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PROCEEDINGS

WITNESSES ON BEHALF OF THE DEFENDANT

	D	C	RD	RC
Gregory Banks	8	30	69	75

1 THE CLERK: People of the State of Illinois
2 versus Darryl Cannon.

3 MR. KELLY: Judge, before we proceed to
4 evidence -- by the way, Dave Kelly on behalf of the
5 People.

6 There are a couple of matters that I
7 would like to address for the Court.

8 The first, just given the Court a
9 copy of an order, basically releasing the evidence in
10 Darryl Cannon's trial back from the State's Attorneys
11 Office to the clerk's office where it is now
12 impounded. We would use that during the cross
13 examination of Darryl Cannon, if he were to testify.

14 Your Honor, the second matter was,
15 it's my belief on the last court date, when I was not
16 here, that counsel for Darryl Cannon gave the Court
17 transcripts of certain individuals, including Aaron
18 Patterson and Leroy Orange and Stanley Howard. At no
19 time did we agree to stipulate to any such transcript
20 or testimony of these witnesses by transcript, and
21 your Honor, we would object to that and ask the Court
22 to not consider those transcripts.

23 THE COURT: I would assume all the transcripts
24 tendered to the Court contained testimony of other

1 alleged torture victims, or whatever you want to say,
2 has been submitted by way of offer of proof.

3 MR. KELLY: Judge.

4 THE COURT: And that's by way of agreement, all
5 that testimony is admissible.

6 MR. KELLY: That's fine, your Honor, I wasn't
7 clear, I wasn't here the last court date. I want to
8 put our objection to any agreement as far as that
9 testimony on the record.

10 MR. TAYLOR: Well, judge, that's not quite
11 accurate in the sense that Mr. Kelly has stipulated
12 that he passed the testimony that we tendered to you,
13 and I thought our agreement was that people we chose
14 not to call, so, in the sense of all the prior
15 testimony that was tendered to you, judge, in terms of
16 other victims of alleged police torture, there was a
17 stipulation with regard to that, to avoid having to
18 call all of those people.

19 THE COURT: Right, I understand that, but I
20 didn't, I was never told that it was a stipulation,
21 that all of that testimony was admissible, and, the
22 State was agreeing that I was going to consider all of
23 that testimony. I was under the impression that it
24 was just an agreement that, by way of offer of proof.

1 MR. TAYLOR: Well, some of it is, there is a
2 distinction between the victims and the expert
3 testimony. The expert testimony at this point is
4 still to be ruled, so, there is a distinction and that
5 would be a distinction that we had worked out in front
6 of Judge Morrissey.

7 THE COURT: Maybe I'm wrong, and maybe you have
8 agreed that some of what I have been tendered is
9 admissible, if you are in agreement as to what is
10 admissible, then you better tell me because nobody has
11 never told me exactly what you have agreed, should be
12 admitted in this hearing, and that I am to consider.
13 I was under the impression that I was going to
14 determine that, based on everything that's been given
15 to me.

16 MR. KELLY: Judge, I think that's basically the
17 way the situation lies, and I've talked to counsel and
18 what we're thinking about doing, I believe they have
19 one witness today, a couple of witnesses more
20 tomorrow, and at that point what we were perhaps
21 talking about doing is setting a date where we can
22 kind of straighten this out. What stuff would be
23 offered as stipulated evidence, and what is offered as
24 offer of proof, and kind of see where we're at with

1 all this other paper that the Court has gotten in this
2 case, a lot of which the State does object to.

3 THE COURT: Okay.

4 MR. TAYLOR: I don't have a problem with that
5 except in this sense that, I am hopeful that Mr. Kelly
6 is not going to withdraw his agreement to the
7 stipulation as to many of the prior witnesses, and if
8 he does, then we're going to have to make some, if the
9 court then will have to rule whether it's admissible,
10 and if he rules it isn't, then we may have to call
11 some more people that I thought we had stipulated.

12 THE COURT: That's a matter between you and the
13 State, I think, but I really don't see where that
14 would involve you having to actually call anybody, I
15 mean, you know, either I'm going to consider it or I'm
16 not. Whether you agree to it or I rule on it myself,
17 but I don't see where that's going to mean that you're
18 going to have to call witnesses, but that's up to you.

19 MR. KELLY: That's right, judge, what I'm
20 stipulating to, I'm not going back on the stipulation,
21 I want to make it part of the record, this was not
22 part of any stipulation that we had.

23 THE COURT: Ready to proceed?

24 MR. TAYLOR: We are, your Honor.

1 THE COURT: Okay.

2 MR. TAYLOR: Judge, we would call Gregory Banks
3 to the stand.

4 On behalf of the defendant, Flint
5 Taylor, F-l-i-n-t, T-a-y-l-o-r.

6 MR. GERAGHTY: Thomas Geraghty, G-e-r-a-g-h-t-y
7 on behalf of Darryl Cannon.

8 MR. LOHROFF: Tim Lohroff, L-o-h-r-o-f-f, and I
9 believe Katherine Stuart is also present in court
10 today on behalf of Mr. Cannon.

11 MR. MURRAY: Assistant state's attorney Bernie
12 Murray.

13 MR. KELLY: And Dave Kelly on behalf of the
14 People.

15 THE DEFENDANT: Judge, folks, can I ask you
16 something, I practice Islam, do you have a Koran that
17 I can raise my hand to?

18 THE COURT: No, you can affirm.
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GREGORY BANKS

a witness called on behalf of the Defendant, being
first duly affirmed, was examined and testified as
follows:

DIRECT EXAMINATION

BY

MR. TAYLOR:

Q Mr. Banks, could you state your full name
for the record, please?

A Gregory Banks.

Q And where do you presently reside, Mr.
Banks?

A Galesburg Correctional Center.

Q Okay, and, I take it that you're there,
having been convicted of a crime here in the State of
Illinois?

A Yes.

Q And what are you there for, what is your
sentence and what is your conviction?

A Fifteen years for burglary.

Q And that's a, multiple burglaries?

A Yes.

Q Now, Mr. Banks, I want to call your
attention back many years ago to 1983, specifically to

1 October 28th, 1983 in the evening hours around 8:30.

2 Did you have an occasion to be arrested at that time?

3 A Yes.

4 Q And, who arrested you?

5 A Detective Gallagher and Egan.

6 Q Is there anyone else present, any other
7 police officers present when you were arrested?

8 A Lieutenant Burgess.

9 Q That's Lieutenant John Burge?

10 A Yes, John Burge.

11 Q And where were you arrested?

12 A 256 W. 95th in the gang room.

13 Q And that's here in the City of Chicago?

14 A Yes.

15 Q And were you taken somewhere after you were
16 arrested?

17 A Yes.

18 Q Where were you taken?

19 A Area 2 Violent Crimes on 111th and Ellis.

20 Q That's Area 2 police station?

21 A Yes.

22 Q And were you then taken somewhere within
23 that station?

24 A Yes.

1 Q Where?

2 A To an interviewing room.

3 Q And that's on what floor, do you know?

4 A The second floor.

5 Q Now, were you handcuffed or restrained in

6 any manner when you were taken there?

7 A Yes, I was handcuffed and handcuffed to a

8 ring in the wall.

9 Q Now, was there anyone else handcuffed with

10 you on that ring?

11 A Yes.

12 Q Who was that?

13 A Another prisoner.

14 Q And so, what time was this when you were

15 taken into this station and handcuffed to the wall?

16 A Approximately 8:30.

17 Q And that's on that --

18 A P.m.

19 Q 8:30 p.m.?

20 A Yes.

21 Q Now, did you remain in that room or

22 handcuffed to the wall for awhile?

23 A Yes.

24 Q Did you remain there handcuffed until about

1 2:30 to the next morning?

2 A Yes.

3 Q Then what, if anything happened at that
4 time?

5 A A detective Peter Dignan came and took me
6 out of the, that interviewing room and took me to
7 another interviewing room.

8 Q Okay, and was that another interviewing
9 room in the same proximity as the one that you were
10 in?

11 A Yes, right next door.

12 Q And what did he do when he took you into
13 the next interviewing room?

14 A Set me down in the chair.

15 Q And what did he do with the handcuffs, if
16 anything?

17 A Handcuffed me behind my back.

18 Q So, now you're not handcuffed to the wall
19 anymore, you're handcuffed behind your back in another
20 interview room?

