

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DARRELL CANNON,

Plaintiff,

vs.

Case No. 05 C 2192

JON BURGE, et al.,

Defendants.

DEPOSITION OF RODNEY BENSON,

produced, sworn and examined on behalf of the
Defendants, pursuant to Subpoena, on Monday, the 6TH
day of October, 2008, between the hours of 10:20 a.m.
and 1:49 p.m. of that day, at the Western Reception &
Diagnostic Correctional Center, 3401 Faraon Street, in
the City of St. Joseph, in the County of Buchanan, and
the State of Missouri, before me,

NAOLA C. VAUGHN, CCR No. 1052, CRR, RPR

of

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of Missouri and Kansas.

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I N D E X

WITNESS: RODNEY BENSON

Examination by Mr. Hettinger 4, 148

Examination by Ms. Ekl 86

Examination by Mr. Elson 151

EXHIBITS

(None marked or referenced.)

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BY: KENYA A. JENKINS

1 RODNEY BENSON,

2 a witness, being first duly sworn, testified as
3 follows:

4 EXAMINATION

5 BY MR. HETTINGER:

6 Q. The record should reflect that this is the
7 deposition of Mr. Rodney Benson taken pursuant to a
8 subpoena served in the case of Darrell Cannon versus
9 Jon Burge, et al. It's 05 C 2192.

10 My name is Lee Hettinger, and I represent the
11 City of Chicago in this case, Mr. Benson. You are here
12 to be answering some questions regarding a matter that
13 occurred quite a few years ago back in the City of
14 Chicago.

15 If you don't understand my question, will you
16 let me know?

17 A. I surely will.

18 Q. And if you answer, I will assume that you
19 understood the question, fair?

20 A. Fair enough.

21 Q. What is your present address?

22 A. WRDCC.

23 Q. Pardon me?

24 A. WRDCC.

25 Q. And are you presently incarcerated, sir?

Page 5

1 **A. Yes.**
 2 Q. And we are in an institution in the state of
 3 Missouri. Are you incarcerated by the State of
 4 Missouri, sir?
 5 **A. Yes.**
 6 Q. And can you tell me, first of all, can you
 7 give me your date of birth?
 8 **A. 8/29/58.**
 9 Q. Can you give me your Social Security number?
 10 **A. No.**
 11 Q. 327-58-4197, does that sound right?
 12 **A. That sounds right.**
 13 Q. And do you have a number here in the
 14 correctional system?
 15 **A. 527396.**
 16 Q. And about, oh, back a couple of years ago you
 17 gave a statement to the officer -- Office of the
 18 Special Prosecutor from Cook County; is that correct?
 19 **A. Um-hum.**
 20 Q. You have to answer out loud.
 21 **A. Yes.**
 22 Q. And Mr. Tom Reed, did he take that statement
 23 from you?
 24 **A. I don't recall who it was.**
 25 Q. Was he here or were you there or how did the

Page 6

1 statement get taken?
 2 **A. Phone.**
 3 Q. Pardon me?
 4 **A. Phone.**
 5 Q. Via phone.
 6 Pardon me if I don't hear you. I may ask you
 7 to speak -- I understand. It may be my hearing, okay?
 8 **A. (Witness nods.)**
 9 Q. Do you have an attorney today?
 10 **A. No.**
 11 Q. Did you meet with any attorneys before coming
 12 here today?
 13 **A. Yes.**
 14 Q. Who did you meet with?
 15 **A. Ben Elson.**
 16 Q. Ben who's sitting here?
 17 **A. That's him.**
 18 Q. When did you meet with him?
 19 **A. Last night.**
 20 Q. And how long a period of time did you meet
 21 with him?
 22 **A. About 45 minutes or so.**
 23 Q. Okay. What did you discuss?
 24 **A. My memory.**
 25 Q. Your memory of what?

Page 7

1 **A. What happened 26 years ago.**
 2 Q. Okay. And that took place back in -- as I
 3 understand it, September 8th and 9th of 1982, correct?
 4 **A. About 26 years ago.**
 5 Q. 26 years ago. And at that time where were
 6 you living?
 7 **A. In Chicago.**
 8 Q. Whereabouts?
 9 **A. On Cregier.**
 10 Q. And you were living, what, with your parents
 11 at the time?
 12 **A. Yes, I was.**
 13 Q. What are you -- what conviction do you have
 14 here in Missouri?
 15 **A. Robbery.**
 16 Q. Is it armed robbery or robbery?
 17 **A. Robbery One in Missouri. I don't know what**
 18 **they call it.**
 19 Q. Okay. Just plain robbery?
 20 **A. Robbery One.**
 21 Q. Robbery One. Do you know; is that defined as
 22 having a weapon?
 23 **A. That's defined as by, for some strange**
 24 **reason, I was found not guilty of one.**
 25 Q. You were found guilty of what?

Page 8

1 **A. Robbery One.**
 2 Q. Did you have a jury trial?
 3 **A. Yes, I did.**
 4 Q. And you were convicted at that time, correct?
 5 **A. I was.**
 6 Q. And that was, what, 1996?
 7 **A. That was.**
 8 Q. Where did that -- can you just give me a
 9 brief summary of the factual situation involving that
 10 conviction?
 11 **A. They said I did it. I said I didn't. I was**
 12 **convicted.**
 13 Q. Was it a residence, store that you robbed or
 14 what was it?
 15 **A. Again, I say I didn't. Some kind of video**
 16 **store or something like that. I don't --**
 17 Q. What city were you in when you were
 18 convicted?
 19 **A. Kansas City.**
 20 Q. Kansas City, Missouri, correct?
 21 **A. (Witness nods.)**
 22 Q. And did you receive a sentence?
 23 **A. Yes.**
 24 Q. And what was the sentence?
 25 **A. 14 years.**

Page 9

1 Q. And was that on simply one count or was there
2 more than one count of armed robbery -- of Robbery One,
3 I'm sorry?

4 A. **I got convicted of one count of Robbery One.**

5 Q. One count and you got 14 years?

6 A. **Yeah.**

7 Q. And so have you been institutionalized then
8 since 1996?

9 A. **I've been institutionalized in the state of
10 Missouri since 1996.**

11 Q. And do you know your release date?

12 A. **12/4/2010.**

13 Q. 2010. So you've got a little over two years
14 before you're released, correct?

15 A. **Well, under two years before my release.**

16 Q. Okay.

17 A. **Make that 9/4/2010.**

18 Q. Before your conviction for Robbery One in
19 1996 had you been convicted of any other crimes?

20 A. **Got convicted of robbery in the state of
21 Nevada.**

22 Q. And when did that occur?

23 A. **About '88, '89.**

24 Q. And was that armed robbery?

25 A. **No. Just robbery.**

Page 10

1 Q. And that was in the state of Nevada. What
2 city was that in?

3 A. **Las Vegas.**

4 Q. And did you have a jury trial or did you
5 plead or what?

6 A. **Bench.**

7 Q. A bench trial?

8 A. **(Witness nods.)**

9 Q. Were you sentenced in that case?

10 A. **Yes.**

11 Q. And what was the sentence imposed at that
12 time?

13 A. **Eight years.**

14 Q. How many years?

15 A. **Eight years.**

16 Q. Eight years.

17 How much time did you do on that sentence?

18 A. **Five years.**

19 Q. Okay. So from 1988 --

20 A. **'88, '89. I got out in '94.**

21 Q. Okay. So you got out of in '94. Did you
22 then move to Missouri?

23 A. **No. From there I went to -- shit. I think
24 it was Newark.**

25 Q. Did you have any convictions between the time

Page 11

1 of your release in Nevada up until the time of your
2 conviction here in Missouri?

3 A. **No.**

4 Q. Let's go back before 1988. Did have any
5 convictions before 1988?

6 A. **1982.**

7 Q. And what was the conviction for in that
8 matter?

9 A. **I was told it was kidnapping, aggravated
10 assault, and devious sexual assault, but now I'm told
11 it was something else. So I don't know.**

12 Q. Was that the matter involving Karen Byron,
13 the victim in that case?

14 A. **Yeah. KB. Yeah.**

15 Q. And that was also the one that Stanley Rice
16 was convicted of?

17 A. **That's the one.**

18 Q. Correct?

19 A. **That's the one.**

20 Q. And as I understand it, you were before
21 Judge Thomas Fitzgerald at the time?

22 A. **I'm not sure. It sounds right.**

23 Q. And your attorney at the time was, what,
24 Howard Savage?

25 A. **Howard T. Savage.**

Page 12

1 Q. Do you know if Mr. Savage is still alive?

2 A. **I don't believe he would be. I'm not for
3 sure, but he was not a young man then.**

4 Q. In the matter involving, as you described it,
5 KB, is that Karen Byron? Is that how you knew her as
6 KB?

7 A. **Yes.**

8 Q. In that matter, did you take a trial or did
9 you plead?

10 A. **Plea.**

11 Q. And do you recall what sentence you received
12 from the judge at that time?

13 A. **A year of work release and a couple of years
14 of probation.**

15 Q. When you say work release, what did that
16 involve?

17 A. **I had to turn myself in the county jail every
18 night.**

19 Q. And did you successfully complete --

20 A. **Yes.**

21 Q. -- that incarceration?

22 A. **Yes.**

23 Q. Any violations for not showing up?

24 A. **No violations. I didn't show up once or
25 twice, but no violations.**

1 Q. At any time did Judge Fitzgerald enter it as
2 just straight time as opposed to work release?
3 MR. ELSON: Object to the form. You can answer.
4 A. **I don't know.**
5 Q. BY MR. HETTINGER: If you can answer that.
6 A. **I don't remember.**
7 Q. You can't recall?
8 A. **I got held over from work and couldn't get**
9 **in. He reinstated me. Something happened, an escape**
10 **or something; I couldn't get in. He reinstated me.**
11 Q. So these were matters brought back before the
12 judge because of some failure to --
13 A. **If you don't make it in that night, they**
14 **don't accept you in. You got to go see a judge to**
15 **either get back in or something else done to you.**
16 Q. And to the best of your recollection then,
17 the times that that happened, Judge Fitzgerald
18 continued you on your work release program?
19 A. **As far as I can remember.**
20 Q. Now, let's go back before 1982. Did you have
21 any convictions before that date?
22 A. **I don't believe I did. A few traffic**
23 **tickets. Maybe a fight. But I don't think I went to**
24 **court on none of it.**
25 Q. So just so I'm clear then, you had the

1 conviction involving Karen Byron, correct?
2 A. **(Witness nods.)**
3 Q. Then you had a robbery conviction in Nevada
4 in 1988 or 1989, in which you were sentenced to
5 eight years imprisonment, correct?
6 A. **Correct.**
7 Q. And then you did about five years and you
8 were released in 1994 --
9 A. **Correct.**
10 Q. -- correct?
11 A. **1994.**
12 Q. And then you had the armed robbery conviction
13 in Kansas City, Missouri, in 1996 for which you are
14 still doing time, true?
15 A. **No. I don't think I said I got convicted of**
16 **armed robbery. I said Robbery One.**
17 Q. Robbery One?
18 A. **Yeah.**
19 Q. So that you then had the conviction for
20 Robbery One, you were convicted in 1996 and that arose
21 out of an incident or a court hearing in Kansas City,
22 Missouri, correct?
23 A. **I might not got convicted actually until**
24 **early '97, but I was locked up in '96.**
25 Q. So in other words, you were arrested to the

1 best of your knowledge in 1996?
2 A. **Right.**
3 Q. You may have been convicted in 1997, but you
4 were getting credit for any time --
5 A. **That's correct.**
6 Q. -- that you did before your actual
7 conviction, true?
8 A. **Right.**
9 Q. I'm going to take you back to September 8th
10 of 1982, and, granted, it's 26 years ago. Where were
11 you living -- you explained earlier you were living on
12 Cregier; is that correct?
13 A. **My official address was 2777 Cregier. I**
14 **actually stayed on 70th and Cregier, but I had my**
15 **parents address on my license and everything else.**
16 Q. How old were you back in 1982?
17 A. **Around 21, 22.**
18 Q. Okay. Were you a member of any gang at that
19 time?
20 A. **I ran with a gang at that time.**
21 Q. What was the name of the gang?
22 A. **It was Black Peace Stones.**
23 Q. Black Peace Stone Rangers?
24 A. **Well, Rangers -- you can call them that. But**
25 **it was Black Peace Stone. Black Stone Rangers was**

1 something a little bit different.
2 Q. Did you have a certain area where you had
3 your gang affiliations or meetings?
4 A. **The east side of Chicago, southeast.**
5 Q. Any particular address?
6 A. **Particular address? Mostly being**
7 **Ekersal Park, if we was going to have a meeting, 83rd**
8 **and Yates.**
9 Q. Was Stan Rice a member of that gang?
10 A. **I think he was El Rukn, which was something**
11 **similar. We all --**
12 Q. He was an El Rukn. These are at the time
13 what was known as street gangs on the south, southeast
14 side of Chicago?
15 A. **Yeah. El Rukns and the Black Stones are**
16 **related.**
17 MS. EKL: I'm sorry. I'm missing part of it. I
18 think if you could just let him finish a little bit
19 more before you ask your question.
20 A. **We were affiliated.**
21 Q. BY MR. HETTINGER: The El Rukns were
22 affiliated with the Black Peace Stones?
23 A. **Just different parts of the same gang.**
24 Q. And was Lee Holmes a member of that gang?
25 A. **I'm not familiar -- I've heard the name, but**

Page 17

Page 19

1 **I'm not familiar with it exactly.**
 2 Q. Let's go back to Stanley Rice. How long had
 3 you known Rice before September of 1982?
 4 **A. Not very long, maybe a year or so.**
 5 Q. Did you know him through your gang
 6 affiliations?
 7 **A. I met him at a rally.**
 8 Q. Pardon me?
 9 **A. I met him at a rally.**
 10 Q. Where was the rally?
 11 **A. Ekersal Park. 83rd and Yates.**
 12 Q. Pardon me?
 13 **A. 83rd and Yates at the Ekersal Park.**
 14 Q. And that's when you first met Stanley Rice?
 15 **A. I'd seen him, but I didn't know him.**
 16 Q. Was he like a leader of any of the gangs?
 17 **A. I don't think he had any more rank than I did**
 18 **at that time.**
 19 Q. What was your rank at the time?
 20 **A. We just soldiers.**
 21 Q. Soldiers at the basic level of the
 22 membership?
 23 **A. Maybe a little step above basic, but basic.**
 24 Q. How long had you been a gang member?
 25 **A. Since '71.**

