation was over about 5:45?

A. I would think so, yes.

Q. The next time you hear from him was later on in the evening when he told you that Hattie was dead?

A. Right.

Q. And he asked you if you would help him?

A. Right.

Q. Did he elaborate?

A. Did he elaborate?

Q. Did he say anything? Did he just say would you help me?

A. That's all he said, help me.

Q. Was it this time that he asked you to meet him at the Sunoco Station wasn't it?

A. He asked me would I meet him and I told him I didn't know whether I would or not.

Q. He didn't ask you to meet anywhere else?

A. No.

Q. Just at the Sunoco Station?

A. He said somewhere on 58. I didn't know where he was

going or what, cause I didn't tell him that I would meet him.

Q. Did you in fact go to meet him?

A. No, I did not.

Q. Why not?

A. I just didn't because I couldn't find out exactly what happened until I talked to Talley later on.

Q. Now at this point you say you called the police station, or the Deputy Sheriff's Office?

A. Right.

Q. And you asked had there been any report, et cetera?

A. Any disturbance.

Q. Over in that area?

A. Right.

Q. You didn't tell him what you knew about it?

A. No.

Q. You didn't tell him that you had already been told that Hattie Ratliff was dead?

A. No.

Q. Well, why did you not tell him that? You did know that much, didn't you?

A. I didn't know it for a fact. No I did not.

Q. Well, you had been told that by Watson Compton had you not?

A. I had been told that but he was so upset and crying I didn't know whether it was true or not.

Q. How many times had you called the Sheriff's Office?

A. Three.

Q. So, on each occasion you simply asked whether there had been any report?

A. Of any disturbance of any kind.

Q. Now, Mrs. Compton, you received another call later on that evening from the Sunoco Station?

A. Yes, Talley called me, or someone called and I talked to Talley.

Q. Did you talk with anyone before that?

A. Not to my knowledge.

Q. Did you talk with Watson Compton?

A. No.

Q. Not at all?

A. No.

Q. Did you ever state to anyone at the Sunoco Station that you would not come there because you were afraid of him?

A. No.

Q. You never said that?

A. No. I've never been afraid of him.

MR. SLAYTON: I didn't hear what you said, I'm sorry.

A. I said I had never been afraid of him.

Q. You've never been afraid of him and you never made such statement?

A. No, sir.

Q. Did you ever say you were afraid he might have a gun on him?

A. No.

Q. Didn't say that either?

A. No.

Q. Mrs. Compton, I call your attention to the day of February 5th. On that date did Deputy Collins come to see you at your home?

A. Well, he came but I couldn't tell you what date it was.

Q. Isn't it a fact, Mrs. Compton, at that time he asked you had you talked with Watson Compton on the day of the shooting?

A. Yes.

Q. And didn't you say to him, "no, sir, I did not speak with him that day"?

A. No.

Q. You didn't say that?

A. Did I visit any other people?

Q. Yes.

A. I've been to several farms in the Kentuck area. Yes, sir.

Q. And you got to know Mr. Compton purely through y'alls relationship as employer-employee?

A. Yes, sir.

Q. No further questions.

WITNESS STANDS ASIDE

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DEFENSE RESTS

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REBUTTAL EVIDENCE BY THE COMMONWEALTH

THE COURT: All right, the prosecution may proceed.

T. A. SMITH, having been recalled to the witness stand, testifies as follows:

DIRECT EXAMINATION

BY MR. YANCEY:

Q. Officer Smith, I believe that you have previously testified in this case. We would like to ask you

a couple of more questions. I would like to ask you were aware at the time of your investigation on February 6th there was blood above the refrigerator and also possibly on the ceiling above the refrigerator?

A. Yes, sir.

Q. You took it into consideration in making your conclusions?

A. Yes, sir.

Q. And would this time have changed your views---you previously stated that the deceased was seated or near seated at the time of the fatal shot?

A. No, sir.

Q. No further questions.

CROSS EXAMINATION

BY MR. SLAYTON:

Q. Also your evidence was that if the weapon were fired or the person holding it was in a seated position that the person who was shot could have been standing up, or in a position to get moving around?

A. No, sir, not standing up. It would had to been sitting. Other words, she could have been sitting like this, and she could have forwarded or up here or backwards.