21 A Yes.

22 Q Then what happened after that next?

23 A Sergeant Byrne, John Byrne said that, we
24 know you did it, we just want you to tell us why you

1 did it.

2 Q And did you have any response to that?

3 A I said I don't know what you're talking
4 about.

5 Q Then what, if anything, happened?

6 A He took out a chrome .45 and stuck it in my
7 mouth.

8 Q A chrome .45, what do you mean a chrome
9 .45?

10 A It was silver or nickel plated.

11 Q Was it a weapon?

12 A Yes, it was a weapon.

13 Q Did it have any distinctive color or a
14 handle or anything like that?

15 A It was silver in color and the handle was
16 brown.

17 Q And what did you say he did with that
18 revolver or pistol?

19 A He stuck it in my mouth.

20 Q And what happened after that?

21 A He asked me again, and I said I don't know
22 what you're talking about and he took a flashlight and
23 hit me across my chest with it and I fell out of the
24 chair and I went to the floor.

1 Q Now, you're still handcuffed, is that
2 right?

3 A Yes.

4 Q And when he hit you in the chest, you fell
5 out on to the floor?

6 A Yes.

7 Q What happens after you hit the floor
8 handcuffed having had his gun put in your mouth?

9 A A Detective Charles Grundhart began to kick
10 me.

11 Q Grundhart?

12 A Yes.

13 Q Where did he kick you?

14 A In my ankles and the side of my, this side
15 of my body, my chest.

16 Q Was it your left side of your body or the
17 right side of your body?

18 A The left side of my body.

19 Q Anywhere else that he kick you that you
20 remember at this time?

21 A In my thighs.

22 Q Now, what was the next thing that happened
23 after Grundhart kicked you repeatedly in your body?

24 A Detective John Byrne began to hit me with

1 the flashlight in the back of my legs and the end of
2 my back, and then Peter Dignan asked me, he said, are
3 you going to tell us, and I said I don't know what
4 you're talking about, and he says, we have something
5 special for Niggers and he took out a plastic bag and
6 placed it over my head.

7 Q Now, this is Detective Peter Dignan that
8 said this?

9 A Peter Dignan.

10 Q And this is all taken place in this
11 interview room at Area 2 at whatever in the City of
12 Chicago?

13 A Yes.

14 Q You said Dignan took out some kind of
15 plastic bag after he said we have something special
16 for Niggers?

17 A Yes.

18 Q What, if anything, did he do with that
19 plastic bag?

20 A Placed it over my head.

21 Q And was it tight across your head or, how
22 did it feel across your face and head?

23 A I couldn't breathe.

24 Q Was it loose around your shoulders or was

1 it being held around your shoulders?

2 A It was being held around my shoulders.

3 Q Could you see through the bag?

4 A Yes.

5 Q So, it was a light color or clear or beige
6 type of color?

7 A Yes.

8 Q Now, how long did it seem that this bag was
9 over your face?

10 A It could have been one to two minutes, one
11 minute, one and a half minutes..

12 Q And that's, that's how it felt to you, you
13 obviously didn't have a watch?

14 A Exactly.

15 Q Were you able to breathe while this bag was
16 over your head?

17 A No.

18 Q What was happening with your breathing, how
19 did you feel?

20 A There was nothing that I could do, I was
21 helpless, I was defenseless.

22 Q Did you have any feelings about what was
23 going to happen to you?

24 A That I could have died.

1 Q What, if anything, happened -- did at some
2 point they take the bag off your head?

3 A Yes, he took the bag off of my head.

4 Q Now, while during that time that bag was on
5 your head from this first time, was anything else done
6 to you physically?

7 A No.

8 Q So, they then took the bag off of your
9 head, is that right?

10 A Yes.

11 Q Had you said anything, were you screaming
12 or saying anything at this time?

13 A I was gasping for air.

14 Q What happened directly after they took the
15 bag off of your head?

16 A All three of them left out of the interview
17 room.

18 Q Did they ask you anything after they took
19 the bag off or did they just leave?

20 A They just left.

21 Q So, you're in there now alone?

22 A Yes.

23 Q And where are you?

24 A On the floor.

1 Q On the floor still?

2 A Yes.

3 Q Then what happened?

4 A Probably about, maybe ten or fifteen
5 minutes later they come back.

6 Q And then what happened when they came
7 back -- now, by the way, who do you mean?

8 A John Byrne, Peter Dignan and Charles
9 Grundhart.

10 Q What did they do or say when they came back
11 the second time?

12 A They said, are you going to tell us what
13 happened?

14 Q Did you respond?

15 A I said, I don't know what you talking
16 about.

17 Q And so, what, if anything, did they do
18 after you again said you didn't know what they were
19 talking about?

20 A Peter Dignan placed the plastic bag over my
21 head once again.

22 Q Now, this is the same plastic bag?

23 A Yes.

24 Q And put it on the same way as the first

1 time?

2 A Yes.

3 Q What happened then?

4 A He took the bag off of my head and I said I
5 confess.

6 Q Now, how long was it on you the second
7 time?

8 A Maybe a minute, maybe longer.

9 Q A minute or maybe longer?

10 A Maybe longer.

11 Q Did you have the same reaction the second
12 time in terms of your, how you felt both physically
13 with your breathe and mentally with regard to your
14 fear?

15 A When you put in a condition like that, in a
16 position like that, you gone do anything you can to
17 sustain your own life; so, I did what I knew how to
18 do.

19 Q Which was what?

20 A Confess.

21 Q So, were you having trouble breathing
22 again?

23 A Yes.

24 Q Did you have that same fear about you

1 could, you might be going to die because of this?

2 A Yes.

3 Q So, you told them you confess at that
4 point?

5 A Yes.

6 Q Now, after that, did these detectives take
7 you anywhere outside of Area 2?

8 A Yes.

9 Q How long after you said you confessed and
10 they, they put you through this torture did they take
11 you outside Area 2?

12 A It was probably, approximately 4:30, a.m.

13 Q Where did they take you?

14 A To 56 W. 95th Street, to the back part of
15 56 W. 95th Street.

16 Q And when they took you there, were they,
17 they were looking for something, having to do with the
18 crime, is that correct?

19 A Yes.

20 Q Now, were you handcuffed when you were
21 taken there?

22 A Yes.

23 Q Were you handcuffed the entire time that
24 you were there?

1 A The entire time.

2 Q Where did they handcuff you while they were
3 looking in this building for evidence?

4 A When they walked me up, they walked me up
5 two flights of stairs, it was some old rusty bars on
6 the side of the second flight of stairs and they
7 handcuffed me to them bars.

8 Q And when, were you either handcuffed behind
9 your back or to these bars the entire time that you
10 were at this building?

11 A Yes, I was handcuffed to the bars.

12 Q Did at anytime did you attempt to run out
13 of there or run in any way?

14 A No.

15 Q Did you fall down those stairs or get
16 pushed down those stairs or guide down those stairs at
17 anytime that you were there?

18 A No.

19 Q Did Dignan tackle you or in any way injure
20 you at that time?

21 A No.

22 Q Were all the injuries that you suffered at
23 Area 2 as a result of the beating and bagging that you
24 have testified to earlier?

1 A Yes.

2 Q And you received no additional or any
3 injuries at all at the building, is that right?

4 A Yes.

5 Q Now, after they took you to this building,
6 in the early morning of the 29th, is that right?

7 A Yes.

8 Q Did they bring you back to Area 2?

9 A Yes.

10 Q About what time did you get back there
11 would you estimate?

12 A About six o'clock.

13 Q Did they put you back in the room?

14 A Yes.

15 Q Did you basically stay in that room the
16 entire day and evening of the 29th?

17 A Yes.

18 Q And did you have an occasion to get any
19 food during that time?

20 A No.

21 Q Were you allowed to go to the bathroom?

22 A I might have gone to the bathroom one time,
23 maybe.

24 Q Did they question you anymore during that

1 entire day and evening?