Page 18

1 Q. You were in grade school when you began, or
 2 high school?
 3 **A. Eighth grade. About eighth grade.**
 4 Q. Are you familiar with Darrell Cannon?
 5 **A. No.**
 6 Q. Do you know that name?
 7 **A. I do now.**
 8 Q. In your affiliation with gangs, did you ever
 9 come across someone by the name of Darrell Cannon?
 10 **A. No.**
 11 Q. On the date of September 8th of 1982, in the
 12 evening hours, where were you?
 13 **A. The evening hours?**
 14 Q. Yes.
 15 **A. Probably with my girl.**
 16 Q. Sometime that evening, did you happen to see
 17 a person that you know by the name of KB?
 18 **A. It was that night.**
 19 Q. Okay. When you say -- what time of night, if
 20 you recall?
 21 **A. It was late, after 9:30 or so.**
 22 Q. And had you known KB before that?
 23 **A. Yes, I had.**
 24 Q. How did you know her?
 25 **A. Neighborhood girl, party girl.**

1 Q. Pardon me?
 2 **A. Neighborhood party girl.**
 3 Q. Do you know about how old she was at the
 4 time?
 5 **A. Older than me. That's all I can tell you.**
 6 Q. When you say a party girl, what do you mean
 7 by that?
 8 **A. Somebody anybody can use.**
 9 Q. Was she African American or Caucasian?
 10 **A. She was -- I thought she was something else,**
 11 **but she's Caucasian.**
 12 Q. Would you see her in any particular area
 13 around your home from time to time?
 14 **A. The park behind the high school, South Shore**
 15 **High School, walking up and down 75th Street. 71st**
 16 **Street over toward -- she's all over the neighborhood.**
 17 Q. When you saw her that night, when you first
 18 saw her, where was she?
 19 **A. 75th and Jeffrey, in front of the liquor**
 20 **store.**
 21 Q. There's a liquor store there called, what,
 22 Jeffrey Liquor?
 23 **A. I don't think that was Jeffrey. It might be.**
 24 **I don't remember.**
 25 Q. Were you working at the time? Did you have a

Page 20

1 job at that time?
 2 **A. I'm not sure. I think I was right in**
 3 **between. I can't remember.**
 4 Q. When you first saw KB that night, did -- what
 5 was she doing?
 6 **A. Trying to get somebody to buy her a drink.**
 7 Q. Did she talk to you?
 8 **A. Yeah.**
 9 Q. And what did she say to you and what did you
 10 say to her?
 11 **A. She asked me what I was doing. I told her**
 12 **nothing. She said she wanted to go with me. I said**
 13 **no. She jumped in the car. I said, "Get out."**
 14 Q. Okay. At that time --
 15 **A. I said, "Get out."**
 16 Q. Okay.
 17 **A. She said no. She was going.**
 18 Q. You were driving at that time a red Ford?
 19 **A. Red Ford.**
 20 Q. Do you remember the license plate number?
 21 **A. No, I don't.**
 22 Q. Who else was with you in your car?
 23 **A. My car, nobody.**
 24 Q. Just you?
 25 **A. Just me.**

Page 21

1 Q. After KB got into your car, what happened
2 next?
3 A. **Police rode up on us.**
4 Q. And was that a marked or unmarked car?
5 A. **A marked car, a black police officer.**
6 Q. Remember his name?
7 A. **No, I don't.**
8 Q. Sergeant Harris?
9 A. **I don't remember the name.**
10 Q. Had you ever had any encounters with that
11 police officer before that date?
12 A. **No, I hadn't.**
13 Q. What happened after the police car pulled up?
14 A. **He asked what was going on. A couple of guys**
15 **was standing by the car. I told him she don't want to**
16 **get out of the car. She said she want to go over here.**
17 **I said no. She said -- he told me to make a decision.**
18 **I said, well, I'll take her to the hospital, drop her**
19 **off. She said she don't agree with that. As soon as**
20 **he left, she said she ain't going nowhere.**
21 Q. What was her condition at the time?
22 A. **Half drunk.**
23 Q. Pardon me?
24 A. **Half drunk.**
25 Q. Half drunk. What was your condition at the

Page 22

1 time?
2 A. **I was cool.**
3 Q. Had you been drinking?
4 A. **Not yet.**
5 Q. After that did you drink?
6 A. **Yes, I did.**
7 Q. About four fifths of wine that night, does
8 that sound about right?
9 A. **I shared it out, but, yeah.**
10 Q. A couple of quarts of beer?
11 A. **Maybe a quart by myself, but I drank with**
12 **other people.**
13 Q. As I recall, you -- at the time you were
14 mentioning --
15 A. **And I smoked weed, too. And I smoked weed**
16 **that night, too.**
17 Q. Sort of at that time you'd drink anything
18 that was put in front of you at that age in your life;
19 does that sound right?
20 A. **Pretty much. I had finished school, I had**
21 **finished the Marine Corps. I was cool. I was ready to**
22 **go.**
23 Q. Why were you going to take her to the
24 hospital?
25 A. **She was drunk. Falling down, sloppy drunk.**

Page 23

1 Q. And what did the police officer say or do
2 when he came over there?
3 A. **Well, I guess he knew her, too. He said**
4 **maybe take her somewhere or get her out of the car.**
5 **And I told him to get her out of the car and he said,**
6 **"I'm not messing with that." And he got back in his**
7 **car and he left.**
8 Q. And he left. What did you do?
9 A. **I was told there was a party up on the**
10 **street, come on by. So I just made the turn, went on**
11 **up to Chappel.**
12 Q. There was a party where?
13 A. **On Chappel.**
14 Q. Okay. And do you remember the address?
15 A. **Not the address. The house.**
16 Q. Was it at Stanley Rice's house?
17 A. **That was Stanley Rice's house.**
18 Q. Was anybody else in the car with you other
19 than KB and you?
20 A. **When I drove up, it was just the two of us.**
21 Q. Did you see Stanley Rice over by the liquor
22 store?
23 A. **I saw Stan and a couple more guys. There was**
24 **quite a few people buying liquor.**
25 Q. How about Bobby Williams?

Page 24

1 A. **I don't recall seeing Bobby at the store.**
2 Q. Lee Holmes?
3 A. **Again, I don't know that name.**
4 Q. Okay. Michael Fallet?
5 A. **If that name -- if it is what I think it is,**
6 **that's not the name I knew him by. I just knew him by**
7 **Little Mike.**
8 Q. Little Mike, right. Did you have a nickname
9 at the time?
10 A. **Yes. Spangoolie. S-p-a-n-g-o-o-l-i-e.**
11 **Spangoolie.**
12 Q. And is that how people would refer to you
13 from time to time, use your name?
14 A. **Spang, Spangoolie.**
15 Q. Spang?
16 A. **Goolie. Groovy Goolie, whatever.**
17 Q. Back in 1982, were you married?
18 A. **No, I was not married.**
19 Q. Did you have a girlfriend back then?
20 A. **I had a couple of girlfriends back then.**
21 Q. What were their names?
22 A. **Deborah McDay, Carol Washington, Deborah**
23 **Griffen, and I don't remember the rest of them. I**
24 **didn't really -- they wasn't really my girlfriends.**
25 **Just somebody I messed with. Those three were my**

Page 25

1 girlfriends.
 2 Q. When you got to Stanley Rice's house, do you
 3 remember about what time it was?
 4 A. **Not exactly. It was late. It was about**
 5 **11:00. 10:30, 11:00.**
 6 Q. And when you got there, what happened to KB?
 7 A. **We went upstairs.**
 8 Q. Did you take her upstairs? Did you take her
 9 upstairs?
 10 A. **No. We went upstairs.**
 11 Q. You and her went upstairs together?
 12 A. **That's correct.**
 13 Q. Did you tell the assistant state's attorney
 14 that you took her upstairs?
 15 A. **I don't remember what I told him, but . . .**
 16 Q. We'll get into that later, but you did talk
 17 at some point that night with a Kenneth McCurry, who
 18 was an assistant state's attorney, correct, at Area 2?
 19 A. **I don't remember his name.**
 20 Q. Pardon me?
 21 A. **I don't remember his name.**
 22 Q. But you did talk to an assistant state's
 23 attorney?
 24 A. **I did talk to a state's attorney.**
 25 Q. I'm going to try to do better at waiting

Page 26

1 until you finish, and the court reporter can only get
 2 one of us at a time. So if you would wait till I
 3 finish my question, then you begin your answer. I
 4 think I've cut you off a couple of times.
 5 A. **Okay.**
 6 Q. So let's try to keep it clear so that the
 7 court reporter can get us down, fair?
 8 A. **Fair.**
 9 Q. When you went upstairs with KB, what happened
 10 next?
 11 A. **I had sex with her.**
 12 Q. You had sex with her. Is that correct?
 13 A. **I had sex with her.**
 14 Q. And did anybody else have sex with her?
 15 A. **I'm sure just about everybody did.**
 16 Q. Do you remember who the, quote, everybody is?
 17 A. **Again, I can't remember exactly who was all**
 18 **there that night.**
 19 Q. Well, let me ask you in particular. Did you
 20 see Stanley Rice have sex with her?
 21 A. **Yes, I did.**
 22 Q. And how many times did you see him have sex
 23 with her?
 24 A. **Well, he was going as I was getting up, and I**
 25 **didn't stay to watch.**

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1 Q. And at some point did you go downstairs?
 2 A. **Yes, I did.**
 3 Q. And when you were downstairs, at some point
 4 did you see Stanley Rice taking some hot irons upstairs
 5 to the second floor?
 6 A. **No. I never saw no hot irons being taken up?**
 7 **I saw a fork being heated up.**
 8 Q. Did you see irons being taken up there?
 9 A. **I did not see irons being taken up there.**
 10 Q. Well, did you tell the assistant state's
 11 attorney that you saw Stanley Rice taking irons
 12 upstairs?
 13 A. **I don't believe I did. I don't know for**
 14 **sure. But all I remember saying or seeing was a fork.**
 15 Q. Let me ask you this: Did you testify at a
 16 motion to suppress on your own behalf?
 17 A. **Yes, I did.**
 18 Q. And you were sworn to tell the truth,
 19 correct?
 20 A. **Yes, I was.**
 21 Q. And you were asked questions by your attorney
 22 and also by the assistant state's attorney, Ms. Lamkin,
 23 correct?
 24 A. **The names, I don't know.**
 25 Q. Okay. We'll go into that.

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1 Do you recall when you were up on the second
 2 floor you saw Stanley Rice, and you described it as
 3 bumping her three times with a hot iron?
 4 A. **With a hot fork.**
 5 Q. With a hot fork?
 6 A. **A carving fork, a two-prong fork.**
 7 Q. Did you ever see him also bump her with a hot
 8 iron?
 9 A. **I don't remember saying that or seeing that.**
 10 Q. Did you see anyone else burn her with
 11 anything?
 12 A. **I left behind that.**
 13 Q. When you say you left, that was after you saw
 14 Rice using the hot fork to burn her, true?
 15 A. **True.**
 16 Q. What did you do when you saw him burning her?
 17 A. **Told him he needed to quit that shit out.**
 18 Q. Did he?
 19 A. **He told me to mind my fucking business.**
 20 Q. Let me ask you this: I take it you were not
 21 at the trial when Mr. Rice had his jury trial, correct?
 22 A. **I don't believe I was either.**
 23 Q. So you don't know what he said about what you
 24 did, correct?
 25 A. **No, I don't.**

1 Q. And you don't know what he said about what he
2 supposedly did, true?

3 A. **That's true.**

4 Q. After you went back downstairs, do you
5 remember about what time it was?

6 A. **No, I couldn't tell you about what time it
7 was.**

8 Q. Was KB screaming and yelling when Rice was
9 burning her?

10 A. **I don't recall. I don't think she was too
11 conscious of anything.**

12 Q. Was she unconscious?

13 A. **I'm not going to say unconscious. I'm just
14 not going to say very conscious. Drunk.**

15 Q. Do you know -- and at that time were you
16 drunk?

17 A. **Not drunk.**

18 Q. Were you drunk?

19 A. **Not drunk.**

20 Q. Well, do you remember telling Mr. Reed that
21 you were drunk as a skunk?

22 A. **I remember telling him I was high as a kite.
23 I remember telling him I was high as a kite.**

24 Q. Okay?

25 A. **I didn't get drunk as a skunk till after that**

1 **happened.**

2 Q. After you saw him, that is Rice --

3 A. **I did.**

4 Q. -- burning her?

5 A. **I left that place. That's when I got drunk.**

6 Q. Now, after you left, as I recall, you took
7 somebody over to, what, 75th and something, right? Did
8 you give somebody a ride?

9 A. **I gave Little Mike and Kim a ride, and if I'm
10 not mistaken, it was like 67th and something. Like
11 maybe 67th and Stoney Island.**

12 Q. After you gave them a ride, did you go back
13 to Rice's house?

14 A. **Kim and I decided we was going to go back and
15 try one more time to get him to stop.**

16 Q. And did you do that then?

17 A. **I tried.**

18 Q. Where did you go when you tried that?

19 A. **Back to his house.**

20 Q. Did you go into the house?

21 A. **Went into the house.**

22 Q. At that time where was -- where was Rice at
23 the time?

24 A. **Still upstairs.**

25 Q. Did you smell, you know, like something

1 burning? Did you smell something burning?