Q. Alright now, in that position how far up would she have been---either like this coming up----

A. It may have been possible that she could have been

coming up partially like that. She couldn't have been standing up. Exactly how far up she could have been could have been determined by the measurement of her waistline to the top of her head.

Q. You didn't make that measurement did you?

A. No, sir.

Q. And because we don't have that measurement you can't tell this jury for certain what position she was, can you?

A. That either she was not standing up, she was not standing straight up, that just couldn't have happened. And she had to have been lower, considerable lower, than the 5 feet 3 that she was.

Q. She had also to be higher than the gun was pointed?

A. Well, the center of the pattern is centered around four foot. You get splatters away from it. Below there is also blood in the refrigerator at the bottom. Thereis also at the top and just above that at the ceiling on the wall. When the skull opened up the first part went through is what made the pattern and when it opened up then you had a splatter up, down and to the sides. In other words, it wouldn't go in just one little group like this. It's gonna---the first part is going in in a group that makes your initial pattern and then you got splatters that spread out.

Q. Well how can you testify (not audible) and how far the person was away from the gun when it was shot?

A. Yes, sir. In this particular case it does.

Q. You don't know how far away she was?

A. No, sir.

Q. So, you, here, again (not audible) considerable amount of speculation because you weren't there?

A. Well, the only thing I can go on is what was found in reference to the location of the chair and what was behind her.

Q. I understand that.

A. Because that's what stopped it.

Q. You don't know how tall this person---how high this person was from her waist up? You don't know whether she was in the process of getting up to move?

A. That's correct.

Q. You don't know whether she had gotten up and taken a step; you don't know the health of this person? Did you know that this person had arthritis and she had difficulty when she would stand up?

A. No, sir.

Q. And if you knew that she could have been standing in a crouched position as she gradually straightened herself

up to the point that she did take a step. That would make a difference wouldn't it?

A Yes, I think it would make some difference, yes.

Q. All of those things are parables that you don't know because you weren't there and you weren't given this information. Isn't that correct?

A. That's correct.

Q. That's all.

RE-DIRECT EXAMINATION

BY MR. YANCEY:

Q. Officer Smith, I believe you based your conclusion on the fact that along with the statement of Dr. Oxley that the gun had to be fired at least three and not more than ten feet away?

MR. SLAYTON: Objection.

MR. YANCEY: This is the way the question was stated, your Honor.

THE COURT: Not the way the hypothetical question was put. I thought it was four.

MR. YANCEY: Three to ten feet.

THE COURT: All right.

Q. The part of the questions put to you, as far as your conclusion, as to where the bodyscat was at the time of that shot was based on Dr. Oxley's conclusion that the gun was fired from a distance of three to ten feet

feet away, wasn't it?

A. The three to ten foot, if I remember correct, was in the question and the importance that this distance would have on my conclusion was the fact that the shots had not spread. Had the shot spreaded out we wouldn't had the pattern we had. Which means that it was close enough that when the shots entered it entered in a group, altogether. So if the shot ranges three to ten foot then it could fit in that.

Q. Now, as I understand the testimony then it is that regardless, the defendant, the deceased could not have been standing erect, or near erect at the time of the fatal shot?

A. No, sir. That would have moved the center of the pattern up too high. Almost at the top of the refrigerator, or over the top.

Q. It would have to be significally lower than that?

A. Yes, sir.

Q. No further questions.

THE COURT: Anything further of this witness.

MR. SLAYTON: No, sir.

THE COURT: All right, you may stand aside.

WITNESS STANDS ASIDE

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did she talk to him on the night of January 29th. She said she did not talk with him.

Q. Did she say that or did she just say she didn't want to say anything? She knew Mr. Yancey was employed by Virginia Carter, didn't she?

MR. YANCEY: Your Honor, I don't know that wer are getting into what she knew or not. I think he can answer this witnesses questions, but not pick his own conclusions.

THE COURT: Well, I think he's within the proper range now. Proceed.

Q. Did you tell her that?

A. No, sir. I don't believe I told her that.

Q. You don't believe you told her that?

A. No, sir.

Q She just didn't want to talk to you?

A. Well, she answered two or three questions and then she said she didn't have nothing else to say about it.

Q. Did she ask who he was when you went down there?

A. I believe he introduced himself when we went in.

Q. What did he say?

A. Sir?

Q. What did he say, Mr. Collins?

A. I believe he said he was Attorney Lee Yancey.

THE COURT: Anything further?