2 A No.

3 Q Now, late that night or early the next
4 morning, did they come to you and say they wanted you
5 to confess to the state's attorney?

6 A Yes.

7 Q Was there another detective along with the
8 three named that was involved in coming to you that
9 next morning?

10 A Yes.

11 Q And who was that?

12 A Robert Dwyer.

13 Q And did you tell Dwyer, or the other
14 detectives, anything with regard to whether you were
15 still willing to confess?

16 MR. MURRAY: Judge, if I can have a foundation,
17 please.

18 MR. TAYLOR:

19 Q During this time in the early morning of
20 the 30th?

21 A I didn't, I really, I didn't want to talk
22 to anybody.

23 Q Did Dwyer or the other detectives make any
24 statements to you about what might happen to you if

1 you didn't talk and cooperate with the state's
2 attorney?

3 A Yes, the same thing that had happened to me
4 the previous day was going to happen again.

5 Q So, they told you that you would be
6 tortured again if you didn't give a formal court
7 reported statement, is that right?

8 A Yes.

9 Q Did you go ahead and give a statement to
10 the state's attorney after they made that threat to
11 you?

12 A Yes.

13 Q And, you were charged with a murder on the
14 basis of that confession, is that right?

15 A Yes.

16 Q And you were taken to County Jail, is that
17 right?

18 A Yes.

19 Q And taken to court at some point, right?

20 A Yes.

21 Q Now, either before or after you were taken
22 to court, did you see a doctor at Cook County Jail?

23 A Yes.

24 Q Now, let me ask you, Mr. Banks, what

1 injuries had you suffered as a result of the beating
2 and torture that Detectives Dignan, Grundhart and
3 Sergeant Byrne had given you?

4 A I had bruises across my legs, they were
5 swollen, across my fingers, I had, my left, both of my
6 ankles was swollen, my wrist was swollen, my chest was
7 swollen, and I had a lump under my skin, under my
8 stomach.

9 Q Now, you said your wrist were swollen?

10 A Yes.

11 Q Now, what caused the swelling of the
12 wrists?

13 A The tightening of the handcuffs.

14 Q Handcuffs?

15 A Yes.

16 Q And the injuries on the chest, was that
17 from -- what was that from?

18 A From the flashlight.

19 Q And that was Byrne?

20 A Yes.

21 Q And the injuries on the legs and ankles,
22 where was that from?

23 A From Charles Grundhart, from the kicking.

24 Q And did you say something in the buttocks

1 area as well?

2 A On my back and my buttocks, that was also
3 from John Byrne.

4 Q Now, when you met with this doctor, do you
5 remember his name, now?

6 A Dr. Romine.

7 Q R-o-m-i-n-e?

8 A Yes.

9 Q And did you tell Dr. Romine and show Dr.
10 Romine the injuries that you just described here?

11 MR. MURRAY: Object, could we have a foundation?

12 MR. TAYLOR:

13 Q When you spoke with Dr. Romine, where was
14 this?

15 A It was in Cook County Jail.

16 Q And do you remember, was it three or four
17 days after --

18 A It was exactly four days.

19 Q After the torture?

20 A Yes.

21 Q After that time you talked to Romine, did
22 you point out your injuries and describe them to him?

23 A Yes.

24 Q Did you also tell him how you got the

1 injuries?

2 A Yes.

3 Q And did you tell him also about the plastic
4 bag?

5 A Yes.

6 Q Did he write all of this down, do you know?

7 A Yes.

8 Q And he subsequently testified to this,
9 didn't he?

10 A Yes.

11 Q Now, you've testified today, you've named
12 four detectives, right?

13 A Yes.

14 Q Now, that night or those nights and days
15 that you were at Area 2, you didn't know these
16 detectives by name, did you?

17 A No.

18 Q But you recognized them by face, didn't
19 you?

20 A Yes.

21 Q Now, subsequently in early 1984, was there
22 an O.P.S. police investigation that was initiated by
23 Dr. Romine and the medical officials at Cermak?

24 A Yes, there was.

1 Q And did they take a statement from you
2 concerning what you said here today?

3 A Yes.

4 Q And do you remember the name of that O.P.S.
5 investigator?

6 A Sharon Town.

7 Q And did she come to the jail to talk to
8 you?

9 A Yes, she came to Division 6 about six
10 months after the incident.

11 THE COURT: Sharon Thomas.

12 THE WITNESS: Tom, T-o-m.

13 MR. TAYLOR: Either T-o-m or T-h-o-m, judge.

14 Q And you described generally what you said
15 here today?

16 A Yes.

17 Q Now, did they come back at a subsequent
18 point and show you a series of pictures of detectives
19 at Area 2?

20 A Yes, two weeks later she came back.

21 Q And at that time did you pick out Byrne,
22 Dignan and Grundhart from the pictures she showed you?

23 A Yes.

24 Q And you told her what you told us about

1 what each of them did, is that right?

2 A Yes.

3 Q And then subsequently you had a hearing in
4 court on the torture in terms of your confession,
5 didn't you?

6 A Yes.

7 Q And at that hearing, did you see Grundhart,
8 Byrne, and Dignan testify?

9 A Yes.

10 Q And did you then again identify them as the
11 ones who had done these various acts of brutality and
12 torture to you?

13 A Yes, I did.

14 Q And subsequently you were convicted of this
15 murder on the basis of this confession, is that right?

16 A Yes.

17 MR. MURRAY: Objection.

18 THE COURT: Sustained.

19 MR. TAYLOR: Judge, I wanted to show that this
20 case has been reversed --

21 THE COURT: Counsel, come on, you're asking him
22 to testify on what basis a judge or a jury or whomever
23 found him guilty, it's improper, objection sustained,
24 ask another question.

1 I really don't, you know, if
2 something is clearly objectionable and I sustain an
3 objection, I don't really want to have a dialog about
4 it, you know the law, you should understand the basis
5 of my ruling, if there's something that's really
6 necessary to discuss, fine, otherwise let's just
7 proceed.

8 MR. TAYLOR:

9 Q Subsequently were you released in this
10 case?

11 A Yes.

12 Q And was it based on a decision of the
13 Appellate Court?

14 A Yes, it was.

15 Q And that was how many years after you were
16 tortured?

17 A Seven years and three days.

18 Q And in fact, your case, this case was
19 ultimately dismissed?

20 A Yes.

21 MR. TAYLOR: I have nothing further, judge.

22 THE COURT: Cross.
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CROSS EXAMINATION

BY

MR. MURRAY:

Q Mr. Banks, counsel asked you about your
felony convictions?

A Yes.

Q You're currently incarcerated on four
residential burglaries and one attempt burglary, is
that correct?

A Yes.

Q That was as a result of a plea in July of
1998, is that correct?

A Yes.

Q You received seven years on two of the
indictments and eight years consecutive on three of
the other indictments, is that correct?

A Yes.

Q Back in June of 1995, you also had a
burglary conviction for four years in the Illinois
Department of Corrections, is that correct?

A Yes.

THE COURT: June of when?

MR. MURRAY: June of 1995, judge.

THE COURT: Okay.

1 MR. MURRAY:

2 Q Now, today, and in prior testimony, you
3 claim that Sergeant Byrne, Detective Charles Grundhart
4 and Detective Peter Dignan were the three detectives
5 that abused you, is that correct?

6 A Yes.

7 Q And that was the testimony that you gave
8 back in June of 1995 at your pretrial hearing, is that
9 correct?

10 MR. TAYLOR: Objection, judge, I don't believe
11 there was any testimony of 1995.

12 MR. MURRAY: 1985, I'm sorry?

13 THE WITNESS: Yes.

14 MR. MURRAY:

15 Q June 13th of 1985?

16 A Yes.

17 Q And at that time, other than what you said
18 today, that Lieutenant Burge was on the street at the
19 time of your arrest, you never mentioned Lieutenant
20 Burge, John Burge in any way shape or form, did you?

21 A Yes, I mentioned Lieutenant Burge.

22 Q Other than him being on the street at the
23 time of your arrest, in your motion to suppress in
24 1985, you never mentioned his name at all?

1 MR. TAYLOR: Judge, I'm going to object, that's
2 all he said here, there's nothing inconsistent, all he
3 said here was Burge was involved in this. In his
4 arrest he never said nothing about Burge after that.