2 A. **I know what flesh smells like when it's
3 burning.**

4 Q. And did you smell that?

5 A. **I smelled a trace of it.**

6 Q. After you -- after that happened and you came
7 back, did you go back upstairs to see KB and to see
8 Rice?

9 A. **I went up there to try to get him to stop it.
10 About that time everybody was trying to get him to
11 stop, except for one guy who was still having sex with
12 her. Didn't nobody want to act right; so we left.**

13 Q. Could you see her when you went up that
14 second time?

15 A. **I couldn't see all of her.**

16 Q. Was she moaning or yelling or?

17 A. **Moaning could do it. Groaning, moaning.**

18 Q. And when you went up there that time, did you
19 see Rice with the iron?

20 A. **Fork.**

21 Q. Just the fork yet? Okay.

22 Can you tell me, as best you can recall, what
23 you said to Rice when you went up to the second floor
24 on that occasion and what he said to you?

25 A. **"Hey, man, you need to cut this shit out and**

1 **get rid of this woman. Get this girl up out of here.
2 You got family up in here."**

3 **"Fuck you. Mind your own business."**

4 Q. And the latter was what Rice said to you?

5 A. **Yeah.**

6 Q. And KB was still up on the second floor at
7 that time?

8 A. **Still up on the second floor at that time.**

9 Q. Did you at all at any time take her out of
10 there?

11 A. **I'm not going to fight over that. No.**

12 Q. Well, after Rice told you to get the fuck out
13 of there, what happened next?

14 A. **I left.**

15 Q. If Rice testified at his trial that he
16 claimed that he saw you down in the kitchen going out
17 the back door with KB around -- her arm around your
18 shoulder and neck, was that true?

19 A. **No.**

20 Q. So he was lying if he testified to that at
21 his trial?

22 A. **Yes, he was. I left with Kim.**

23 Q. Where did Kim live at the time?

24 A. **I don't remember.**

25 Q. When you said that after you left there,

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1 that's when you really started drinking heavily, was
2 that because of what you saw involving Rice and KB?

3 **A. I never seen nothing like that before in my**
4 **life.**

5 Q. And you were a young man at the time, right?
6 21 years old or whatever?

7 **A. I was 21, 22 years old. I -- like I said, I**
8 **had just finished school. I did my little thing in the**
9 **Marine Corps. I had a little daughter. I thought I**
10 **was getting ready to move on with my life, and I told**
11 **you I was a Black Stone, and I was, but I wasn't very**
12 **active as a Black Stone. Mostly I was gone out of**
13 **town.**

14 Q. Was Rice active as an El Rukn?

15 **A. I couldn't tell you how active he was.**

16 Q. Okay.

17 **A. That was a safe place for us to party, where**
18 **we won't run into other gangs. If they have a Black**
19 **Stone party or El Rukn party or Viceroy party, those**
20 **were safe for us to go to.**

21 Q. Was the party that you were at when they
22 took -- when KB -- would you have -- was that an
23 El Rukn party or a Black Stone party?

24 **A. Same thing, yeah.**

25 Q. And you said that after you left there, you

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1 went and -- you had a lot to drink, wine and beer, and
2 you might have had some marijuana.

3 Did you do that back at your parents' place
4 or Kim's or where; do you recall?

5 **A. I had a couple of beers on the way, but I got**
6 **home to my mother's house, felt safe then, and got**
7 **drunk.**

8 Q. By the way, when you met last night with Ben,
9 did you review anything? Did you read any of your
10 prior testimony?

11 **A. Did I read any of my prior testimony?**

12 Q. Yes, sir.

13 **A. No, I didn't.**

14 Q. As I recall it, I think if I'm correct, you
15 testified at your motion to suppress when you were put
16 on by Mr. Savage, true?

17 **A. Yes.**

18 Q. And you heard the other witnesses testify at
19 the motion to suppress, correct?

20 **A. No.**

21 Q. Remember seeing Byrne and Dignan testify?

22 **A. Do I remember seeing them testify? No. I**
23 **don't.**

24 Q. And then the only other time I was actually
25 able to see anything that you had actually testified to

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1 was when you gave you statement to Mr. Reed about two
2 or three years ago. Does that sound right?

3 **A. Sounds close enough to me.**

4 Q. When you spoke with Ben last night, what did
5 you talk about?

6 **A. Talked about the case, my life. Pretty much**
7 **same thing you did.**

8 Q. Did you talk about any differences in your
9 testimony between the time you were testifying at trial
10 back in -- or at the motion to suppress back in 1983
11 and your statement that you gave to Mr. Reed in 2005?

12 **A. Clarify that a little bit a little better,**
13 **please.**

14 Q. Sure. Did you testify -- I mean -- strike
15 that.

16 Did you at all discuss with Ben differences
17 in your testimony back in 1983 versus when you talked
18 to Mr. Reed in 2005?

19 **A. Yeah, I believe I did.**

20 Q. What did you talk about?

21 **A. How good my memory could be from then to**
22 **then. I told him I really don't know. And to be**
23 **honest with you, if it came down to it, if the**
24 **testimony from a couple of years ago was to be compared**
25 **to the testimony back then, I would have to agree with**

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1 **the testimony back then instead of the testimony now**
2 **because it had just happened.**

3 Q. So it had been about roughly not quite a year
4 back in 1983?

5 **A. Not quite a year, even if it was that long.**

6 Q. Let's go back to -- I'm going to call it now
7 September 9th of 1982. That's the morning after the
8 events that we've talked about.

9 **A. Um-hum.**

10 Q. Where were you in the early morning hours of
11 September 9th of 1982?

12 **A. In the basement of my mother's house, asleep**
13 **on the couch.**

14 Q. Was anybody else with you at that time?

15 **A. No, there wasn't.**

16 Q. What's the first thing that you recall
17 regarding that morning?

18 **A. A flashlight in my face, people snatching me**
19 **up, telling me to get up.**

20 Q. And other than the flashlight, was there any
21 light on at the time?

22 **A. A little light coming through the basement**
23 **windows.**

24 Q. Was it daylight at the time?

25 **A. It was dawn like. A little daylight come**

1 through the basement windows.
 2 Q. And do you remember what happened after the
 3 police officers -- strike that.
 4 Who was it that had a flashlight in your
 5 face?
 6 A. Police officers they said. They were not in
 7 uniforms. They did not show badges.
 8 Q. And what happened after they had the
 9 flashlight in your face?
 10 A. They got me up, cuffed me, and told me I was
 11 under arrest for rape, attempted murder, and some
 12 other -- something else.
 13 Q. And how many police officers were there?
 14 A. I remember three.
 15 Q. What did they look like?
 16 A. Big white guys.
 17 Q. Anything else you can remember about them?
 18 A. At the time, no. They just heavysset -- or
 19 they looked heavysset to me, anyway. They have guns.
 20 They have flashlights. Then they had me.
 21 Q. My recollection is the only gun you saw was a
 22 holstered gun on one of the police officers. Is that
 23 true?
 24 A. I said guns.
 25 Q. They didn't have the guns out at that time?

1 A. No. They didn't have the guns out at that
 2 time.
 3 Q. All right. What happened after the police
 4 were at your home? What happened next?
 5 A. Well, first my mother had to beg them to get
 6 me dressed before they took me outside. They tried to
 7 take me outside in my drawers and barefooted. Then I
 8 was put in a car and taken over to Mr. Rice's house.
 9 Q. And when you got over -- strike that.
 10 Who was in the car when they took you over
 11 there?
 12 A. Well, I was later told -- I didn't know their
 13 names then -- that it was Diggum and Byrne. Dignan,
 14 Diggum. Am I saying that correctly?
 15 Q. And you did not know their names. You were
 16 told later on --
 17 A. Yeah. I was told.
 18 Q. -- by somebody that was their names, correct?
 19 A. That's correct.
 20 Q. What happened when you got over to Rice's
 21 house?
 22 A. They took me out of the car and put me in a
 23 marked car.
 24 Q. Who was in the marked car with you?
 25 A. I believe it was Little Mike, Stan, and

1 Charles.
 2 Q. When you say Stan, Stanley Rice?
 3 A. Stanley Rice, Charles Rice, Little Mike.
 4 Q. Charles Rice is Stan's brother?
 5 A. Is Stan's brother, but it might not have been
 6 Little Mike. Both of them the same size. It might
 7 have been this other Bobby dude.
 8 Q. Bobby Williams?
 9 A. I don't know his last name.
 10 Q. Who was -- you know, any police officers in
 11 the car?
 12 A. There was a police officer sitting in the
 13 front seat. I can't remember exactly who or if I even
 14 knew. There was a uniform in there for sure and one of
 15 the detectives.
 16 Q. Do you remember who?
 17 A. No, I don't.
 18 Q. What happened next?
 19 A. He left me there for a little while. The
 20 dude up front kept telling us shut up, don't talk,
 21 blah, blah, blah. Then they took me out the car, put
 22 me in an unmarked car.
 23 Q. Let me ask you this: While you were in that
 24 car with Stan Rice, did he at some point say to you
 25 guys to take the heat because I've got -- I've been

1 doing some times?
 2 A. I've been down three times already.
 3 Q. Pardon me?
 4 A. I've been down three times already.
 5 Q. So Stanley Rice said that to you guys?
 6 A. Well, he said that to me at least. I don't
 7 know if he was telling that to everybody or not, but I
 8 took it personally.
 9 Q. So in other words, you were with Stan and he
 10 said that he had already been convicted of three armed
 11 robberies, whatever --
 12 A. He didn't -- he just said he'd been down
 13 three times.
 14 Q. And when he said that to you, you understood
 15 that to mean that he had already been convicted three
 16 times?
 17 A. Yeah.
 18 Q. What did he say he wanted you guys to do?
 19 A. Wanted somebody to take the weight.
 20 Q. Take the weight. What does that mean?
 21 A. Take the case. Take the case.
 22 Q. In other words, he wanted somebody to take
 23 the blame for whatever the injuries were to KB?
 24 A. Yeah.
 25 Q. Somebody other than himself, true?

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1 **A. True.**
 2 Q. What'd you say to him?
 3 **A. Fuck you.**
 4 Q. Now, after they -- you went back into the
 5 detective's car, did they take you over to Jackson Park
 6 Hospital?
 7 **A. Jackson Park Hospital.**
 8 Q. And why did they take you over there?
 9 **A. I have no idea.**
 10 Q. Where did you go when you got over there?
 11 **A. To the emergency room.**
 12 Q. Did you see anybody when you got to the
 13 emergency room?
 14 **A. Did I see anybody?**
 15 Q. Yes. That's not a good question.
 16 **A. The people that was in the emergency room.**
 17 Q. Did you at any time see KB --
 18 **A. No.**
 19 Q. -- when you were in the emergency room?
 20 **A. I was just out there in the -- like the**
 21 **waiting area.**
 22 Q. What happened next?
 23 **A. Come back, put me back in the car, took me**
 24 **back over to Rice's house.**
 25 Q. And who was in the car with you at that time?

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1 **A. Besides the police?**
 2 Q. Well, what police officers were with you?
 3 **A. Dignan and Byrne.**
 4 Q. Anybody else?
 5 **A. I don't think so. If it was, I'm not sure.**
 6 **It seems like it should have been three of them in**
 7 **there, but I can't remember for sure.**
 8 Q. What was there another detective by the name
 9 of Dioguardi?
 10 **A. He popped up.**
 11 Q. Was there some confusion in your mind
 12 regarding the difference between Dignan and Dioguardi?
 13 MR. ELSON: Object to the form of the question.
 14 You can answer if you understand what he's
 15 asking you.
 16 **A. I don't understand what he's saying.**
 17 Q. BY MR. HETTINGER: Well, when you gave a
 18 statement to Mr. Reed, did you say that you weren't
 19 quite sure whether it was Dignan or Dioguardi, and it
 20 was -- you really couldn't recall who was doing what?
 21 You might be mistaken?
 22 MR. ELSON: Objection to the form of the question.
 23 **A. I'm still not quite understanding what you're**
 24 **saying. If you thought Dignan was in charge, if that's**
 25 **what you mean.**

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1 Q. BY MR. HETTINGER: All right. Let's go on.
 2 After you then arrived back at Rice's house,
 3 where'd you go next?
 4 **A. Where'd I go next? To a police car.**
 5 Q. And plain clothes, uniform?
 6 **A. Uniform.**
 7 Q. And what happened then?
 8 **A. I think I was just set there for a while.**
 9 **Then they put me back in the detective car and took me**
 10 **to 91st and Cottage Grove.**
 11 Q. What's located at 91st and Cottage Grove?
 12 **A. Police station.**
 13 Q. Had you ever been there before?
 14 **A. Not cuffed.**
 15 Q. Pardon me?
 16 **A. Not in cuffs.**
 17 Q. Had you ever been there before for any other
 18 reason, not in cuffs?
 19 **A. No. I drove by it a couple of times or**
 20 **caught the bus by a few times, but, no, I don't think**
 21 **I'd ever been in there before that.**
 22 Q. And when you got there, do you remember about
 23 what time of the day it was?
 24 **A. I can't tell you.**
 25 Q. Was it daytime or nighttime?

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1 **A. I can't even remember.**
 2 Q. Where did you go after you got to Cottage --
 3 91st and Cottage Grove?
 4 **A. After we left 91st and Cottage Grove, I think**
 5 **we went to 103rd Street.**
 6 Q. When you got to 91st and Cottage Grove, did
 7 you go into that police station?
 8 **A. Oh, why didn't you say so. Yes, I went into**
 9 **the police station. I was taken up the stairs, taken**
 10 **to about the second floor. I guess it would be the**
 11 **second floor. And put in a room with a ring on it, and**
 12 **cuffed to the ring.**
 13 Q. What were you wearing at the time?
 14 **A. Jeans, shirt, tennis shoes, and a jacket.**
 15 Q. What happened next?
 16 **A. I sat there for a little while. Come in,**
 17 **asked me a few questions.**
 18 Q. Who asked you a few questions?
 19 **A. I believe it was Sergeant Byrne. I not sure**
 20 **if it was --**
 21 Q. What did he ask you?
 22 **A. Hum?**
 23 Q. What did he ask you?
 24 **A. What did I do.**
 25 Q. What'd you tell him?