MR. YANCEY: No, sir.

RE-CROSS EXAMINATION

BY MR. WHITEHEAD:

Q. Did she tell you she wasn't married to Watson Compton?

A. I think she said they were fixing to get a divorce or something of that nature.

Q. Fixing to get a divorce?

A. Right.

Q. And when did you find out she was already divorced?

A. Really, I don't have any knowledge of it. I think she said it would be fourteen, or so many days before it became final, or something like that.

Q. Mr. Collins, y'all went down there to ask her what Watson had told her that day. Isn't that what you went down there for? Hadn't you already found out about the telephone calls?

A. Yes, sir.

Q. You had already found out about those telephone calls that he made to hs wife, or his ex-wife. That's why you went down there to find out what he told her. Isn't that right?

A. Yes, sir.

Q. All right, sir.

THE COURT: All right, you may stand aside

WITNESS STANDS ASIDE

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A. Yes, sir, he did.

Q. And there was a telephone call, correct?

A. Yes, sir.

Q. Did you answer the phone?

A. Yes, sir, I did.

Q. Who was on the other end of that telephone line?

A. She identified herself as being Mr . Compton's wife.

Q. She identified herself as being Mrs. Compton, Mr. Compton's wife?

A. Yes, sir.

Q. What time was the telephone call---approximately?

A. I would say about betw-en 8:30 and quarter to nine.

Q. Did you make the call or did the call come into your station?

A. Well, I made two calls to her for Mr. Compton and then later on she called back herself.

Q. Tell the jury what conversation you and Mrs. Compton had?

A. Well, she---when I first answered the phone she told me who she was. She said that she was Mrs. Compton and wanted to know if he was still there.

MR. WHITEHEAD: Your Honor, has the foundation been made for this?

THE COURT: I think so.

MR. WHITEHEAD: That she asked about him?

MR. JONES: She (not audible)

Q. Go ahead and tell the jury hat the conversation was?

A. I answered the phone and she told me she was Mrs. Compton and wanted to know if he was still in the station. And I told her, I said, "yes Ma'am he is setting over here in the chair". And she said, "well he wanted me to come to the station", she said, "I'm not coming to the station". She said, "for the simply fact I am scared of him".

Q. Did she say anything else?

A. Yes, sir. Said he had been known to carry a small handgun with him and said that she won't gonna be number two on his list.

Q. Was that the end of the conversation?

A. Well, she hung up then.

THE COURT: She hung up?

A. Yes, sir.

Q. No further questions.

CROSS EXAMINATION

BY MR. SLAYTON:

Q. Mr. Street, this is a little different than it was yesterday. Can you explain it?

A. In what way?

Q. This testimony about him being known to carry a handgun and she wasn't gonna be Number two on his list?

A. Well, yesterday I answered the questions just as they asked me. Just like I did today.

Q. Well, did they tell you today they wanted this answer?

A. No, sir. He told me he wanted to know what she said on the telephone.

Q. Weren't you asked that yesterday?

A. No, sir.

Q. You werent' asked yesterday what she said on the telephone?

A. No, sir.

Q. Is that all she said?

A. Sir?

Q. Is that all she said?

A. Just like I just got through stating it there.

Q. This man, Mr. Compton, never did talk to you, did he?

A. Mr. Compton?

Q. Yes.

A. Yes, sir.

Q. You come back here today to tell the jury something that you overlooked yesterday. Is that what you are doing?

A. As far as I can recollect I didn't come back.

Q. Sir?

A. As far as I can recollect I didn't.

Q. You didn't what?

A. I didn't come back to tell them anything that I overlooked.

Q. You didn't tell them about her saying that he had been known to carry a handgun and she didn't want to be number two, did you?

A. I don't recollect whether I told it or not yesterday.

Q. Sir?

A. I don't recollect.

Q. Well, how can you remember what you heard on January 29th if you can't remember what you said yesterday?

A. I can remember what she told me that night.

Q. Did you make a note of it?

A. No, sir.

Q. Who did you report tht to?

A. I reported it to the officer that came out there and I also reported it to the fellow setting back here now.

Q. Which one of the fellows?

A. This fellow sitting right here.

Q. Which one there are three?

A. This one on the left.

IN OPEN COURT

August 3, 1977

THE COURT: All right, let me see counsel in Chambers.