5 THE COURT: Sustained.

6 MR. MURRAY:

7 Q You didn't mention his name in the trial of
8 1985 either, is that correct?

9 A Yes.

10 MR. TAYLOR: Objection, I don't think that's a
11 fair question, unless he wants to show him the
12 transcript of the entire testimony.

13 THE COURT: Sustained, improper form of
14 impeachment.

15 MR. MURRAY:

16 Q In 1991, October of 1991, you filed a
17 lawsuit against those three detectives, is that
18 correct?

19 A Yes.

20 Q Also named the City of Chicago, is that
21 correct?

22 A Yes.

23 Q And you also named Lieutenant John Burge,
24 is that correct?

1 A Yes.

2 Q So now, for the first time you mentioned
3 him promptly as a direct supervisor who repeatedly
4 observed the police and conditions during the time
5 that he was abused by the three detectives that you
6 have named, isn't that correct?

7 MR. TAYLOR: Objection, excuse me, I don't know
8 where he's getting that from, but --

9 THE COURT: Okay?

10 MR. TAYLOR: But as the attorney for Mr. Banks in
11 that litigation, I know why Mr. Burge was joined, he
12 was joined because of his supervisory capacity and I
13 don't think that is any improper impeachment involved
14 in that.

15 THE COURT: Okay, I'm going to sustain the
16 objection to the form of the impeachment, it hasn't
17 been asked, the question to lay the foundation to
18 impeach him and the form of the impeachment is
19 improper either so the objection is sustained.

20 MR. MURRAY:

21 Q Mr. Banks, it wasn't until 1991 that you
22 ever named Detective Burge as being present at the
23 time that abuse occurred to you, is that correct?

24 MR. TAYLOR: Same objection, judge, he's assuming

1 a fact not in evidence that he named him as being
2 involved.

3 MR. MURRAY: Page 4 of his civil complaint,
4 judge.

5 THE COURT: Well, he hasn't been asked whether --
6 all right, repeat the question.

7 THE COURT: It wasn't until 1991 that you named
8 lieutenant John Burge as being present?

9 MR. MURRAY: Yes.

10 THE COURT: I'm going to sustain the objection,
11 present, when, where, in what circumstance.

12 MR. MURRAY:

13 Q You named him as being present, having
14 direct supervision and repeatedly observing your
15 condition at the time that you were abused by the
16 detectives, and that was 1991, October 11th when you
17 alleged that in your complaint, your civil complaint?

18 MR. TAYLOR: Same objection, judge.

19 THE COURT: He hasn't been asked whether that
20 occurred so that, you know, so that there's a
21 foundation to impeach him with that statement, then he
22 hasn't been asked whether that's true or not that's,
23 that's the problem here, before you can impeach him
24 you have to ask him whether that's true or not.

1 MR. MURRAY:

2 Q Mr. Banks, is it true that John Burge was
3 present, supervising those detectives and observing
4 your condition at the time that you claim that you
5 were abused?

6 MR. TAYLOR: Objection to the extent --

7 THE COURT: Overruled, he can answer.

8 THE WITNESS: He peeped in on me a few times.

9 MR. MURRAY:

10 Q You was thinking during the time that you
11 were at Area 2?

12 A Yes.

13 Q After your arrest? .

14 A Yes.

15 Q Was this during the time that the
16 detectives and the Sergeant Byrne, you claim were
17 abusing you?

18 A Yes.

19 Q And, again, you testified in 1985 at a
20 motion to suppress and at your trial and you never
21 mention to him peeping in and observing your condition
22 during the times that you were abused, did you?

23 A I don't remember. .

24 Q Mr. Banks, in October of 1991, October

1 11th, your civil suit was filed, that was
2 approximately eight years after this alleged abuse
3 occurred to you, is that correct?

4 A Yes.

5 Q And at the same time an O.P.S. complaint
6 was filed by Jeffery Haas and other lawyers for the
7 People's Law Office on your behalf, is that correct?

8 A Yes.

9 Q It was on your behalf and Mr. David Bates,
10 your co-defendant's behalf, is that correct?

11 A Yes.

12 Q Again eight years after this alleged abuse
13 occurred to you, is that correct?

14 A Yes.

15 MR. TAYLOR: Objection, judge, there's already
16 evidence that the O.P.S. complaint was filed back in
17 1984, this is a reopening of the case eight years
18 later after he was exonerated in the case.

19 THE COURT: I'm going to sustain the objection.

20 MR. MURRAY:

21 Q Did you have conversations with Mr. Haas or
22 your other lawyers in the People's Law Office before
23 you filed your civil lawsuit in 1991?

24 MR. TAYLOR: Judge, I'm going to object on basis

1 of privilege.

2 THE COURT: Sustained, sustained.

3 MR. MURRAY:

4 Q The first time that you, Lieutenant Burge's
5 name came up is at the time that that civil lawsuit
6 was filed, is that correct?

7 MR. TAYLOR: Objection, judge, the testimony is
8 that, consistent that Burge arrested him, so it's not
9 the first time that his name came up.

10 MR. MURRAY: I'll reask the question, judge.

11 THE COURT: Fine.

12 MR. MURRAY:

13 Q The first time that Lieutenant Burge's name
14 came up with regard to supervising and observing your
15 condition at the time that you were abused, that again
16 was in October of 1991, is that correct?

17 A His name came up before that, way before
18 that.

19 Q Well, Mr. Banks, I won't ask you again, did
20 you testify to Lieutenant John Burge, in your 1985
21 motion or your 1985 trial, to him supervising and
22 observing your condition at the time that you were
23 abused?

24 A I don't remember.

1 MR. TAYLOR: Objection, that's an unfair
2 question, judge.

3 THE COURT: Well, I'm going to sustain the
4 objection because it's asked and answered and answered
5 it the same way that he did before, I don't remember.

6 MR. MURRAY:

7 Q In this lawsuit you're seeking four million
8 dollars, is that correct, from the City of Chicago and
9 the detectives?

10 A Yes.

11 Q And at this time, Lieutenant John Burge's
12 name was prevalent in the media, is that correct?

13 A May have been.

14 Q Were you familiar with his name being in
15 the media from other cases that there was allegations
16 of abuse against him?

17 A Yes.

18 Q Were you familiar with his name from the
19 Wilson brothers case at that time?

20 A I'm not sure.

21 Q You are familiar with his name from other
22 cases at that time?

23 A I'm familiar with John Burge, yes, I am.

24 Q You're familiar with his case at that time,

1 1991, from other cases that were mentioned in media
2 accounts?

3 A Could be, I don't know.

4 Q Were there other ways that you were
5 familiar with his name other than personal contact
6 with him?

7 A I come in contact with Burgess in 1983,
8 that is when I come in contact with Burgess for the
9 first time.

10 Q My question Mr. Banks was, are you familiar
11 with his name in 1991 in ways other than your personal
12 contact of 1983?

13 A Of course --

14 MR. TAYLOR: Objection, asked and answered, your
15 Honor.

16 THE COURT: Overruled, he can answer.

17 THE WITNESS: Yes.

18 MR. MURRAY:

19 Q And what were those other ways that his
20 name was communicated to you?

21 A That he was, I know that he was the
22 lieutenant at Area 2 Violent Crimes and that, and that
23 he was the supervisor over the rest of the detectives.

24 Q When you were in the Illinois Department of

1 Corrections, did other inmates talk to you about him?

2 A No.

3 Q Did you read any fliers in the Illinois
4 Department of Corrections talking about him and the
5 Wilson brothers case?

6 A No.

7 Q So, your way is only from what you knew
8 him, being a supervising, lieutenant of the detective
9 team, is that correct?

10 A Yes.

11 Q So, at this time, you add his name to his
12 lawsuit, did you think that was going to help your
13 four million dollar lawsuit or hurt your four million
14 dollar lawsuit?

15 MR. TAYLOR: Objection.

16 THE COURT: Sustained.

17 MR. MURRAY:

18 Q Now, David Bates, your co-defendant on the
19 murder of Leon Barker and the attempt murder of Jeltro
20 Gibbons, you knew him for approximately ten years
21 before 1983, is that correct?