1 **A. Nothing.**
2 Q. You told him nothing or you didn't say
3 anything?
4 **A. I told him nothing. To the effect, we going**
5 **to talk. I can't remember the exact dialogue right**
6 **now. But they ended up, he left for a minute, he come**
7 **back, uncuffed me from the wall, cuffed my hands behind**
8 **my -- told me to take my jacket off first, and put it**
9 **down. Took my jacket over the cuff, put it down. He**
10 **cuffed me up, told me I was going downstairs to learn a**
11 **little something.**
12 Q. When you were on the second floor, when you
13 first went into that room, were you able to see Rice?
14 **A. I didn't him.**
15 Q. Did you see any of the guys that you were
16 with earlier that evening?
17 **A. I was in a room by myself.**
18 Q. You have to wait till I finish so the court
19 reporter can get us down.
20 **A. Excuse me.**
21 Q. You were in a room by yourself, correct?
22 **A. Correct.**
23 Q. And at any time while you were in Area 2
24 after you were taken up to the second floor -- at any
25 time did you see Stanley Rice until you were down on a

1 bench ready to leave?
2 **A. No, I don't believe I did.**
3 Q. Did you see any of the individuals that had
4 been over at the party at Area 2 between the time that
5 you arrived and the time that you guys were ready to be
6 taken over to 103rd Street?
7 **A. I don't recall ever seeing them. I'm not for**
8 **sure, but I don't recall it.**
9 Q. Okay. After Byrne came in and he cuffed your
10 hands behind your back, what happened next?
11 **A. I was led downstairs.**
12 Q. Did anything happen while you were upstairs
13 in terms of anyone striking you or hitting you while
14 you were upstairs on the second floor before you were
15 taken downstairs?
16 **A. If it was -- I don't remember. If it was, it**
17 **wasn't significant.**
18 Q. What happened after -- strike that.
19 Can you describe for me the stairs that
20 you're talking about that you went down?
21 **A. Just stairs.**
22 Q. Where did they lead to?
23 **A. Led down to the floor we came in on and down**
24 **to another -- another level.**
25 Q. How many stairs were there after you got to

1 the main level? How many stairs did you go down after
2 that?
3 **A. I didn't count.**
4 Q. A long stairway?
5 **A. About a floor, I guess.**
6 Q. Did you have to do a turn as you went down?
7 **A. I can't remember that far.**
8 Q. Who was with you at the time?
9 **A. As I was going down the stairs?**
10 Q. Yes.
11 **A. Dignan, Byrne.**
12 Q. What about Dioguardi?
13 **A. If he was, he was out of my line of vision.**
14 Q. Can you describe Dignan for me?
15 **A. Kind of a, back then, heavyset white guy, big**
16 **hands, kind of thick in the shoulders and all. He had**
17 **a coat, dark hair. Not too much color. Pale, light.**
18 **Best I can do right now.**
19 Q. Can you describe Dioguardi?
20 **A. Dioguardi? No. Right offhand, I can't.**
21 Q. Can you give me any description of him?
22 **A. He was white.**
23 Q. Other than that?
24 **A. No.**
25 Q. Can you describe Byrne for me?

1 **A. Another big white guy with kind of curly-like**
2 **hair.**
3 Q. How tall?
4 **A. Oh, they all seemed tall to me back then.**
5 **I'm going to say about my height, a little -- 6'1",**
6 **6'2".**
7 Q. How tall were you back then?
8 **A. 6'1", 6'2".**
9 Q. Anything else you can describe about Byrne?
10 **A. He was big.**
11 Q. What was he wearing?
12 **A. Same, a jacket.**
13 Q. Any of them have any badges on or anything
14 like that?
15 **A. I think the first time I saw a badge was --**
16 **hell, I don't ever remember seeing them with a badge.**
17 Q. Can you describe the color of the jackets
18 that these guys were wearing?
19 **A. No. I can't even describe the color of my**
20 **own jacket I was wearing.**
21 Q. When you got down the stairs, what happened
22 next?
23 **A. Well, down the stairs I got there, and they**
24 **told me I was fixing to learn a lesson. I come in the**
25 **room, looked up. They had this noose hanging there.**

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1 I'm thinking, oh, shit, here we go. They sit me down
2 on a little stool, cuffed my hands up underneath them,
3 and just started to do their little thing.

4 Q. When you met last night with Ben, did you
5 discuss your testimony back in 1983 regarding what you
6 saw when you got down to the bottom of the stairs?

7 A. He asked me did I remember. And I told him I
8 did.

9 Q. He asked you whether you remembered the
10 noose?

11 A. No. He didn't ask me that. He asked me did
12 I remember what I saw when I came in there.

13 Q. You got downstairs. Where were you when you
14 were down in the basement? What did they do with you
15 or where were you when you got down in the basement?

16 A. In a room with some bars.

17 Q. Okay.

18 A. Bars from floor to ceiling.

19 Q. Were you standing or sitting or what?

20 A. Well, I did walk in on my own, but they put
21 me on a stool. Once they set me on the stool, they
22 cuffed my hands up under the stool, like so. Left me
23 pretty much like this.

24 Q. What happened next?

25 A. Dignan picked up this piece of -- I want to

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1 say it was a hose, but the best I can tell you was it
2 was a piece of rubber, about so long, taped on both
3 ends, blackened duct tape on both ends, and popped me
4 with it a few times.

5 Q. Where'd he pop you?

6 A. Back, shoulders, sides, back, knees, ankles.

7 Q. Did you have any injuries? Did you have any
8 injuries?

9 MR. ELSON: Object to the form of the question.

10 Q. BY MR. HETTINGER: As a result of him, you
11 say, hitting you?

12 A. Did I have any?

13 Q. Yes.

14 A. As far as I know, I knew I was nothing but
15 bruised.

16 Q. You didn't receive any treatment for anything
17 relating to the items that you say he hit you with the
18 hose?

19 A. Did I receive any treatment?

20 Q. Yeah. Did you receive any treatment --

21 A. That night, no.

22 Q. How many times did he hit you?

23 A. I have no idea.

24 Q. Two?

25 A. I'm pretty sure it was more than two, since

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1 he hit me, here, here, here, here, and there. But I
2 don't remember. I don't --

3 Q. Did you testify that it was less than five?

4 A. I don't remember testifying that it was any.

5 Q. So you don't remember testifying how many
6 times he hit you?

7 A. I don't remember how many times he hit me.

8 Q. What happened after that happened?

9 A. One of them said, you think you're a tough
10 mother fucker.

11 Q. Who said that?

12 A. I'm not sure. I'm pretty sure it was Byrne,
13 but I'm not sure because I'm facing this way, and like
14 I say, I'm -- I can't move. I don't know exactly which
15 one it was. But I seen Byrne standing there with his
16 little -- at first I thought it might have been a billy
17 club. Then I saw it in his hand. It was a flashlight.
18 And they say, well, you know, all tough mother fuckers
19 holler sooner or later, and he hauled off and hit me in
20 the chest with the damn thing.

21 Q. Then what happened?

22 A. I still just kind of looked at him, and then
23 he took the mother fucker and jammed it into my nuts
24 and that's when I said, fuck this, I started hollering.

25 Q. Then what happened?

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1 A. I got hit a few more times.

2 Q. Where?

3 A. Groin.

4 Q. Okay.

5 A. Back. Knee. So maybe the elbow.

6 Q. How many times?

7 A. I don't remember.

8 Q. What happened then?

9 A. Then they made sure I looked up at the noose
10 and told me that those -- what's that old story again?
11 We'll hang your ass; tell everybody that you hung
12 yourself, but we hang niggers here all the time or
13 something to that effect.

14 Q. Can you tell me exactly what they said?

15 A. I can't tell you exactly what they said.

16 That was 26 years ago.

17 Q. What happened after that?

18 A. What happened after that?

19 Q. What happened after that?

20 A. They told me to tell them what happened in my
21 own words, and it better be the truth.

22 Q. And did you?

23 A. I did.

24 Q. You told them what happened, correct?

25 A. I told them what happened.

1 Q. And when you say you told them what happened,
2 you told them what happened over with KB and Rice and
3 yourself over at Rice's home?

4 **A. I told them exactly what happened from the
5 time I picked her up to the time they got me.**

6 Q. Then what happened?

7 **A. They said you did good. Tell the same thing
8 to the state's attorney.**

9 Q. And what happened next?

10 **A. They uncuffed me, took me to another room
11 upstairs.**

12 Q. How long were you downstairs?

13 **A. I have no idea. No idea.**

14 Q. When you were downstairs, did you see anyone
15 other than the two police officers you've described?

16 **A. I saw another police officer, but I couldn't
17 tell you who it was.**

18 Q. When you yelled out, did anybody respond?

19 **A. No.**

20 Q. Did you at any time, while you were down in
21 that basement, see Stanley Rice or any of the other
22 persons who were at the party in the basement?

23 **A. Did I see them? No.**

24 Q. When they took you out, where did they --
25 where did they take you after they took you out of the

1 basement?

2 **A. Took me to a room with a table and chairs,
3 sat me down, cuffed me to the wall, told me that I
4 better tell -- the state's attorney was coming. I
5 better tell him the same thing I told them.**

6 Q. Then the state's attorney did arrive,
7 correct?

8 **A. Yeah.**

9 Q. About how much time went by between the time
10 that they took you upstairs and the time that the
11 assistant state's attorney arrived?

12 **A. Again, I'm not sure. My timing was off at
13 the time, but -- and this is only a guess. 20 to 30
14 minutes.**

15 Q. Now, when the assistant arrived, did he
16 introduce himself to you?

17 **A. He may have.**

18 Q. Okay. And he told you that his name was
19 Kenneth McCurry, and he was an assistant state's
20 attorney, correct?

21 **A. Again, I don't remember the name. I said he
22 may have.**

23 Q. I'm going to represent to you that the
24 assistant state's attorney that was there that night
25 that testified at your trial and Rice's trial was

1 Assistant State's Attorney Kenneth McCurry. I'm going
2 to represent that to you.

3 When McCurry came in, did he then go through
4 and advise you of each and every one of your rights?

5 **A. Yes.**

6 Q. And did he ask you whether you understood
7 those rights?

8 **A. Yes.**

9 Q. And then did he ask, having known your rights
10 and understood them, do you wish to make a statement?

11 **A. Yes.**

12 Q. And at that time did you say yes?

13 **A. Yes.**

14 Q. And at that time did you give him a
15 statement?

16 **A. After he said that I made the statement under
17 my own without duress or anything, then I said yes, and
18 then I gave the statement.**

19 Q. And you told him you were making it on your
20 own and your own words, correct?

21 **A. Yes, I did.**

22 Q. And then you gave him a statement regarding
23 the incident that happened over with KB; is that
24 correct?

25 **A. Yes, I did.**

1 Q. And the statement included the fact that you
2 told him that Rice had burned her with some object,
3 correct?

4 **A. Correct.**

5 Q. Did you at any time tell the assistant
6 state's attorney, McCurry, that the police officers had
7 beat you?

8 **A. No.**

9 Q. Did you at any time tell him that they hit
10 you with the flashlight?

11 **A. No.**

12 Q. Did you at any time tell him that they hit
13 you with a hose?

14 **A. No.**

15 Q. Did you at any time tell him that they had
16 struck you with their fists or in any way?

17 **A. No.**

18 Q. Did you at any time ask him for some help
19 because of what the police officers did to you --

20 **A. Of course not.**

21 Q. Pardon me?

22 **A. No.**

23 Q. Why not?

24 **A. I'm a black kid in the City of Chicago with
25 some white cops and a white state's attorney in 19 --**

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1 **huh-uh. It doesn't work.**

2 Q. Well, you knew that he was an assistant
3 state's attorney, correct?

4 **A. Assistant state's attorney that came in
5 laughing and joking with the same police officers that
6 hit me. No good.**

7 Q. So even though he was an assistant state's
8 attorney, sworn to uphold the law, you did not tell him
9 anything about what happened to you that you say
10 happened to you down in the basement of Area 2, true?

11 **A. That's true. By the same token, aren't those
12 same police officers sworn to hold the law like that.
13 They did it anyway.**

14 Q. Had you ever seen McCurry before that?

15 **A. No.**

16 Q. Did he have --

17 **A. I never seen Byrne and Dignan before that
18 either.**

19 **(Recessed from 11:23 a.m. to 11:49 a.m.)**

20 Q. BY MR. HETTINGER: The record should reflect
21 that we're back on the record. The deposition of
22 Rodney Benson.

23 Mr. Benson, I think when we were last
24 talking, you were having a conversation with the
25 assistant state's attorney, correct?

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1 **A. I don't remember.**

2 Q. After you came upstairs and you were in a
3 room with a table and chairs, the assistant state's
4 attorney came up to talk to you, correct?

5 **A. Didn't we leave off with you asking me why I
6 didn't tell him that I got beat?**

7 Q. Yeah. Let's go with that. I think that's
8 what I was saying -- I know -- strike that.

9 You did not tell him at any time that you had
10 been hit with a flashlight, hit with a rubber hose,
11 punched, or anything like that, correct?

12 **A. That's correct.**

13 Q. And you knew he was an assistant state's
14 attorney, correct?

15 **A. I was told he was an assistant state's
16 attorney.**

17 Q. That's how he identified himself to you?

18 **A. That's how he identified himself to me.**

19 Q. Right. And he said he wasn't your attorney.
20 You knew that, right?

21 **A. I knew that.**

22 Q. And that he had gone through all the
23 various -- the rights that are under Miranda with you,
24 correct?

25 **A. Right.**

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1 Q. And you said you understood and then you gave
2 him a statement. You told him what you told us earlier
3 today regarding what happened with KB on the late night
4 hours of September 8th and the early morning hours of
5 September 9th, 1982, correct?

6 **A. Correct.**

7 Q. Now, after he spoke with you the first
8 time -- by the way, who was in the room with you when
9 Mr. McCurry spoke you the first time?

10 **A. Again, I know one of cops was Byrne. I don't
11 know the other cop. I don't know if it was Dignan or
12 Dioguardi. Why? Because I didn't see him. All I knew
13 is he was standing over there.**

14 Q. And then at some point after you told
15 Assistant State's Attorney McCurry what happened, did
16 he leave the room?