IN CHAMBERS

MR. SLAYTON: Counsel for defendant would move the Court to strike the evidence of the Commonwealth because at best the evidence of the Commonwealth only reveals an accidental killing. There's been no evidence of any premeditation on the part of the defendant. There's been no evidence of any argument between the parties. There's been no evidence of any negligence on the part of the defendant in the handling of the fire arm. All of the positive evidence has been that this was an accident and for that reason counsel for teh defendant would respectfully move the Court to strike the evidence of the Commonwealth.

THE COURT: Is there a response for the Commonwealth?

MR. JONES: The Commonwealth takes the position

THE COURT: The motion for the mistrial is overruled. The motion to strike the evidence is overruled. The motion to strike the evidence of T. A. Smith is overruled.

MR. WHITEHEAD: Exceptions.

THE COURT: Now, gentlemen----

MR. SLAYTON: Your Honor, before I forget it I think we should address this matter of how the arguments will be handled.

THE COURT: Well, let's get to the instructions first. Now, gentlemen, I am prepared to give Instructions 1 through 14 and refuse ones A through K. Had you rather make the record now or after you finish your arguments. You want to see them anyway don't you? Cause some of them go, as Mr. Slayton said yesterday, conform to the rulings of the Court as to how far the jury could go. Why don't you gentlement look at the ones that were given and you gentlemen look at the ones that were rejected.

OPEN COURT RESUMES

COURT INSTRUCTS THE JURY

CLOSING STATEMENT BY MR. JONES FOR THE COMMONWEALTH

CLOSING STATEMENT BY MR. SLAYTON FOR THE DEFENSE

Counsel for the defendant objects to the granting of Instruction No. 6 because the instruction tells the jury that malice may be implied from the deliberate use of a deadly weapon and there is no evidence in this case that the defendant deliberately used the weapon with which the deceased was killed in a manner that was calculated to cause her any harm or to cause her death. And there is no evidence in the record that the defendant was intoxicated at the time, or that he was handling the weapon in a careless and negligent manner which could be inferred to have caused the harm or the death of the deceased.

Counsel for the defendant objects and excepts to the granting of Instruction No. 7 because the instruction tells the jury that it can base its conviction upon circumstantial evidence. Circumstantial evidence in this case is based upon the speculation of Officer Smith, who went to the scene eight days later and attempted to reconstruct the manner in which the alleged crime was committed. And further his estimate of how the crime happened was allowed to be considered by the jury in spite of the fact that the defendant put on positive

A. Yes, it is.

Q. Clara H. Adams, is this your verdict?

A. Yes, it is.

Q. Fannie Lester, is this your verdict?

A. Yes, it is.

Q. Dorothy Terry, is this your verdict?

A. Yes, it is.

Q. Moses Hubbard, is this your verdict?

A. Yes, it is.

Q. So say you all?

THE JURY: Yes, sir.

THE COURT: Any further motions before the jury is discharged?

MR. WHITEHEAD: No,sir.

THE JURY IS DISCHARGED.

THE COURT: Are there any further motions?

MR. SLAYTON: Your Honor, counsel for the defendant would move the court to set aside the jury verdict_____admitting the testimony of Officer T. A. Smith with the objection of counsel for the defendant. Granting the instructions previously objected to by counsel for the defendant. Counsel for the defendant further moves the Court to set aside the verdict as being contrary to the law and

INSTRUCTION NO. 1

THE COURT INSTRUCTS THE JURY THAT under the Indictment in this case you may find any one of the following verdicts:

1. That the defendant is guilty of murder in the first degree.

2. That the defendant is guilty of murder in the second degree.

3. That the defendant is guilty of voluntary manslaughter.

4. That the defendant is guilty of involuntary manslaughter.

5. That the defendant is not guilty.

given
W.C.T.

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INSTRUCTION NO. 2

THE COURT INSTRUCTS THE JURY THAT murder is the unlawful killing of another with malice, which may be express or implied, and is distinguishable in Virginia as murder in the first degree and murder in the second degree.