22 A Yes.

23 MR. TAYLOR: Objection, beyond the scope, judge
24 -- I'll withdraw the objection.

1 THE COURT: Okay, fine.

2 MR. MURRAY:

3 Q And from your time of your arrest until
4 1985 when you had your motion to suppress, during that
5 time you were in the same division and the same tier
6 in Cook County Jail, is that correct?

7 A We were, we were, we were in Division 1,
8 but we were not on the same tier.

9 Q You had contact and conversation with him
10 during '83, '84, '85, is that correct?

11 A The only time that I had contact with David
12 is when we went to court because we was separated.

13 Q Well, after you came out of jail in -- the
14 penitentiary in 1990, he was still incarcerated, is
15 that correct?

16 A Yes.

17 Q And you come to see him when he was having
18 an attenuation hearing here in this building in 1991?

19 A Yes.

20 MR. TAYLOR: Objection, judge, way beyond the
21 scope.

22 THE COURT: Sustained.

23 MR. MURRAY:

24 Q Did you have conversation with him in 1991

1 before your lawyers from the People's Law Office filed
2 the new O.P.S. complaint in 1991?

3 A No.

4 MR. TAYLOR: Judge, --

5 THE COURT: Overruled, the answer no will stand.

6 MR. MURRAY:

7 Q Did you have conversation with him, prior
8 to the October 11th, 1991 lawsuit being filed by your
9 attorneys from the People's Law Office?

10 A No, I didn't have.

11 Q Did anytime in 1991 before that lawsuit was
12 filed, did you have conversations with him about him
13 being a witnesses for you in your four million dollar
14 lawsuit against the city and the detectives and the
15 police officers?

16 A No, I didn't.

17 Q Now, after you, you testified today that
18 after the officers put the bag over your face the
19 second time and they took the bag off, you said you
20 confessed, is that correct?

21 A Yes.

22 Q And you confessed to the elements of the
23 crime, is that correct?

24 MR. TAYLOR: I'm going to object to the

1 confession itself, judge.

2 THE COURT: Sustained.

3 MR. MURRAY:

4 Q Well, after having the bag taken off your
5 head, you went with the police officers to 56 W. 95th
6 Street to show them where the murder weapon was, is
7 that correct?

8 A Yes.

9 Q And you were handcuffed when the detectives
10 took you out of the area, is that correct?

11 A Yes.

12 Q They brought you to that second floor
13 building to look for the gun, is that correct?

14 A Yes.

15 Q They had to climb up on a roof to get the
16 gun, that's where you had hidden it, is that correct?

17 A Yes.

18 Q Now, while that was happening, you tried to
19 run from Detective Dignan down the stairs and get
20 away?

21 A No, do you actually think that they would
22 leave me unattended?

23 Q Mr. Banks, you were handcuffed and tried to
24 get away from them, is that correct?

1 A I was handcuffed to the bars on the door.

2 Q Mr. Banks, he had to tackle you and the two

3 of you tumbled down the stairs?

4 A That's not true.

5 Q Well, you heard him testify in the motion

6 in 1985 that he himself had to go to the hospital that

7 night after you tried to flee, and he had to tackle

8 you and go down the stairs?

9 MR. TAYLOR: Objection, judge, trying to get in

10 what he may have testified through a witness.

11 THE COURT: Sustained, objection sustained.

12 MR. MURRAY:

13 Q You went back to the area, is that correct,

14 your testimony is that you got back at 6:30 in the

15 morning?

16 A Yes.

17 Q And you didn't have any conversation with

18 those detectives or anyone about eighteen or nineteen

19 hours?

20 A Yes.

21 Q You sat in the room and you might have gone

22 to the bathroom once, is that correct?

23 A Maybe.

24 Q And after that time, you met Detective

1 Dwyer and assistant state's attorney Dean Bastone, is
2 that correct?

3 A Yes.

4 Q And when they interviewed you, they
5 interviewed you about the statement that you had given
6 to the three detectives, is that correct?

7 A I met Robert Dwyer first, I didn't meet the
8 state's attorney, it was probably an hour or a couple
9 of hours before I met the state's attorney.

10 Q And when you met him, Detective Dwyer was
11 with him as well, is that right?

12 A Yes.

13 Q And they interviewed you, the state's
14 attorney and Detective Dwyer?

15 A Yes.

16 Q And during this time, you again told them
17 what happened on the murder of Leon Barker and the
18 shooting of --

19 A Look, the first time that I went in to do
20 that, I didn't want to do it; so, Detective Dwyer took
21 me back out of the room and took me back into the
22 interview room and told me if I did not tell them what
23 they wanted to hear, then they was going to do what
24 they did to me the night, the previous night.

1 Q Mr. Banks, if I can just understand your
2 testimony, you're saying that you talked to the
3 state's attorney --

4 A No.

5 Q But you refused to tell him what was said
6 before?

7 MR. TAYLOR: Objection, asked and answered,
8 judge.

9 THE COURT: Overruled.

10 THE WITNESS: Listen, this is what happened.
11 Robert Dwyer questioned me and he told me, he asked me
12 some questions and I told him that I did not want to
13 confess to a crime, that it didn't happen like that,
14 and so he took me into the room with the state's
15 attorney, and I didn't want to do it, I come up out of
16 that room and he told me that if I did not tell them
17 what they wanted to hear, that they were going to do
18 to me what they did the night before.

19 MR. MURRAY:

20 Q Mr. Banks, I'm trying to understand your
21 testimony, that's the first time that you saw the
22 state's attorney, is that right?

23 A No, that's the second time that I saw the
24 state's attorney.

1 Q The first time that you saw the state's
2 attorney?

3 A I left up out of the --

4 Q You did to the tell them you did not
5 confess you did not tell him what happened, is that
6 right?

7 A The first time that I went in there, no, I
8 did not tell him that.

9 Q So, to the state's attorneys face, Mr.
10 Bastone's face, I do not have nothing to say to you,
11 or words to that effect?

12 A I left out.

13 Q And the detective took you out?

14 A Yes.

15 Q The second time when you came in, is that
16 when you told the state's attorney what had occurred?

17 A Yes.

18 Q A court reporter was called and your
19 statement was recorded, much like the court reporter
20 is doing today, is that correct?

21 A Yes.

22 Q Later on you got a chance to read that
23 statement, is that correct?

24 A Yes.

1 MR. MURRAY: Ask to be marked People's No. 1, for
2 today's hearing, judge.

3 THE COURT: Fine.

4 MR. MURRAY:

5 Q This is a Xerox copy of your twelve page
6 statement, ask you to take a look at that?

7 A Yes.

8 Q Is that a true and accurate Xerox copy of
9 your twelve page statement that was taken in late
10 October of 1983 at Area 2 Headquarters?

11 A My initials are here.

12 MR. TAYLOR: Judge, we'll stipulate to the fact
13 that that's a statement that was taken that night by
14 the state's attorney.

15 THE COURT: State, you want to accept that
16 stipulation?

17 MR. MURRAY: Yes, judge, we will.

18 MR. TAYLOR: I'm not stipulating to its
19 admissibility in any manner, that that's the court
20 reported statement that was generated.

21 THE COURT: I understand.

22 MR. MURRAY:

23 Q During the time that you talked to state's
24 attorney Bastone, and is reflected in your statement,

1 you did not make any complaint either to him or
2 Detective Dwyer or in front of the court reporter
3 about any type of abuse, is that correct?

4 A Yes.

5 Q You did not make any complaints of bags or
6 flashlights or guns being put in your mouth, is that
7 correct?

8 A Yes.

9 Q The state's attorney have an opportunity to
10 talk to you alone?

11 A No.

12 Q That didn't happen?

13 A No.

14 Q So, you didn't have a chance to talk to him
15 one on one?

16 A No.

17 Q You didn't make any complaints in the
18 statement, in fact, you used the words that this
19 statement was free and voluntary, do you remember
20 that?

21 A No.

22 Q I'm showing you page 12 of the statement,
23 fifth line is a question and sixth line is an answer,
24 I'd ask you to look at that.