17 **A. Yes. He left the room.**

18 Q. And all the -- and whoever was there in terms
19 of any police officers, they left the room also,
20 correct?

21 **A. One of them told me I did real well.**

22 Q. Then they left the room?

23 **A. Then he left the room.**

24 Q. Sometime after that, did McCurry come back to
25 you again?

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1 **A. Came back and told me I was lying.**

2 Q. And at that time there weren't any police
3 officers with him, true?

4 **A. That is true.**

5 Q. And at that time when he came back to see
6 you, did you at any time at that time, when there
7 weren't any police officers with him, tell him what
8 happened downstairs?

9 **A. No.**

10 Q. Did he explain to you that he had talked to
11 someone else about what happened with KB?

12 **A. No. He just said I was lying.**

13 Q. What'd you say?

14 **A. I didn't say much of nothing.**

15 Q. Did you repeat the story?

16 **A. He didn't ask me to repeat it.**

17 Q. Did you say anything to him in terms of any
18 information relating to the incident that involved KB?

19 **A. The only thing I can remember for sure saying
20 was, "I'm not lying."**

21 Q. And how long did that discussion go on?

22 **A. Not long at all.**

23 Q. What happened next.

24 **A. Told me he didn't believe he. He said you
25 were lying and he left. Then the police come back in,**

1 "You're lying. We know you're lying. We're going to
2 get you. We're going to make you burn, go to jail."
3 That's it.

4 Q. Who told you that?

5 A. My sequence is out of order, but it was
6 either Dignan or Byrne.

7 Q. By the way, were you sort of drunk when you
8 went over there to the police station that morning?

9 A. No. I think all the vestige of being drunk
10 was gone.

11 Q. Did you say earlier you were pretty fuzzy?

12 A. I was fuzzy.

13 Q. Does that mean you were still having the
14 effects of the alcohol that you were having the night
15 before?

16 A. It means I was being snatched out of my bed
17 in the early morning hours and not knowing what was
18 going on.

19 Q. After a night of heavy drinking, true?

20 A. After a night of drinking.

21 Q. After McCurry came into the room the second
22 time and then left, what happened after that? After
23 the police officer you said came in and said those
24 things to you, what happened next?

25 A. Well, I think I was led downstairs to a

1 bench.

2 Q. At any time while you were at Area 2, did you
3 see anyone hit or strike Stanley Rice?

4 A. Did I actually see it? No.

5 Q. Did you see anyone hit or strike Bobby
6 Williams?

7 A. Did I see it? No.

8 Q. Did you see anyone hit or strike Little Mike?

9 A. No.

10 Q. At any time did you hear any of those
11 individuals talking to any of the police officers?

12 A. No.

13 Q. At any time did you hear any of them doing
14 anything?

15 A. As I say -- as I said before and I said now,
16 I did not actually hear nor could identify any one
17 voice. All I could hear was the same thing that I was
18 going through, swack, swack, ouch, ouch, ooch, ooch.

19 Q. And that's what you're saying you did; is
20 that correct? That's what you did?

21 A. Well, it was a little more abbreviated than
22 that. I just cut it down for the . . .

23 Q. So at no time were you able to identify
24 anyone who may have been saying anything or may have
25 been verbalizing anything in the station after you got

1 to Area 2, true?

2 A. True.

3 Q. Did you see any other police officers there
4 at Area 2, uniform or otherwise, while you were sitting
5 in the room on the second floor?

6 A. Pass by the door.

7 Q. Did you at any time tell those officers what
8 had happened to you?

9 A. No.

10 Q. Did you see any uniformed police officers?

11 A. Yes, I saw uniforms.

12 Q. Did you see the same sergeant that you had
13 seen on the street earlier that night when KB was in
14 your car?

15 A. I don't believe I did.

16 Q. Was there like a desk sergeant sitting out on
17 the second floor?

18 A. I don't remember seeing one.

19 Q. First floor desk sergeant?

20 A. There was somebody sitting out there. I
21 couldn't tell you what they were.

22 Q. I take it that if they were there, you didn't
23 say anything to them about what you say happened down
24 in the basement, true?

25 A. True.

1 MR. ELSON: Object to the form of the question.

2 A. I just tell you the truth. I wasn't saying
3 nothing to nobody in that police station about nothing
4 that happened to me in that police station until I got
5 out of that police station, if I got out of there.

6 Q. BY MR. HETTINGER: Well, let me ask you this:
7 You went to court maybe the next --

8 A. You dropped something.

9 Q. Thanks.

10 Did you go to court like in a day or two?

11 A. Court? I don't know.

12 Q. After you were taken down to a bench in
13 Area 2, what happened next?

14 A. Went to 103rd Street.

15 Q. Who went with you?

16 A. Well, I remember just being -- I guess they
17 was arrested, too.

18 Q. How about Stanley Rice?

19 A. Saw Stan. I'm pretty sure I saw who would
20 you call Bobby. And I'm almost sure Charles was there,
21 too.

22 Q. So Charles Rice and Bobby Williams, if I'm
23 telling you the right name?

24 A. Yes.

25 Q. Did Stanley Rice say anything to you when you

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1 were on the bench?

2 **A. Just looked like shit.**

3 Q. Did he say anything to you about whether you
4 told the police what he had done?

5 **A. No, he didn't say nothing to me.**

6 Q. Did he know at that time that you had told
7 the police that he was --

8 **A. I haven't --**

9 Q. That he was one of the persons who was
10 involved in the burning of KB?

11 MR. ELSON: Objection, calls for speculation.

12 **A. I have no idea.**

13 Q. BY MR. HETTINGER: Have you ever had a
14 discussion with him regarding the fact that you told
15 the assistant state's attorney and the police that he,
16 Stanley Rice, was the one who burned KB?

17 **A. No.**

18 Q. What happened after you were taken over to
19 103rd Street? What happened next?

20 **A. Well, I was fingerprinted and photographed,
21 gave a phone call. Pretty much it.**

22 Q. You called who? Your mom?

23 **A. Yeah.**

24 Q. They took a photograph of the upper part of
25 your body? Your face?

1 or did you go to the courtroom or where?

2 **A. Yeah. County jail.**

3 Q. And had you ever been in the county jail
4 before?

5 **A. You know, I don't recall ever being in there
6 before.**

7 Q. Did you see a judge at that time when you got
8 down there?

9 **A. I don't think I did. Not right away. I
10 don't know.**

11 Q. Was there a bond hearing?

12 **A. Not that same day, I don't think.**

13 Q. Did you get out on bond at some point?

14 **A. Yeah. I got out on bond eventually.**

15 Q. Do you remember who the judge was that set
16 the bond?

17 **A. No, I don't.**

18 Q. Was it Judge Fitzgerald?

19 **A. I don't remember who set the bond.**

20 Q. And you made bond, correct.

21 **A. I made bond.**

22 Q. Did you remain out on bond during the entire
23 pendency of the case?

24 **A. Yes, I did.**

25 Q. After -- strike that.

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1 **A. A mug shot.**

2 Q. Mug shot. And they printed you at that time
3 over at 103rd Street?

4 **A. Yes.**

5 Q. Where did you go next?

6 **A. 11th Street.**

7 Q. 1121 South State?

8 **A. I don't know the exact address. It's 11th
9 and State.**

10 Q. It was the police building at 11th and State;
11 is that correct?

12 **A. That's correct.**

13 Q. What happened when you were over there?

14 **A. Nothing. Put in a bullpen. Sat a while.**

15 Q. Stanley Rice with you?

16 **A. Was he with me? No.**

17 Q. How about Bobby?

18 **A. None of them were.**

19 Q. None of them. Just you?

20 **A. If they were there, I didn't see them.**

21 Q. And where'd you go next?

22 **A. 26th and California.**

23 Q. And whereabouts 26th and Cal?

24 **A. Whereabouts is it?**

25 Q. Whereabouts? Did you go to the county jail

1 Did Mr. Savage file any motions on your
2 behalf?

3 **A. I'm sure he filed several motions on my
4 behalf.**

5 Q. Was there a motion to suppress your
6 statement?

7 **A. Yes, there was.**

8 Q. Who was the attorney for Mr. Rice?

9 **A. I have no idea.**

10 Q. Does the name Jones sound familiar?

11 **A. No, it doesn't.**

12 Q. What judge was the case assigned to?

13 **A. I don't remember.**

14 Q. If I tell you that it was judge Thomas
15 Fitzgerald, does that sound correct?

16 **A. I don't remember.**

17 Q. You don't know?

18 **A. I remember Fitzgerald and Gillis and Thomas,
19 and I don't know in what order, what sequence, or even
20 if I even saw them all.**

21 Q. Were you before Judge Gillis?

22 **A. I don't -- that's the three judges I
23 remember. Gillis, Thomas, and Fitzgerald, but I don't
24 remember the sequence or the order or even if I did see
25 them all. I think those names are correct, though.**

1 Q. And you testified at your hearing on the
2 motion to suppress your statement; is that correct?

3 A. **Yes, I did.**

4 Q. And that was heard by a judge and you don't
5 recall what the name of the judge was, true?

6 A. **No, I don't.**

7 Q. And did the judge grant or deny the motion?

8 A. **Denied it.**

9 Q. After the motion was denied, how much time
10 went by between the time that it was denied and the
11 time that you pled guilty?

12 A. **Don't remember.**

13 Q. What did you plead guilty to?

14 A. **I was told I was pleading guilty to assault
15 and devious sexual assault.**

16 Q. And you had told the assistant state's
17 attorney that you had had intercourse with KB; is that
18 correct?

19 A. **That's correct.**

20 Q. How many times did you have intercourse with
21 her?

22 A. **Once. You talking about the night in
23 question, right?**

24 Q. The night in question.

25 A. **Yeah. Once.**

1 Q. Was she intoxicated at the time that you had
2 intercourse with her?

3 A. **Yes. She was.**

4 Q. After you pled guilty, did you at any time
5 file any kind of complaint or petition with the Office
6 of Professional Standards?

7 A. **No, I didn't.**

8 Q. Did you ever, in any way, file anything
9 regarding what you say occurred down in the basement of
10 Area 2 other than the motion filed by Mr. Savage on
11 your behalf?

12 A. **No, I didn't.**

13 Q. Do you know what happened to Mr. Rice at the
14 time of his trial in terms of whether he was found
15 guilty or not guilty?

16 A. **I heard he was found guilty.**

17 Q. And do you know what kind of a sentence he
18 received?

19 A. **25 and a day, maybe. I don't remember.**

20 Q. If I were to tell you that he received
21 100 years -- he received 60 plus a consecutive sentence
22 of 40 -- does that refresh your recollection as to what
23 he received?

24 A. **No. I never heard that one.**

25 Q. At any time after Mr. Rice had been

1 convicted, did he at any time contact you to provide a
2 statement in support of any claims that he was making
3 about police activities down at Area 2?

4 A. **Did he personally? I don't recall, no.**

5 Q. Did any attorneys on his behalf contact you
6 to do that?

7 A. **Somebody did try to contact me.**

8 Q. And who was that, if you know?

9 A. **I don't remember.**

10 Q. When was that?

11 A. **I'm not sure.**

12 Q. Do you know how it was that the office of
13 special prosecutor came to see you back in 2005?

14 A. **Well, they never came to see me, but . . .**

15 Q. Okay. That was by way of a conference call?

16 A. **Yes.**

17 Q. At any time had you contacted the office of
18 the special prosecutor to indicate what you say
19 happened to you at Area 2?

20 A. **No.**

21 Q. Between the time then of your conviction in
22 1983 and the time of the statement given by way of a
23 conference call to the special prosecutor's office in
24 2005, did anyone representing Mr. Rice or anyone else
25 meet with you, discuss with you, or have any kind of

1 communications regarding the events that you say took
2 place at Area 2 on the morning of September 9 of 1982?

3 A. **Again, I'm not too sure, but it seems like I
4 remember somebody sent something to my old address, but
5 I didn't get it.**

6 Q. Did you ever have any discussion with a woman
7 investigator from the Office of Professional Standards
8 regarding claims made by Mr. Rice of police activities
9 against him?

10 A. **I don't remember anything like that.**

11 Q. Did you ever have any discussion with Flint
12 Taylor or anyone from his law firm, other than Ben
13 here, regarding what happened to you at Area 2?

14 A. **No one but Mr. Elson there. I didn't know if
15 you heard me.**

16 Q. Other than your discussion with Ben last
17 night when you met and you say 45 minutes, have you had
18 any other either telephone calls or meetings with
19 either him or anyone else from the law firm, the
20 People's Law Office?

21 A. **After I received a letter from the office, I
22 tried to make a collect call to their office. My call
23 would not go through. I ended up making a direct call,
24 and was told that I would get a visitor Sunday before
25 Monday, and that was it. And that was Sunday I got the**

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1 visit, and Monday you're here.
 2 Q. So in other words, this was sometime within
 3 the last couple of weeks?
 4 A. I got the letter from the People's Law Office
 5 last Monday.
 6 Q. And other than your discussion, though, with
 7 Ben last night --
 8 A. I guess the other letters came from you all,
 9 and I didn't get those. These people out here, the guy
 10 with the white hair got it.
 11 Q. That was the subpoena for your deposition
 12 today?
 13 A. Yeah. I believe so.
 14 Q. Did you ever file any appeal of your
 15 conviction for the events involving KB?
 16 A. Did I file an appeal? No.
 17 Q. You presently have any actions pending
 18 relating to your conviction for Robbery One in the
 19 state of Missouri? Any like post-conviction petition
 20 or anything like that regarding your present
 21 incarceration?
 22 A. Well, actually my present incarceration, I've
 23 done 12 on 14 already. All I want to do is get out and
 24 get out. Thank you very much.
 25 Q. Did Mr. Rice or his attorney ask you to

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1 testify for him at his trial, jury trial?
 2 A. No, I don't believe they did.
 3 Q. Did the state ask you to testify for the
 4 state on behalf of the state at Mr. Rice's trial?
 5 A. I'm not sure. I almost think they did, but I
 6 don't actually remember being at trial. I remember
 7 some people in the courtroom, a couple lawyers, a
 8 state's attorney, the judge, when I gave my statement,
 9 but I don't remember nobody sitting at the defendant's
 10 table.
 11 Q. And when you say when you gave your
 12 statement, that was your testimony in support of your
 13 motion to suppress your statement? Or was that your --
 14 when you gave your plea of guilty to the --
 15 A. When I gave my plea of guilty.
 16 Q. Did you ever talk to Bobby Williams either
 17 before or after Mr. Rice's trial concerning his
 18 testimony for the state at Mr. Rice's trial?
 19 A. No, I didn't.
 20 Q. Do you know what he testified to?
 21 A. No, I don't.
 22 Q. Did Mr. Rice say to you when he came
 23 downstairs at one point, "I burned the bitch"?
 24 A. He might have.
 25 Q. What did you say to him?