To constitute murder in the first degree the defendant must have been incited to the killing by malice, and the killing must have been willful, deliberate, and premeditated on the part of the defendant, that is to say, he must have willed, deliberated, and premeditated that he should kill the deceased or do her some serious bodily injury, the necessary results of which would be her death, and from which she died.

Murder in the second degree is the unlawful killing of a human being with malice and without premeditation and deliberation.

Voluntary manslaughter is the unlawful killing of another without malice, upon sudden heat of passion, upon reasonable provocation, or in mutual combat.

Involuntary manslaughter is the killing of one accidentally, contrary to the intention of the defendant, while in the prosecution of some lawful, but not felonious act; or in the unlawful performance of some lawful act, accompanied by

such carelessness or recklessness on the part of the defendant as is incompatible with a proper regard for human life.

If you believe from the evidence in this case beyond a reasonable doubt that the defendant is guilty of murder in the first degree, you should so find your verdict and fix his punishment at confinement in the penitentiary for life or for any term not less than twenty years.

If you do not believe from the evidence beyond a reasonable doubt that the defendant is guilty of first degree murder, but do believe from the evidence beyond a reasonable doubt that the defendant unlawfully killed the deceased, with malice, but without premeditation and deliberation, you shall find him guilty of murder in the second degree and fix his punishment by confinement in the penitentiary for not less than five nor more than twenty years.

If you do not believe from the evidence beyond a reasonable doubt that the defendant is guilty of murder in the first or second degree, but do believe from the evidence beyond a reasonable doubt that the defendant is guilty of voluntary manslaughter, you should so state your verdict and fix his punishment at confinement in the penitentiary not less than one nor more than ten years; or in your discretion, by a fine not exceeding $1,000 or confinement in jail not exceeding twelve months or both fine and imprisonment.

If you do not believe from the evidence beyond a reasonable doubt that the defendant is guilty of first or second degree murder, or voluntary manslaughter, but do believe from the evidence beyond a reasonable doubt that he is guilty of involuntary manslaughter, then you should so state your verdict and fix his punishment at confinement in the penitentiary for not less than one nor more than five years, or in your discretion, by a fine not exceeding $1,000 or confinement in jail not exceeding twelve months, or both such fine and imprisonment.

If you do not believe from the evidence beyond a reasonable doubt that the defendant is guilty of murder in the first or second degree, voluntary or involuntary manslaughter, then you shall find him not guilty, and your verdict should so state.

Given
W.P.T.

18

INSTRUCTION NO. 3

THE COURT INSTRUCTS THE JURY THAT the malice necessary to constitute a crime of murder may be either express or implied. The word "malice" in the foregoing definitions of murder is used in a technical sense, and includes not only anger, hatred, and revenge, but every unlawful and unjustifiable motive. It is not confined to ill will to any one or more particular persons, but is intended to denote an action flowing from a wicked or corrupt motive, done with an evil mind and purpose and wrongful intention, where the act has been attended with such circumstances as to carry in them the plain indication of a heart regardless of social duty and deliberately bent on mischief; therefore, malice is implied by law from any willful, deliberate, and cruel act against another, however sudden.

given
W.C.T.

19

INSTRUCTION NO. 4

THE COURT INSTRUCTS THE JURY THAT to constitute a willful, deliberate, and premeditated killing, it is not necessary that the intention to kill should exist for any particular length of time prior to the actual killing; it is only necessary that such intention should have come into existence for the first time at the time of such killing or at any time previously.

given
W.C.T.

20

20

INSTRUCTION NO. 5

THE COURT INSTRUCTS THE JURY THAT a man is presumed to intend that which he does, or which is the immediate or necessary consequences of his act.

given
W.C.T.

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INSTRUCTION NO. 6

THE COURT INSTRUCTS THE JURY THAT in the absence of proof to the contrary, malice may be implied from the deliberate use of a deadly weapon, when used in a manner calculated to take the life of another human being. This is not a conclusive but a rebuttable presumption and may be overcome by proof of circumstances sufficient to create a reasonable doubt in favor of the defendant.

Given
W.C.T.