1 A I'm looking at it.

2 Q And in that question, you're asked if
3 you're giving the statement freely and voluntarily, is
4 that correct?

5 A Yes.

6 Q And you answered that you were, that was
7 your answer, is that correct?

8 A Yes.

9 Q Now, approximately two months later after
10 your motion to suppress, you also testified on your
11 own behalf at your trial, is that correct?

12 A Yes.

13 Q At the trial, you admitted killing Leon
14 Barker over an argument over narcotics serum?

15 MR. TAYLOR: Objection, judge.

16 THE COURT: Sustained.

17 MR. MURRAY:

18 Q Well, Mr. Banks, at your motion and two of
19 the detectives in the area, you told them that you
20 knew nothing about the killing of Leon Barker, is that
21 correct?

22 A Yes.

23 MR. TAYLOR: Wait a minute that's two different
24 questions, double barrel question, did you say in his

1 statement and at his motion?

2 THE COURT: I'll overrule the objection, his
3 answer is yes, right, Mr. Banks?

4 THE WITNESS: Repeat the question.

5 MR. MURRAY:

6 Q When you talked to the police officers in
7 the area and when you testified at your Motion to
8 Suppress Statements, you said to them, initially, that
9 you knew nothing about the murder of Leon Barker?

10 A Yes.

11 Q And at the motion, you were obviously under
12 oath when you made that statement that you knew
13 nothing about the murder of Leon Barker?

14 MR. TAYLOR: Objection to the relevance of it,
15 judge.

16 THE COURT: Overruled.

17 MR. MURRAY:

18 Q Then at your trial in August of 1995, you
19 described all the events that led up to his death in
20 which you were the person who fired the gun twice at
21 him and then once at Jeltro Gibbons, is that correct?

22 MR. TAYLOR: Excuse me, judge.

23 THE COURT: Overruled.

24 MR. TAYLOR: Could I be heard on this?

1 THE COURT: Okay.

2 MR. TAYLOR: In People versus Banks and People
3 versus Bates, they determined that this statement was
4 coerced and not credible, and it was suppressed at his
5 retrial and that's why his case was dismissed, and it
6 wasn't, and they couldn't use it as a basis for Bates
7 probable cause either, so, I think it's totally
8 improper for him to be using it as some kind of
9 credible document in this proceeding, particularly as
10 to aspects having to do with what, the details of the
11 crime.

12 I might, in terms of bringing out
13 things having to do about the coerciveness or not in
14 the statement, I didn't object to that, but I don't
15 think to go into the credibility of what he said in
16 the statement, given the fact that it was suppressed
17 because of the finding of coerciveness, that he should
18 be permitted to do that, that that's legally wrong to
19 do.

20 THE COURT: Overruled. Do you know what the
21 question is Mr. Banks?

22 THE WITNESS: No, repeat the question.

23 THE COURT: State the question again, State.

24 MR. MURRAY: Yes, judge.

1 Q So, your testimony at trial was that you
2 knew the facts surrounding the murder of Leon Barker
3 and the shooting of Jeltro Gibbons, in fact, you were
4 the person that fired two bullets into Leon Barker and
5 one into Jeltro Gibbons?

6 A You say a murder?

7 MR. TAYLOR: Objection.

8 THE COURT: Objection sustained, that's not a
9 proper question.

10 MR. MURRAY:

11 Q Mr. Banks, at the motion, you said you knew
12 nothing about under oath, you said at the motion that
13 you knew nothing about the events surrounding the
14 murder of Barker and shooting of Gibbons, is that
15 correct?

16 MR. TAYLOR: Objection, that's not what he said.

17 THE COURT: Sustained. Counsel, just make the
18 objection, okay, if I want to hear from you, I'll ask
19 you to make a statement.

20 MR. TAYLOR: All right, judge.

21 THE COURT: And the basis of my ruling on that
22 objection isn't what you're going to argue, all right,
23 so let me rule on the objections without you making a
24 statement every time you make an objection. Okay.

1 MR. TAYLOR: Very well, judge.

2 THE COURT: Okay, the basis of my sustaining that
3 objection is that it's been asked and answered. Ask
4 another question.

5 MR. MURRAY:

6 Q And then at the trial, again, under oath,
7 you said you did know facts surrounding the murder of
8 Barker and the shooting of Gibbons?

9 MR. TAYLOR: Objection, judge.

10 THE COURT: Overruled, he can answer that
11 question.

12 THE WITNESS: Repeat that question, it's as if
13 I'm on trial, I'm not on trial, I'm not on trial.

14 THE COURT: Listen to the question and try to
15 answer it Mr. Banks.

16 THE WITNESS: Yes, repeat the question.

17 MR. MURRAY:

18 Q So, at the trial, two months after your
19 motion, again under oath, you testified to facts that
20 you personally knew about the murder of Barker and the
21 shooting of Gibbons?

22 A Why do you keep saying a murder?

23 THE COURT: All right, here's what you have to
24 do, State, the only technically correct way to use

1 prior testimony, which is to read it in question and
2 answer form and ask him if he was asked that question
3 and gave that answer, which is the technically proper
4 way to do it to begin with; so, I'm tired of messing
5 around with the improper way of trying to ask the
6 questions that you're trying to ask, if you're going
7 to do it, do it the right way.

8 MR. MURRAY: August 16th of '95, page 648.

9 Q Were you asked this question and did you
10 give this answer?

11 "How many times did you fire the
12 gun on that street?

13 Answer, maybe three times."

14 MR. TAYLOR: Objection, that's not impeaching of
15 anything that he said on the stand here, judge.

16 THE COURT: Overruled.

17 MR. MURRAY:

18 Q Do you remember being asked that question
19 and you giving that answer?

20 A Yes.

21 Q Do you remember being asked this question
22 and you giving that answer?

23 "You're the only person to fire
24 the gun on the street that

1 evening, isn't that true?

2 Yes."

3 Do you remember that question and you
4 giving that answer?

5 A Yes.

6 Q Do you remember being asked this question?

7 "Isn't it also true that Leon
8 Barker was turning to run away
9 when you shot that gun at him?

10 Your answer was, no."

11 Do you remember that question and
12 that answer?

13 A Yes.

14 MR. TAYLOR: Judge, I have a continuing
15 objection.

16 THE COURT: Fine.

17 MR. MURRAY:

18 Q Do you remember -- page 649, do you
19 remember being asked this question and you giving that
20 answer.

21 "Was Jeltro Gibbons running away
22 from you?

23 Answer: He was backing away."

24 Do you remember that question and

1 that answer?

2 A Yes.

3 Q Did you remember being asked this question
4 and you giving this answer?

5 "Before you left the scene after
6 you shot that gun three times,
7 whatever number of times you
8 fired it, you took their gallon
9 of cough syrup, didn't you?

10 Your answer; it belonged to me."

11 Do you remember that question and
12 that answer being answered?

13 A Yes.

14 Q Do you remember being asked this question,
15 page 650, and giving this answer?

16 "You discharged or shot that gun
17 three times before you picked up
18 and walked away with the serum?

19 Answer: Yes."

20 MR. TAYLOR: I object to the relevance of this,
21 it seems like he's just reading in what his testimony
22 was about the murder, and I don't see what relevance
23 it has.

24 THE COURT: Overruled.

1 MR. MURRAY:

2 Q Page 651.

3 "Question: Was Mr. Barker lying
4 shot on the ground when you bent
5 down and picked the serum up?

6 Answer: Yes.

7 Question: After you just shot
8 him, right?

9 Answer: Yes."

10 Do you remember those two questions
11 and your two answers?

12 A Yes.

13 Q So, Mr. Banks, you're under oath testimony
14 at the motion was a lie?

15 MR. TAYLOR: Objection, judge.

16 THE COURT: Sustained.

17 MR. MURRAY:

18 Q At your motion to suppress and at your
19 trial in 1985, you claimed that the state's attorney
20 did not read the statement to you, are you still
21 making that claim today?

22 MR. TAYLOR: Objection, judge, outside of the
23 scope.

24 THE COURT: Overruled.

1 THE WITNESS: I don't remember the state's
2 attorney reading me --

3 THE COURT: Your answer is I don't remember a
4 state's attorney reading in the statement?

5 THE WITNESS: I don't remember the state's
6 attorney reading me the statement. I do not remember.

7 MR. MURRAY:

8 Q Mr. Banks, as I showed you the statement a
9 few minutes earlier, you looked at it and said you
10 recognized your initials on those pages, is that
11 correct?