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1 A. If he told me something like that, I probably
 2 just looked at him crazy or might have told him go --
 3 MR. ELSON: Don't guess. If you don't remember,
 4 you don't remember?
 5 A. I don't know. I don't remember.
 6 Q. BY MR. HETTINGER: Were you ever contacted by
 7 anyone, not through Mr. Rice, but any other individuals
 8 who claim or their attorneys claim that they were the
 9 subject of some type of harassment at Area 2 Homicide?
 10 A. No.
 11 Q. In terms of your testimony, I take it that
 12 the only three officers that had any contact with you
 13 at Area 2 would be Dignan, Byrne, and Dioguardi; is
 14 that correct?
 15 A. That's all I can remember.
 16 Q. There was never any contact by
 17 Lieutenant Burge or anyone like that, correct?
 18 A. I don't remember any of them.
 19 Q. So the only three that you're able to recall
 20 are the ones that you've mentioned here in your
 21 testimony?
 22 A. That's the only thing I can recall.
 23 Q. And I take it that at no time did Assistant
 24 State's Attorney McCurry ever beat you, correct?
 25 A. No, he didn't.

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1 Q. Can you describe him for me?
 2 A. No, I can't.
 3 Q. Was he Caucasian or African American?
 4 A. I'm pretty sure he was Caucasian.
 5 Q. And I take it that he never threatened you in
 6 any way, correct?
 7 A. No, he didn't.
 8 Q. When you saw Rice for the first time when
 9 you're back down on the bench after you say you had --
 10 you know, were up on the second floor and then you were
 11 getting ready to be shipped to 103rd Street, tell me
 12 what he looked like at that time?
 13 A. Looked bad.
 14 Q. Where?
 15 A. No better description than that.
 16 Q. Where?
 17 A. Hum?
 18 Q. What part of him looked bad?
 19 A. Well, he wasn't naked; so I couldn't tell you
 20 what parts.
 21 Q. Did you see any evidence of any -- being hit
 22 anywhere?
 23 A. Only by the way he held himself and moved.
 24 Q. So just by his movements; is that correct?
 25 A. Um-hum.

1 Q. Not anything you could see visually?
 2 A. **The only thing I could see visually and I**
 3 **told -- I'm not sure about what it was. He had dark**
 4 **stains around his shirt collar.**

5 Q. And as I recall, you could not say one way or
 6 the other whether that was or was not any blood,
 7 correct?

8 A. **I couldn't. That's what I just said then. I**
 9 **couldn't tell you what it was. It was just dark stains**
 10 **around his collar.**

11 Q. I take it, was there any time that you had
 12 any bleeding on you?

13 A. **On me?**

14 Q. Yes.

15 A. **Not that I recall.**

16 Q. And when you saw Little Mike, did you see any
 17 indication that he had been whooped?

18 A. **Just the way he walked.**

19 Q. Just what he told you, correct? You didn't
 20 see any evidence of what he actually -- being whooped?

21 A. **Like I said, just the way he walked and held**
 22 **himself, too. That's it. I didn't see no bruises.**

23 Q. And is it true that you couldn't say for sure
 24 whether he was or was not because you didn't see
 25 anything?

1 A. **I didn't see it.**

2 Q. Same is true about Rice?

3 A. **I didn't see him whooped.**

4 Q. Is it fair that, as you sit here today, you
 5 really cannot say for sure one way or the other whether
 6 it was Dioguardi or Dignan or Byrne that was with you
 7 downstairs?

8 MR. ELSON: Object to the form of the question.
 9 You can answer.

10 A. **Dignan was the one that hit me with the**
 11 **rubber.**

12 Q. BY MR. HETTINGER: Do you remember being
 13 asked --

14 MR. ELSON: Were you finished with your answer?

15 THE WITNESS: I guess that's all he wanted to
 16 hear.

17 Q. BY MR. HETTINGER: Do you remember being
 18 asked this question and giving this answer:

19 "And that was Detective Dignan and Sergeant
 20 Byrne?

21 "ANSWER: I might have had their names
 22 crossed up. It was just three white guys. I couldn't
 23 say for sure. I had been drinking all night and was
 24 kind of blurry. All I know is -- and I didn't really
 25 find their names out until later on. So I could be

1 confused about which was which."

2 Do you remember giving that answer --

3 A. **Yes, I do.**

4 Q. -- when you were under a sworn statement on
 5 or about May 26th of 2005?

6 A. **Yes, I do.**

7 Q. So you may have been confused as to who was
 8 who, correct?

9 A. **Well, he wanted an answer right there. I**
 10 **gave it to him.**

11 Q. Remember being asked this question and giving
 12 this answer. Same sworn statement.

13 "And who were you hit by?

14 "ANSWER: I wasn't sure at the time, and I'm
 15 not really sure now. But it seems like it was Dignan.
 16 Dignan, whatever his name was."

17 Remember giving that answer to that question?

18 A. **Yes, I do.**

19 Q. So you weren't sure then, and you weren't
 20 sure at the time who was hitting you, true?

21 MR. ELSON: Object to the form of the question.
 22 Vague, confusing.

23 You can answer that if you understand what
 24 he's asking.

25 Q. BY MR. HETTINGER: You can answer.

1 A. **Yes. I knew what I said and I knew what I**
 2 **meant. I wanted to know who he was before I said**
 3 **anything else.**

4 Q. By the way, when you gave your statement to
 5 Mr. Reed in 2006, you said in that statement that they
 6 hit you upstairs, correct?

7 A. **If I did, it was because they confused me.**

8 Q. Well, do you remember giving that answer to
 9 him at that time that you thought it was -- you said it
 10 was upstairs, and after that you changed your testimony
 11 to him or your sworn statement saying it must have been
 12 downstairs?

13 A. **I remember from the beginning it was**
 14 **downstairs. I also remember from this 2005 I told this**
 15 **guy to shove it. Did they write that in there?**

16 Q. You told Mr. Reed to shove it?

17 A. **Yes, I did.**

18 Q. When did you tell him that?

19 A. **Every time he asked me one of them backwards**
 20 **questions.**

21 Q. Remember giving him this statement concerning
 22 your confusion about where it occurred? He asked you
 23 whether you remember that it occurred downstairs. Then
 24 he says, "Does that refresh your recollection?"

25 "ANSWER: It does, but now that places me bad

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1 because I was thinking that it happened upstairs."
 2 Did you give that answer to that question?
 3 **A. Yes, I did.**
 4 Q. So you were confused at the time that you
 5 gave this statement?
 6 **A. No, I wasn't. I did that intentionally.**
 7 Q. Why did you do it intentionally?
 8 **A. Because he kept asking me stupid things over**
 9 **and over again; so I started giving him the same answer**
 10 **different ways.**
 11 Q. Are you giving me straight answers, or are
 12 you giving me answers that --
 13 **A. I'm trying to give them to you straight as I**
 14 **can.**
 15 Q. If I ask you a question and you think it's
 16 stupid or you think it's -- you don't understand it,
 17 will you let me know?
 18 **A. Right off the bat.**
 19 Q. Remember telling him, that is, Reed, that he,
 20 Byrne, didn't hit you with a flashlight. He tried to
 21 smash you and hit you with his fist in the back, not
 22 the flashlight. Remember that?
 23 **A. No, I don't remember that.**
 24 MR. ELSON: Object to the form of the question.
 25 **A. I don't remember telling him that.**

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1 Q. BY MR. HETTINGER: Can I read it back to you?
 2 **A. Um-hum.**
 3 MR. ELSON: Can you give me the page number?
 4 Q. BY MR. HETTINGER: It's real long and I'm not
 5 going to go with that.
 6 So your recollection now is that he hit
 7 you -- he, Byrne, hit you with a flashlight and didn't
 8 hit you in the back with a fist?
 9 **A. I didn't say he didn't hit me in the back**
 10 **with a fist.**
 11 Q. Did he hit you in the back with a fist?
 12 **A. He hit me with something back there. I**
 13 **couldn't see. Near as I could tell he might have had**
 14 **the flashlight in his fist and hit me with it. I can't**
 15 **see behind my back.**
 16 Q. You know, after you were at county jail and
 17 after you were released on bond, you never went to see
 18 any doctor after that for any of the problems you said
 19 occurred as a result of being with -- let me finish.
 20 Of being with Byrne and Dignan; is that correct?
 21 **A. That is correct.**
 22 Q. And was there -- do you remember a Dr. Atar,
 23 A-t-a-r, testifying for the state at your motion to
 24 suppress your statement?
 25 **A. Do I remember? No.**

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1 Q. So you don't remember and you don't remember
 2 what he testified to?
 3 **A. I don't remember a Dr. Atar even being there.**
 4 Q. How many times did Byrne hit you with a
 5 flashlight?
 6 **A. Again, I don't know.**
 7 Q. And did you tell Byrne and Dignan, once you
 8 started telling them what happened, that everybody took
 9 turns having intercourse with the victim?
 10 **A. Yes. Yes, I did. She was a party girl.**
 11 **That's what happens.**
 12 Q. Do you remember telling that Stan came down
 13 and put an iron on the stove, then went upstairs?
 14 **A. Again, with the iron. No iron. It was a**
 15 **fork I saw.**
 16 Q. Well, at your motion to suppress, you were
 17 asked by the assistant state's attorney about certain
 18 things you told the police, correct?
 19 **A. Correct.**
 20 Q. Do you remember being asked this question and
 21 giving this answer. This was at your motion to
 22 suppress and you were under oath at the time, true?
 23 Were you under oath at the time of your --
 24 **A. Motion to suppress?**
 25 Q. Yes.

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1 **A. I believe I was.**
 2 Q. And it's -- the date is May 3rd of 1983.
 3 You were asked the question: "You said you
 4 got on what?"
 5 "ANSWER: I got on the woman. I had
 6 intercourse with the woman. When I got off, I was
 7 followed by Michael Fowler. And after that I went
 8 downstairs again. Then I was sitting in the kitchen,
 9 sitting with a girl named Kim, and this other guy. I
 10 can't recall his name. We sat there and we were
 11 listening to the noise upstairs. And at some point
 12 Stan came down and put an iron on the stove and went
 13 back upstairs. He came back down again and said he had
 14 burned her. I told him, I said, no, he didn't. And I
 15 went up there to see. And when I went up there to see,
 16 I observed her having intercourse with someone else.
 17 And while I was on the stairs, I saw Stan come back
 18 again with the iron and bump her about three times with
 19 it.
 20 "QUESTION: Bump her?
 21 "ANSWER: Bump her.
 22 "QUESTION: What do you mean bump her?
 23 "ANSWER: You know, touch her with the
 24 oven -- with the iron."
 25 Remember giving those answers to those

1 questions in 1983, shortly after the incident in this
2 case?

3 **A. I remember that, and I also remember even**
4 **then I said fork. Where the iron come from, I don't**
5 **know.**

6 Q. Okay.

7 **A. It was a two-prong fork.**

8 MR. HETTINGER: Just a minute. I'll take just a
9 second. Can we talk for a second?

10 (Mr. Hettinger and Ms. Ekl conferred briefly
11 outside the room.)

12 Q. BY MR. HETTINGER: Mr. Benson, just a couple
13 more questions.

14 **A. Yes, sir.**

15 Q. You said that when Mr. Reed talked to you on
16 the phone, took your sworn statement on the phone, you
17 told him things that were not accurate because you did
18 not like some of his questions, something like that.

19 **A. That's not exactly what I said, but you can**
20 **round it off that way, if that's the way you feel.**

21 Q. I want to make certain of something today.

22 **A. Yes, sir.**

23 Q. I've asked you a lot of questions this
24 afternoon, this morning and this afternoon, and I
25 appreciate your time being here and your answers. I

1 just want to make certain.

2 Have you told us today everything that you
3 believe to be accurate and correct regarding what
4 happened with the Area 2 detectives and police officers
5 on the dates of September 8th and 9th, 1982?

6 **A. Now, the dates, all that little detail,**
7 **accuracy there, I can't be sure of.**

8 Q. Okay.

9 **A. I'm not even going to try to tell you.**

10 Q. Let me try to rephrase it.

11 Have you given us an accurate -- strike that.

12 Have you given us a complete description of
13 what the police did to you when you were arrested and
14 taken to Area 2 on the incident involving Karen Byron?

15 **A. Again, to the best of my memory. My memory,**
16 **I've given you all I know as best I can.**

17 MR. HETTINGER: Thank you very much. I don't have
18 any further questions. Some of the other attorneys may
19 have some questions for you.

20 EXAMINATION

21 BY MS. EKL:

22 Q. I have a few questions. My name is Elizabeth
23 Ekl, another one of the attorneys that represents some
24 of the defendants in this case. I'm just going to kind
25 of go back through some of the questions that

1 Mr. Hettinger asked you. I just have some clarifying
2 questions.

3 If at any point in time while I'm asking you
4 questions, if you think that I'm asking a poor
5 question, please let me know. I don't want to get in a
6 situation where you think that I'm trying to be
7 antagonistic, and you're just giving me answers to give
8 me answers. I'm just trying to get to the truth.

9 **A. I'm going to make a deal with you.**

10 Q. All right.

11 **A. If you ask me something I don't like or I**
12 **don't want to answer how I feel, I just won't say**
13 **nothing.**

14 Q. You let me know if you have a problem with
15 the question.

16 **A. Let's go.**

17 Q. Mr. Hettinger asked you whether or not you
18 had been arrested prior to the incident where you were
19 taken down when you were arrested for the incident with
20 Karen Byron.