INSTRUCTION NO. 7

THE COURT INSTRUCTS THE JURY THAT circumstantial evidence is legal and competent, and a person charged with a crime may be convicted upon circumstantial evidence alone, or upon circumstantial evidence connected with other evidence, if the jury believe beyond a reasonable doubt from such circumstantial evidence that the person so charged is guilty; therefore, the jury have the right to convict the defendant upon circumstantial evidence alone, or upon circumstantial evidence coupled with other evidence, if from all the evidence the jury believe that guilt of the defendant has been proven beyond a reasonable doubt.

given
W.C.T.

(100.05)

INSTRUCTION NO. 8

THE COURT INSTRUCTS THE JURY THAT while it is not necessary for the Commonwealth to prove a motive for the killing, nevertheless the presence or absence of a motive is a question for consideration by you as bearing on the guilt or innocence of the defendant.

Given
W.C.T.

INSTRUCTION NO. 9

THE COURT INSTRUCTS THE JURY THAT where, as in the case at bar, the defense is that the killing was an accident, the defendant is not required to prove this fact, beyond a reasonable doubt, or by a preponderance of the evidence, but the burden is upon the Commonwealth to prove beyond a reasonable doubt that said killing was not accidental; therefore, if, after hearing all the evidence, you have a reasonable doubt whether said killing was accidental, or that it was intentional, then you should find the defendant not guilty.

given
W. C. T.

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INSTRUCTION NO. 10

THE COURT INSTRUCTS THE JURY THAT in this case, as in all criminal cases, the defendant's denial of guilt raises a presumpton of innocence in his favor and places upon the Commonwealth the burden of proving his guilt beyond every reasonable doubt; that this presumption of innocence goes with the defendant throughout the entire trial and applies to every stage thereof. If, therefore, upon consideration of the whole case, the testimony of the witnesses and the circumstances proved in the evidence, there exists in your minds a reasonable doubt as to the guilt of the defendant, then you should find him not guilty and acquit him.

You are instructed that it is not sufficient that the defendant's guilt be probable or even more probable than his innocence. Nor can the defendant be convicted on mere suspicion, because no amount of suspicion, however great, will justify his conviction. In order to convict the defendant, the evidence of his guilt must be so strong that there can be no reasonable theory from the evidence consistent with his innocence.

You are instructed that the Commonwealth must prove beyond every reasonable doubt every material fact necessary to constitute the charge made. If a reasonable doubt exists in your minds as to any such fact, then the defendant should be acquited and where a fact is susceptible of two interpretations, one of which is consistent with the defendant's innocence, then you should not adopt arbitrarily that interpretation which incriminates him, but should acquit him.

given
W.C.T.

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INSTRUCTION NO. 11

THE COURT INSTRUCTS THE JURY THAT the burden resting upon the Commonwealth to prove guilt of the defendant beyond a reasonable doubt does not require that such guilt be proven beyond every imaginable, conceivable, or possible doubt, but only beyond a reasonable doubt. The jury must limit its consideration to the evidence introduced and you are not to go outside the evidence to hunt up doubts, nor must you entertain doubts which are speculative or conjectural. And, if upon a consideration of all the evidence you are satisfied of the guilt of the defendant beyond a reasonable doubt, then you shall find him guilty.

given
W.C.T.

INSTRUCTION NO. 12

THE COURT INSTRUCTS THE JURY THAT the character of the defendant, Watson Henry Compton, when proven, whether good or bad, is a fact to be considered by the jury, but its weight as affecting the guilt or innocence of the defendant is a matter for the determination of the jury in connection with all the other facts proven in the case.

given
W. C. T.

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INSTRUCTION NO. 13

THE COURT INSTRUCTS THE JURY THAT if you believe from the evidence that any witness has knowingly testified falsely as to any material fact in this case, you have a right to discredit all of the testimony of such witness or to give to such testimony such weight and credit as in your opinion it is entitled.

given
W.C.T.

INSTRUCTION NO. 14

THE COURT INSTRUCTS THE JURY THAT the jury are the sole judges of the credibility of the witnesses; and in determining the weight given to the testimony of the witnesses the jury may consider the appearance and demeanor of the witnesses on the witness stand; their manner of testifying; their apparent intelligence or lack of it; their interest or lack of it in the outcome of the case; their temper, feeling or bias, if any has been shown; their opportunity for knowing the truth and having observed the things concerning which they testify; and from these and all other surrounding circumstances at the trial, the jury are to determine which witnesses are more worthy of credit and give credit accordingly.

given
W.C.T.

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