12 A Yes.

13 Q And also corrections, something was changed
14 on the typed statement that you also placed your
15 initials next to, is that correct?

16 A Yes.

17 Q Do you remember doing that on October 28th
18 of 1983?

19 A On October the 28th?

20 Q When the statement was recorded by the
21 state's attorney and yourself?

22 A No, I don't remember.

23 Q Those are your initials on the page, is
24 that correct?

1 A Yes.

2 Q You placed those initials on the page, on
3 the pages of the statements?

4 A You saying October the 28th, 1983, the
5 statement, the statement was not given October the
6 28th, 1983, you getting the dates mixed up.

7 Q Well, Mr. Banks why don't you tell me what
8 date the statement was recorded?

9 A Well, I think the 30th of '83, October
10 30th.

11 Q At that time did you place your initials on
12 the statement at various points on different pages?

13 A I don't know.

14 Q Showing you page 2 of the statements, do
15 you see the initials G.B. at the bottom of that page?

16 A Yes.

17 MR. TAYLOR: I object to the use of that
18 statement.

19 THE COURT: To the use of the statement?

20 MR. TAYLOR: In this manner.

21 THE COURT: Overruled.

22 MR. MURRAY:

23 Q Are those your initials?

24 A Yes.



1 Q And you placed them on that page at the
2 time that you reviewed the statement with state's
3 attorney Bastone?

4 A Yes.

5 Q How about page 3, Mr. Banks, do you see the
6 top of your initials there on the Xerox page?

7 A Yes, I see it.

8 Q Did you place your initials there when you
9 reviewed the statement?

10 A Yes, I see it.

11 Q Now, on page 4, near the top of the page,
12 there's actually a correction as well as near the
13 bottom of the page, a correction, do you see the
14 initials G.B. next to those two corrections?

15 MR. TAYLOR: Judge, can I object and be briefly
16 heard on it?

17 THE COURT: Yes, if it's something you haven't
18 already said and I've already ruled on.

19 MR. TAYLOR: Okay, it's a combination of things,
20 I don't know if I've raised all of them or not.

21 I don't see how this is relevant to
22 the issue having to do with this torture, I've already
23 stated the issues about the suppression of the
24 confession, and I don't see it as impeaching of

1 anything that he has said; so, I don't see, other than
2 to badger him about the underlying crime and the fact
3 that he gave a court reported statement to that crime,
4 I don't see the purpose, and I don't think that's a
5 proper question, judge.

6 THE COURT: The objection is overruled, go ahead,
7 State.

8 MR. MURRAY:

9 Q Do you see your initials at the top and the
10 bottom of page 4 next to two different corrections?

11 A Yes.

12 Q Would you place those initials there after
13 the corrections were made?

14 A Yes.

15 Q And your initials on the bottom of page 4
16 as well, is that correct?

17 A Yes.

18 Q Page 7, there also two corrections on that
19 page, do you see your initials placed next to those
20 two corrections?

21 A Yes.

22 Q You placed them there after those
23 corrections were made, is that correct?

24 A Yes.

1 Q Page 9, again, two corrections on that
2 page, one in the middle, one near the bottom?

3 A Yes.

4 Q Did you place your initials next to those
5 corrections after they were made?

6 A Yes.

7 Q Page 10, do you see two corrections on that
8 page?

9 A Yes.

10 Q And your initials are next to those two
11 corrections as well?

12 A Yes.

13 Q And you placed them there after you made
14 the corrections, is that correct, sir?

15 A Yes.

16 Q And page 12, do you recognize your
17 signature at the conclusion of the statement, is that
18 correct?

19 A Yes.

20 Q And you put it there after, at the bottom
21 of the page, is that correct?

22 A Yes.

23 Q You put that signature there after you had
24 been read the statement by the state's attorney, Dean

1 Bastone, is that correct?

2 A Yes.

3 Q Mr. Banks, you were are arrested on the
4 29th of October, is that correct?

5 A The 28th.

6 Q And the statement was on the 30th, is that
7 correct?

8 A Yes.

9 Q And, you've testified on direct examination
10 that you saw Dr. Romine four days after you got to
11 Cook County Jail, is that correct?

12 A Yes.

13 Q And when you first got to Cook County Jail,
14 on the first day, before you're allowed into Cook
15 County Jail, you have to see, refer to as a paramedic
16 or intake paramedic, is that correct?

17 A Yes.

18 Q And you made no complaint to that intake
19 paramedic about your treatment?

20 A Yes, I did.

21 Q You said to that intake paramedic that your
22 health was fair, is that correct?

23 A No.

24 MR. MURRAY: I'd ask that this be marked as

1 People's Exhibit No. 2.

2 THE COURT: Okay.

3 MR. MURRAY:

4 Q Mr. Banks, I'm going to show you a two page
5 document, the bottom of the second page, it's a poor
6 Xerox, do you recognize your signature at the bottom
7 of that page?

8 A No.

9 MR. TAYLOR: Did you say, does he recognize his
10 signature or the signatures?

11 THE WITNESS: Where it's at?

12 MR. MURRAY:

13 Q I'm pointing to the bottom, the center of
14 the bottom of the page. Do you recognize your
15 signature there?

16 A No.

17 Q You did not make that signature or you just
18 don't recognize it?

19 A I can barely see that, how can I recognize
20 it?

21 Q It's not your signature?

22 A I can not recognize it.

23 MR. TAYLOR: It's unrecognizable, judge, it's a
24 very bad Xerox.

1 THE COURT: Counsel, the witness is testifying,
2 not you.

3 MR. MURRAY:

4 Q Do you see your name, Gregory Banks, at the
5 top of page 1?

6 A Maybe, I see Greg, I see nothing right
7 here, nothing that's there.

8 Q And on this document, do you see the chief
9 complaint, state fair health, do you see that, sir?

10 MR. TAYLOR: Objection, judge, this document is
11 not in evidence.

12 THE COURT: Sustained.

13 MR. MURRAY:

14 Q Mr. Banks, your first complaint to any
15 professional, medical, was at the hospital four days
16 later when you complained to Dr. Romine, is that
17 correct?

18 MR. TAYLOR: Objection.

19 THE WITNESS: No, when I first come through the
20 Cook County Jail, when I, we first see the paramedics
21 and when the paramedics -- they asked me how did this
22 happen to me, and they told me, listen, hold it, they
23 told me when I get upstairs, I was in Division 5, on
24 2-B, they told me when I get upstairs, you will see a

1 paramedic, when you see the paramedic, tell him what
2 happened to you, and when I seen the paramedic, he
3 immediately sent me downstairs, but that was four days
4 later.

5 Q Mr. Banks, your testimony that you made
6 your complaints to two separate paramedics before you
7 saw Dr. Romine?

8 A Yes.

9 Q Did you see either one of them writing your
10 complaints down as you were saying it to them?

11 A I don't remember if they were writing it
12 down.

13 Q You saw Dr. Romine four days later?

14 A Yes.

15 Q Your allegation that you made your
16 complaint at the very beginning when you first came
17 into County Jail?

18 A Yes.

19 Q And took them four days for Dr. Romine to
20 see you, is that correct?

21 MR. TAYLOR: Objection, judge, he was injured on
22 the night and early morning of the 29th.

23 MR. MURRAY: I would object to the talking.

24 THE COURT: Sustained -- overruled, I mean, the

1 first objection is overruled, he can answer the
2 question, took him four days to see you.

3 THE WITNESS: Okay, I left Area 2 Violent Crimes
4 October the 31st, I got to Cook County October the
5 31st, when I come in, I seen the paramedics, when they
6 seen me, they asked me what had happened to me, I told
7 them, they said, when I get upstairs, I'll see another
8 paramedic and tell him, and then, when that paramedic
9 seen me, he sent me immediately to the doctor.

10 MR. MURRAY:

11 Q And my question was, Mr. Banks, you claim
12 you complained to the very first paramedic and it
13 still took four days for you to be seen by Dr. Romine?