21 **A. No. He did not ask me that. He asked me had**
22 **I been convicted.**

23 Q. Well, then let me ask the question, had you
24 been arrested prior to that point in time?

25 **A. Yes, I had.**

1 Q. Approximately how many times had you been
2 arrested by the Chicago Police Department?

3 **A. I don't know. Two or three.**

4 Q. Had you ever been arrested by anyone from
5 Area 2?

6 **A. I don't know.**

7 Q. Had you ever been taken to the Area 2
8 headquarters?

9 **A. I don't think so, unless they moved it to**
10 **75th and Ingleside.**

11 Q. The police department that you went to on the
12 day that you were arrested with Karen Byron, had you
13 been to that particular police department on any prior
14 occasions?

15 **A. 91st and Cottage Grove?**

16 Q. Right. Had you been there?

17 **A. Not that I know of.**

18 Q. Do you recall being arrested for a battery
19 and a theft on May 18th of 1982? So that would have
20 been a few -- you know, about five months prior to this
21 incident?

22 **A. Battery and theft May of -- I don't remember**
23 **that one.**

24 Q. Do you know an officer by the name of Officer
25 Phelan.

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1 A. No.
 2 Q. Phelan. P-h-e-l-a-n.
 3 A. No. Can you be more detailed?
 4 Q. Actually, I don't have any details. I was
 5 hoping that you could provide those to me.
 6 A. No.
 7 Q. There was a case and your rap sheet that
 8 shows you were arrested on May 18th, 1982. It says a
 9 battery from June 1st, 1982, and that it was dismissed
 10 by the state in front of Judge Handy.
 11 I don't know if you have -- that helps
 12 refresh your memory at all.
 13 A. June. I had a fight. I don't even remember.
 14 Just a fight.
 15 Q. Were you arrested for the fight?
 16 A. I must have.
 17 Q. What do you recall about that fight that you
 18 were --
 19 A. Nothing.
 20 Q. Who was the victim of that fight?
 21 A. Me, probably.
 22 Q. Well, if you were arrested, then that would
 23 imply that --
 24 A. That we were both arrested.
 25 Q. There was another -- okay. Do you remember

1 at these parties that you talked about at different
 2 times?
 3 A. Yes.
 4 Q. Were you familiar then with a person by the
 5 name of Jeff Thort?
 6 A. Am I familiar with him?
 7 Q. Did you know who he was?
 8 A. Yes.
 9 Q. You're familiar with the name?
 10 A. I'm familiar with the name.
 11 Q. Who did you know Jeff Thort to be?
 12 A. When I first started he was number two. Then
 13 by '82, '83, I think he took over as the El Rukn
 14 leader, changed his name to something else, Moorish
 15 name or Muslim name or something.
 16 Q. When you say he was number two, what was he
 17 number two in terms of what was the title of the gang
 18 at that point?
 19 A. Black Stones.
 20 Q. So that was before it kind of broke off into
 21 some smaller factions?
 22 A. That was before it broke off.
 23 Q. Did you know a person by the name of
 24 A.D. McChristian?
 25 A. A.D. McChristian. Maybe not by that name.

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1 who the other person was?
 2 A. No. Street fights was fairly common.
 3 Q. Mr. Hettinger asked you some questions about
 4 your involvement in the gang back in 1982. You said
 5 that there was a difference between the Black Peace
 6 Stones, the Peace Stone Rangers and the El Rukns, but
 7 that generally they were all friendly to each other.
 8 Is that a fair characterization of what you --
 9 A. That's a fair characterization.
 10 Q. How were they different? What was the
 11 difference in the different factions?
 12 A. Back then the different factions was the
 13 Black Peace Stones was still basically Black Peace
 14 Stones, where the El Rukn became a more religious
 15 tainted group, Moorish-American.
 16 Q. And then what was the difference between the
 17 black -- was there a difference between the Black Peace
 18 Stone Rangers and just Black Peace Stones, or is that
 19 the same thing?
 20 A. Actually, the Black Stone Rangers was the
 21 original gang. Black Peace Stones was something a
 22 little different down the way. But it was the same
 23 gang.
 24 Q. And generally would different members of
 25 these gangs, of these three different factions hang out

1 Q. Does the name A.D. McChristian sound familiar
 2 at all?
 3 A. Vaguely.
 4 Q. Who do you recall him, to the best of your
 5 memory, to be?
 6 A. I don't. I just kind of remember the name.
 7 Did he have another name?
 8 Q. That I'm not sure.
 9 Did you know the -- what was called the
 10 Main 21? Do you know what I mean when I say that, the
 11 Main 21?
 12 A. Do I remember what that was?
 13 Q. Right.
 14 A. Yes, I do.
 15 Q. Could you just describe your understanding of
 16 what constituted the Main 21?
 17 A. The leaders of the gang.
 18 Q. Was it -- did it make up -- was it a makeup
 19 of 21 different people?
 20 A. 21 different people, 21 different sections of
 21 the city.
 22 Q. Were they each leaders within the 21
 23 different factions? The person at the top was the
 24 leader over the entire --
 25 A. That's correct.

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1 Q. And so when you say that Jeff Thort was
2 number two, was he number two in the Main 21?
3 A. I guess the 21 was still going back then; so
4 I would say yes.
5 Q. Who are some of the other people you can
6 recall being involved in the Main 21 back around that
7 time period of '82, '83?
8 A. Again, I don't know most names. We all went
9 by different names.
10 Q. Even if they were nicknames. What kind of
11 nicknames do you recall?
12 A. Oh, you had Greg, Sylvester, Zoro, Big John,
13 Little John, Mickey -- ooh. You had Blob.
14 Q. Sorry. What was that last one?
15 A. Blob. B-l-o-b.
16 Q. Okay.
17 A. I can't too much -- I'd have to stop and
18 think long and hard on back then.
19 Q. The particular faction that you were a part
20 of, who was in charge of that faction back in '82, '83?
21 A. '82, '83, I'm not sure. I was going under
22 Big John.
23 Q. Do you know what Big John's real name is?
24 A. No, I don't.
25 Q. Did someone else ultimately take over for

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1 Big John as a leader of that faction?
2 A. I have no idea. I've really had no contact
3 with them since.
4 Q. What was the geographical area that made up
5 the specific faction that you were involved in, in
6 terms of what streets encompassed it?
7 A. The 20 -- oh, I don't know how far east, but
8 87th and Stoney Island, Stoney Island down to 67th
9 Street to the lake front.
10 Q. Did you grow up in the same general area most
11 of your life?
12 A. Not really.
13 Q. When did you live in the area around 87th and
14 Stoney Island?
15 A. When I moved back from Arkansas in '70.
16 Q. Were there any other people that you knew
17 that lived in Arkansas that you knew growing up in
18 Arkansas that subsequently moved to Chicago?
19 A. No. I didn't grow up in Arkansas. My mother
20 sent me down there to go to school because she didn't
21 want me getting involved in the streets.
22 Q. So where did you live then -- did you live in
23 Chicago and then you went to Arkansas and then you came
24 back?
25 A. I lived in Chicago. She sent me to Florida

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1 to stay with my father. That didn't work. I came
2 back. She sent me to Arkansas to stay with her
3 brothers and sisters. That didn't work. I came back.
4 Q. Did your mother stay living in the same area
5 pretty much the whole time?
6 A. No. We come from a different area, but ...
7 Q. So did you stay part of that same faction of
8 the Black Peace Stone Rangers or did you change over to
9 different sections as you moved away and came back?
10 A. Did I change gangs?
11 Q. Right.
12 A. Never.
13 Q. Did you ever know Aaron Patterson while you
14 were living in Chicago prior to the incarceration?
15 A. Aaron Patterson. Name doesn't sound
16 familiar.
17 Q. Did you know -- were you familiar with any of
18 the Apache Rangers?
19 A. A few.
20 Q. And the name Aaron Patterson doesn't ring a
21 bell?
22 A. Not right offhand. I'm thinking Jackson.
23 Q. Did you know any people that had -- went by
24 the nickname Ranger?
25 A. Well, a lot of people went by the nickname

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1 Ranger.
2 Q. Did you know anyone by the name of Leroy
3 Orange?
4 A. No, I didn't actually know him.
5 Q. Did you know of him?
6 A. I knew of him.
7 Q. And how did you know of Leroy Orange?
8 A. He was a legend with his hands.
9 Q. And what do you mean by that?
10 A. He could really fight.
11 Q. What particular gang or faction of the gang
12 was he a part of?
13 A. I have no idea. All I heard was he could
14 really fight. Everybody used to -- he was an icon.
15 Q. Did he have any particular position or rank
16 within any gang that you know of?
17 A. Not that I know of.
18 Q. Did you know someone by the name of Tyron
19 McChristian?
20 A. Again, the name sounds familiar, but I'm not
21 sure.
22 Q. What about Michael Tilman?
23 A. I know a Michael Tilman. Know a whole family
24 of Tilmans.
25 Q. Does Michael Tilman have any nicknames?

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1 **A. Yeah.**
 2 Q. What's Michael Tilman's nickname?
 3 **A. He had a couple. Big Mike, Mickey. He had a**
 4 **couple.**
 5 Q. Was Michael Tilman at some point in time part
 6 of the Main 21?
 7 **A. I've heard that. I don't know for sure.**
 8 Q. How did you know Michael Tilman?
 9 **A. I didn't actually know him.**
 10 Q. You didn't know him? You just knew of him?
 11 **A. Knew of him. I'm quite a bit younger than**
 12 **those guys you're talking about.**
 13 Q. Okay.
 14 **A. I'm only 50.**
 15 Q. Do you know how old Michael Tilman is today,
 16 approximately?
 17 **A. 61, '2, maybe. Maybe.**
 18 Q. You've mentioned several times when you were
 19 talking about Karen Byron -- you referred to her as a
 20 party girl.
 21 Can you describe in a little bit more detail
 22 what you meant by that?
 23 **A. She was a neighborhood girl that went around**
 24 **trading sex for alcohol.**
 25 Q. On the particular night before you got

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1 arrested on September 9th, did she make any arrangement
 2 with you to trade sex for alcohol, or was that
 3 something that was just understood?
 4 **A. That particular night?**
 5 Q. Right.
 6 **A. Just understood.**
 7 Q. Had she provided you -- or allowed you to
 8 have sex with her in the past --
 9 **A. Yes.**
 10 Q. -- in exchange for alcohol?
 11 I'm sorry. Just so --
 12 **A. Yes.**
 13 Q. Approximately how many times?
 14 **A. Only once.**
 15 Q. Had you known other people to provide her
 16 with alcohol in exchange for sex?
 17 **A. Had I heard about it? Yes.**
 18 Q. Had you ever been in a similar situation
 19 where you had had sex with her and then other people
 20 had sex with her immediately afterward, as far as you
 21 were aware?
 22 **A. Not that I'm aware of.**
 23 Q. So was that kind of an unusual situation that
 24 night?
 25 **A. For me, yes. I've heard about those things,**

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1 **but for me it was unusual.**
 2 Q. After you picked Karen Byron up and went over
 3 to Stanley Rice's house, I know said you there were
 4 several different -- there were several people at the
 5 house, right?
 6 **A. Correct.**
 7 Q. Do you remember about how many people were
 8 there?
 9 **A. No, I can't.**
 10 Q. Do you remember the names of any other people
 11 other than who you've already listed?
 12 **A. No, I can't.**
 13 Q. When you went into the house, did you
 14 immediately go upstairs, or did you do anything before
 15 going upstairs?
 16 **A. Put some beer and wine in the refrigerator.**
 17 **Took a bottle with me and went on upstairs.**
 18 Q. Did you have any conversation with Karen
 19 before going upstairs?
 20 **A. She asked me for a drink.**
 21 Q. Did you give her one?
 22 **A. Yeah.**
 23 Q. Was she able to stand up on her own at that
 24 point in time?
 25 **A. Yes.**

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1 Q. But would you say she was drunk?
 2 **A. She was a little drunk.**
 3 Q. How much time do you think you were
 4 downstairs before the two of you went upstairs?
 5 **A. I can't remember.**
 6 Q. Did you see Stanley Rice downstairs before
 7 going upstairs, or when was the first time you saw him
 8 that evening? I'm sorry, back at the house. I know
 9 you ...
 10 **A. I don't remember if I saw him downstairs or**
 11 **not before he came upstairs. So I'm going to say I**
 12 **don't know.**
 13 Q. Had you been to Stanley Rice's house in the
 14 past?
 15 **A. Yes, I had.**
 16 Q. About how many times?
 17 **A. A few.**
 18 Q. Was their house kind of known as a party
 19 house?
 20 **A. Yes.**
 21 Q. Their parents had passed away?
 22 **A. Yes.**
 23 Q. So it was Stanley, his brother and sister
 24 that were living in the house?
 25 **A. A couple sisters, yes.**

1 Q. Was there anyone else other than his family,
2 his sisters and his brother that lived there?
3 **A. I can't say.**
4 Q. When you went upstairs with Karen, did you
5 have any conversation with her at that point in time?
6 **A. With Karen?**
7 Q. Right?
8 **A. Yeah. Give me my bottle back.**
9 Q. So she's holding on to your bottle of liquor?
10 **A. Yeah.**
11 Q. Did she go upstairs at that point in time
12 first, or did you know you were going up there to have
13 sex with her, or how did that happen?
14 **A. I knew I was going to have sex with her.**
15 Q. Did you have any conversation with her about
16 having sex at that point?
17 **A. You mean right then?**
18 Q. Yeah.
19 **A. No.**
20 Q. Did she go up before you or after you?
21 **A. She walked before me, but we went up**
22 **together.**
23 Q. And when you went up there, had you been to
24 the second floor of that house in the past?
25 **A. Yes, I had.**

1 Q. So did you know where to find a bed or
2 bedroom?
3 **A. I think there was like an attic.**
4 Q. Is that a place you'd been in the past?
5 **A. Yeah, I'd been there before.**
6 Q. Had you ever been there with Karen?
7 **A. No.**
8 Q. Did you have to tell her where to go, or did
9 she know where to go when she was walking upstairs?
10 **A. I never told her where to go, but I would**
11 **imagine there's only one place to go up the stairs.**
12 Q. So was there a -- it was just an attic up
13 there or were there other rooms?
14 **A. No. When the -- what they call the second**
15 **floor -- it's just open space.**
16 Q. So it wasn't a second floor and then an attic
17 above that? You just went upstairs to a big open
18 space?
19 **A. Yeah.**
20 Q. When the two of you got upstairs, was anyone
21 else up in that open space?
22 **A. I don't remember if there was anybody up**
23 **there already or not.**
24 Q. When you started having sex with Karen, was
25 anyone else in the room?