14 A Yes, it took -- oh, no, no, no, no, it took
15 four days for the paramedic to see me, not Dr. Romine,
16 it took four days for me to see the paramedic when I
17 went upstairs.

18 Q Again, Mr. Banks, your complaint, according
19 to you, was to the very first paramedic that you saw
20 when you got to the Cook County Jail?

21 A Exactly.

22 Q And before you saw Dr. Romine, it took four
23 days?

24 A I didn't say it that three times what

1 happened.

2 Q Mr. Banks, the testimony you gave at trial,
3 not at your motion, but at your trial, that was
4 different than what was in your court reported
5 statement, is that a fair way of summarizing that?

6 MR. TAYLOR: Objection.

7 THE COURT: Sustained.

8 MR. MURRAY:

9 Q The testimony that you gave at trial was
10 not what was contained in your court reported
11 statement?

12 MR. TAYLOR: Objection.

13 THE COURT: Sustained.

14 MR. MURRAY: I've nothing else, judge.

15 THE COURT: Defense, redirect?

16 MR. TAYLOR: Thank you, judge.

17 RE-DIRECT EXAMINATION

18 BY

19 MR. TAYLOR:

20 Q Now, Mr. Banks, your testimony on direct
21 was that it took four days from the time you were
22 injured at Area 2 until you saw Dr. Romine, is that
23 right?

24 A Yes.

1 Q Now, three of those days you were in Area
2 2, weren't you?

3 A Un-huh.

4 Q And you got to the jail on the 31st, which
5 was three days after you had been tortured and
6 beaten, right?

7 A Yes.

8 Q And when you got to the jail, you saw the
9 paramedic, the first paramedic, right?

10 MR. MURRAY: Judge, I'd object to the leading.

11 THE COURT: Sustained.

12 MR. TAYLOR:

13 Q Well, you said on cross that you complained
14 to the paramedic, the first paramedic that you saw
15 about your injuries, is that right?

16 A Yes.

17 Q Now, looking at this document that the
18 State showed you, there are bruises indicated on this
19 document that they said was the paramedic report, is
20 that some of the complaints, does that reflect some of
21 the complaints that you made to the paramedic?

22 MR. MURRAY: Objection.

23 THE COURT: Sustained.

24

1 MR. TAYLOR:

2 Q And then, when you say you went upstairs,
3 what do you mean that you went upstairs?

4 A I went to Division 5, which was upstairs.

5 Q So, you went up to an actual cell?

6 A Yes.

7 Q And when you got to the cell, you saw a
8 second paramedic?

9 A Yes.

10 Q How long after you saw the first paramedic
11 was that?

12 A It was probably, it was four days.

13 Q But how long was it after, from the time
14 that you saw the first paramedic until the time that
15 you saw the second paramedic?

16 A It was four, it was four days.

17 Q And then that second paramedic, had you
18 seen the doctor?

19 A Yes.

20 Q Now, and that's Dr. Romine?

21 A Yes.

22 Q Now, so you consistently complained to both
23 paramedics and to the doctor?

24 A Yes.

1 Q Now, counsel for the State asked you
2 several questions about this lawsuit, this four
3 million dollar lawsuit that you brought, is that
4 right?

5 A Yes.

6 Q I was your lawyer, one of your lawyers for
7 that, right?

8 A Yes.

9 Q And in fact, you named Burge and in that
10 case as a supervisor of the persons who tortured you,
11 is that right?

12 A Yes.

13 Q And that was based on evidence that I had,
14 is that right?

15 A Yes.

16 MR. MURRAY: Objection as to what it was based
17 upon, judge.

18 THE COURT: Sustained.

19 MR. TAYLOR:

20 Q Did you receive a settlement from the City
21 of Chicago and the police in that case?

22 A Yes.

23 MR. MURRAY: Objection.

24 MR. TAYLOR: Judge, he raised the lawsuit and

1 large numbers, I ought to be able to bring out the
2 resolution of it.

3 THE COURT: Fine, overrule the objection.

4 MR. TAYLOR:

5 Q Did you receive a settlement in that case?

6 A Yes.

7 Q From the City of Chicago?

8 A Yes.

9 Q How much was that for?

10 A It was, I think ninety-two thousand, five
11 hundred.

12 Q Now, you testified here that Burge peeped
13 into the room a few times while you were being held at
14 Area 2, is that right?

15 A Yes.

16 Q And, that was the basis, a part of the
17 allegations that were made in your lawsuit, is that
18 right?

19 A Yes.

20 Q And in fact, you made, your original O.P.S.
21 complaint was made by the doctor who examined you
22 right after he examined you, is that right?

23 A Yes.

24 Q And, eight years later you filed this

1 lawsuit because you had been released from prison on
2 this case, is that right?

3 A Yes.

4 Q And when you were released from prison and
5 exonerated from this case --

6 MR. MURRAY: Objection to the form of the
7 question, judge, and objection to leading.

8 THE COURT: Sustained.

9 MR. TAYLOR:

10 Q At the time you filed this case, did the
11 O.P.S. reopen your investigation?

12 A Yes.

13 Q And that was, the reinvestigation was done
14 by investigator Cozzi, is that correct?

15 A Yes.

16 Q Now, the State brought out on cross that
17 you did not tell the state's attorney in that room
18 when you were brought in there by Dwyer, about what
19 had happened to you, is that right?

20 A Yes.

21 Q Why didn't you tell the state's attorney?

22 A Because Detective Dwyer told me that they
23 was going to do the same thing that they did to me the
24 previous day.

1 Q So, you were afraid?

2 A Yes, of course.

3 MR. TAYLOR: I've nothing further, judge.

4 THE COURT: Any recross?

5 MR. MURRAY: Just briefly, judge.

6 RE-CROSS EXAMINATION

7 BY

8 MR. MURRAY:

9 Q On the 7th of November, 1991, which is
10 approximately a month after your lawsuit was filed,
11 Jeffery has filed, on your behalf, an O.P.S.
12 complaint, were you aware of that?

13 MR. TAYLOR: Objection, judge, it assumes a fact
14 not in evidence, what happens --

15 THE COURT: I'm going to sustain the objection.

16 MR. MURRAY:

17 Q Did you direct Mr. Haas to file another
18 O.P.S. complaint to, quote, unquote, reopen the
19 investigation in November of 1991?

20 MR. TAYLOR: Judge, objection.

21 THE COURT: Sustained.

22 MR. MURRAY:

23 Q By the time your lawsuit was filed in 1991,
24 October 11th, there was no O.P.S. complaint pending,

1 is that correct?

2 MR. TAYLOR: Objection.

3 THE COURT: Sustained, relevance.

4 MR. MURRAY:

5 Q Were you aware of an O.P.S. complaint
6 pending in October of 1991?

7 MR. TAYLOR: Same objection.

8 THE COURT: Sustained.

9 MR. MURRAY: I've nothing else, judge.

10 THE COURT: Any redirect?

11 MR. TAYLOR: None, your Honor.

12 THE COURT: Okay. You may step down Mr. Banks.

13 (Witness excused.)

14 MR. GERAGHTY: Judge, we're done for what we need
15 to. I have two witnesses tomorrow.

16 (Which were all the
17 proceedings had until
18 April 20, 2000.)

19

20

21

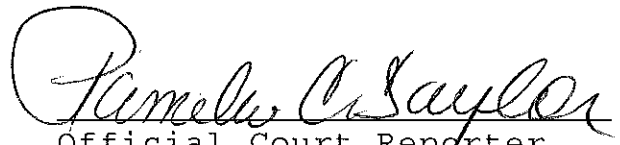
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)

4 I, Pamela C. Taylor, Official Court
5 Reporter of the Circuit Court of Cook County, County
6 Department, Criminal Division, do hereby certify that
7 I reported in shorthand the proceedings had on the
8 hearing in the above-entitled cause; that I thereafter
9 caused to be transcribed into typewriting the above
10 Report of Proceedings, which I hereby certify is a
11 true and correct transcript of the proceedings had
12 before the Honorable LAWRENCE FOX, Judge of this
13 court.

14
15 
16 Official Court Reporter
17 of the Circuit Court of
18 Cook County, Criminal
19 Division.
20
21
22
23
24