1 **A. When I first started?**
2 Q. Right.
3 **A. No.**
4 Q. At some point while you were having sex with
5 her, did someone come in the room?
6 **A. Yes.**
7 Q. And who came in the room?
8 **A. Several people.**
9 Q. Do you remember the names of any of them?
10 **A. Well, Bobby and Stan. Charles came through.**
11 **A couple people did, I seen. A couple people I've**
12 **never seen.**
13 Q. Was that unusual for you at that point to
14 have all these people come in when you were having sex?
15 **A. Yeah. It was kind of strange for me.**
16 Q. Did Karen say anything when that happened?
17 **A. No.**
18 Q. Was she saying anything at all during this
19 period of time when you were having sex with her?
20 **A. No.**
21 Q. Was she conscious the whole time or did she
22 pass out at some points?
23 **A. While I was having sex with her?**
24 Q. Right.
25 **A. No. She was still conscious.**

1 Q. Were you able to finish having sex with her
2 or did something happen --
3 **A. I didn't feel comfortable.**
4 Q. Was that because all those people came in the
5 room?
6 **A. Yeah.**
7 Q. And what happened when they came in the room?
8 **A. I got up.**
9 Q. Did they -- did anyone say anything?
10 **A. Probably the usual stuff.**
11 MR. ELSON: Don't guess. If you don't remember.
12 **A. Yeah. I don't remember.**
13 MS. EKL: Ben, I'd ask you not to -- since you're
14 not his attorney.
15 MR. ELSON: Do you want him to guess?
16 MS. EKL: I'll clarify, but I'll just ask that you
17 refrain from commenting until you let him finish his
18 answers.
19 **A. I don't know.**
20 Q. BY MS. EKL: Do you remember Karen saying
21 anything to any of the people that were up there?
22 **A. Do I remember what she said? No.**
23 Q. Do you remember if she said anything?
24 **A. Yes. I remember she said something.**
25 Q. What was the tone of her voice when she was

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1 saying something?
 2 **A. I can't recall the tone of her voice.**
 3 Q. You said when you were still up there that
 4 someone had sex immediately after you?
 5 **A. (Witness nods.)**
 6 Q. I'm sorry. You have to answer out loud for
 7 the court reporter.
 8 **A. Yes.**
 9 Q. Who was that?
 10 **A. I'm not sure. I'm thinking Bobby.**
 11 Q. Did Karen do anything to try to fight Bobby
 12 off?
 13 **A. No.**
 14 Q. Did it appear that she was consenting to
 15 having sex with Bobby at that point in time?
 16 **A. Yes.**
 17 Q. And was she conscious during the point in
 18 time when you watched the two of them having sex?
 19 **A. I didn't watch for long, but she was**
 20 **conscious when I left.**
 21 Q. Did either you or Bobby, while you were
 22 present, engage in any kind of roughness with her, any
 23 kind of rough sex, even if it was consensual?
 24 **A. No.**
 25 Q. Did you or Bobby slap her around at all?

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1 **A. No.**
 2 Q. Did she try to push off either you or Bobby?
 3 **A. No.**
 4 Q. When you walked out of the room, did you say
 5 anything to anyone before you left?
 6 **A. No.**
 7 Q. Were you angry that they came in when you
 8 were having sex with her?
 9 **A. No.**
 10 Q. Did you know Bobby or Stanley Rice or any of
 11 those guys that were up there to be known to engage in
 12 group sex?
 13 **A. Yes.**
 14 Q. How did you know about that?
 15 **A. Word of mouth.**
 16 Q. Did you know any of them to engage in rough
 17 sex?
 18 **A. Did I know of it? No.**
 19 Q. Had you heard of it?
 20 **A. No.**
 21 Q. As you were walking back down the stairs, did
 22 you hear any noises coming from the attic area?
 23 **A. Noises?**
 24 Q. Any kind of noises at all.
 25 **A. It was a party. I heard noises.**

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1 Q. Were there several people talking up there?
 2 **A. Yes.**
 3 Q. And did -- was Karen making any noises?
 4 **A. I didn't hear them, no.**
 5 Q. When you went downstairs, where'd you go?
 6 **A. The kitchen.**
 7 Q. And what'd you do in the kitchen?
 8 **A. Get a drink.**
 9 Q. Who was present in the kitchen, if anyone?
 10 **A. Quite a few people. I have no specifics.**
 11 Q. At some point in time did you see any of the
 12 people that were upstairs come back downstairs?
 13 **A. I'm sure I did.**
 14 Q. Do you remember how much time passed before
 15 they came back down?
 16 **A. No.**
 17 Q. What, if anything, happened when someone from
 18 upstairs came downstairs?
 19 **A. What, if anything, happened?**
 20 Q. Was there -- I'm trying not to lead you.
 21 Was there any kind of conversation that took
 22 place between yourself and anyone from upstairs once
 23 they came back downstairs?
 24 **A. Yeah, I'm sure there was.**
 25 Q. What do you recall about that?

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1 **A. Not much.**
 2 Q. What little bit do you remember?
 3 **A. Are you talking about right then or later or**
 4 **when?**
 5 Q. At that point in time. At that particular
 6 time.
 7 **A. At that point in time. Not much. I don't**
 8 **remember much of anything.**
 9 Q. When's the next time -- how much time passed
 10 from when you came down to when you next saw Stanley?
 11 **A. It had been a minute.**
 12 Q. And tell me everything that you recall seeing
 13 Stanley do or say?
 14 **A. If I remember -- and I'm fuzzy, truly fuzzy.**
 15 **If I remember, he come downstairs talking crazy. I**
 16 **can't remember exactly how -- what kind of crazy he was**
 17 **talking. He was talking crazy. He's the master. He**
 18 **got his own slave now. That kind of crazy.**
 19 **And he told me he burned the girl and I told**
 20 **him he was lying. And I'm not exactly sure the**
 21 **sequence, but I remember going back up and she was**
 22 **having sex with somebody. She was conscious. And I**
 23 **saw him come up with the carving fork, not an iron, the**
 24 **carving fork and bumped her three times, and I'm like,**
 25 **"Man, you need to cut that shit out."**

1 Q. And I'm kind of confused. What do you mean
2 by bumped her?

3 A. **(Witness indicating.)**

4 Q. You mean hit her with the hot iron or the hot
5 fork so the fork part is hitting her skin?

6 A. **Yeah. Bumped. Not holding, not drug, just
7 touched.**

8 Q. So basically -- and I'm just trying to
9 describe it so it's for the record, because I can see
10 what you're doing. But basically held it down for --
11 but not -- just quickly and then lifted it back up; is
12 that fair to say? Like touched her?

13 A. **Like a quick touch.**

14 Q. Do you know how it was that Stanley was able
15 to heat up that fork?

16 A. **On the stove.**

17 Q. So when he came downstairs, did he heat it up
18 before he went back upstairs?

19 A. **I believe so.**

20 Q. How was it that he heated it on the stove?

21 A. **How was it?**

22 Q. Yeah. How did he do that?

23 MR. ELSON: Objection, calls for speculation.

24 A. **I don't -- I don't understand that.**

25 Q. BY MS. EKL: Did you see him heat it up?

1 A. **Did I actually see him heat it up? No.**

2 Q. When you got upstairs and saw him touch Karen
3 with the fork, did you see any marks on her body as a
4 result of that?

5 A. **It was dark.**

6 Q. Were you able to see any marks on her body
7 before that, before he touched her with the fork?

8 A. **She was -- it was dark. She was having sex
9 with somebody. No, I can't say that I did.**

10 Q. Where on her body did he touch her with the
11 fork?

12 A. **What I saw?**

13 Q. Right.

14 A. **Kind of like on the side of the breast.**

15 Q. So was she obviously laying on her back then
16 at that point?

17 A. **Excuse me?**

18 Q. Was she laying on her back then at that
19 point?

20 A. **Yes, she was.**

21 Q. Was someone having sex with her while he was
22 touching her with the fork?

23 A. **Yes, he was.**

24 Q. Who was having sex with her?

25 A. **I don't know.**

1 Q. What was she doing -- what did she do when he
2 touched her with the fork?

3 A. **She groaned.**

4 Q. Did she -- did you see her do anything in
5 regard to the person that was on top of her?

6 A. **I wasn't paying that kind of attention.**

7 Q. How many times did you see him touch her with
8 that fork?

9 A. **Like three times.**

10 Q. And what did you say to him, if anything, up
11 there?

12 A. **"You need to cut that shit out."**

13 Q. Did he say anything in response?

14 A. **"You need to mind your business."**

15 Q. Let me back up.

16 How many other people were in the room
17 besides you and Stanley?

18 A. **I don't remember exactly.**

19 Q. Were there more people in the room than Karen
20 and the person who was having sex with her and you and
21 Stanley?

22 A. **Yes. There was somebody else up there, too.**

23 Q. And was that person saying anything to
24 Stanley?

25 A. **Not that I recall.**

1 Q. Did that person have any type of object that
2 they were touching Karen with?

3 A. **I didn't see nobody do anything else to her.**

4 Q. After he said you need to mind your own
5 business, what's the next thing that happened?

6 A. **I minded my own business.**

7 Q. That's when you left and went back
8 downstairs?

9 A. **I went back downstairs.**

10 Q. What'd you do once you got back downstairs?

11 A. **Well, I'm not exactly sure how -- the
12 sequence of events, but I ended up leaving.**

13 Q. Before you left, did you have any
14 conversation with anyone else about what was going on
15 upstairs with Karen being burned?

16 A. **I'm pretty sure I did.**

17 Q. Who did you talk to?

18 A. **I'm not sure. People in general.**

19 Q. Do you know anything about how Karen got
20 burns to her back?

21 A. **No.**

22 Q. Have you heard anyone talk about burning her
23 with an iron? Even if that's not what you saw, did you
24 hear anyone talk about heating up an iron at some
25 point?

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1 **A. Not until the courtroom.**
 2 Q. You didn't even hear anything about that
 3 after the fact?
 4 **A. I heard it in the court or in the jail. In**
 5 **the court, whatever.**
 6 Q. Other than those -- Karen being touched those
 7 three times, was there any other time that you saw her
 8 being touched with any type of object in which she was
 9 burned?
 10 **A. No, I didn't.**
 11 Q. Did you ever see anyone heat up a spoon?
 12 **A. No. I don't think I did.**
 13 Q. Is it possible, as you sit here that -- you
 14 look a little hesitant. That's --
 15 **A. It's bad enough thinking about the fork. I**
 16 **can't remember anything a little bit more than that.**
 17 **No. I can't remember.**
 18 Q. Do you remember anyone lighting any papers on
 19 fire while you were in the house?
 20 **A. Excuse me?**
 21 Q. Do you remember anything being lit on fire,
 22 any papers, anything like that?
 23 **A. Lit on fire? Like cigarettes? Joints?**
 24 Q. Oh, I'm sorry. No. Just like a piece of
 25 paper being lit on fire.

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1 **A. Do I remember? No, I don't.**
 2 Q. Was there anything on fire at all downstairs
 3 while you were there? Was anything lit on fire?
 4 **A. Nothing but the stove, if that's what you**
 5 **mean.**
 6 Q. Okay.
 7 **A. That I saw.**
 8 Q. How long do you think that you were at that
 9 house total in terms of period of time before you left?
 10 **A. I don't know. Maybe 40 minutes.**
 11 Q. And what was Karen -- what kind of shape was
 12 Karen in the last time you saw her?
 13 **A. It'd be hard for me to say because she was**
 14 **still up there on her back.**
 15 Q. When you had returned back to the house, I
 16 forget who you said you were with at that point in
 17 time.
 18 **A. When I returned?**
 19 Q. Right.
 20 **A. Kim.**
 21 Q. Kim. What was your intention when you
 22 returned to the house?
 23 **A. We had decided we was going to try one more**
 24 **time to talk him out of it, to get her out of there.**
 25 Q. Did you -- what did you think at that point

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1 in time was going to happen after you left?
 2 **A. I didn't know.**
 3 Q. And so what'd you do when you went back to
 4 try to get her out of there?
 5 **A. I just asked -- told him to let her go.**
 6 Q. And, again, he told you to mind your own
 7 business?
 8 **A. Yeah.**
 9 Q. Did he say anything else to you?
 10 **A. Not right -- that I can remember right now.**
 11 **Got indignant, cussed me a bit.**
 12 Q. Did he kind of threaten you at all?
 13 **A. I never paid attention to stuff like that**
 14 **back then.**
 15 Q. How long were you at the house that next
 16 time?
 17 **A. Not long at all. I have no time period, but**
 18 **I doubt if it was 10 minutes.**
 19 Q. When you left, did you have any further
 20 conversation with Kim about what had taken place?
 21 **A. I dropped her off somewhere. I went home.**
 22 Q. And when you returned the second time, did
 23 you see Karen being burned any more than what you had
 24 seen the first time?
 25 **A. No, I hadn't.**

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1 Q. Were people still having sex with her when
 2 you returned?
 3 **A. Yes, they were.**
 4 Q. And do you recall who it was that was having
 5 sex with her?
 6 **A. Nobody knows this guy.**
 7 Q. So it was someone different?
 8 **A. It was the guy with the bike. That's the**
 9 **best I can tell you. Nobody there could -- knew who he**
 10 **was. Never did identify him.**
 11 Q. Was Karen still laying on her back when you
 12 went upstairs or was she in a new position?
 13 **A. Oh, I want to say she was in a new position,**
 14 **but I don't know.**
 15 Q. Was she making any noises when you came back
 16 the second time?
 17 **A. She was moaning.**
 18 Q. Was she -- did you see her at any point
 19 trying to fight off whoever was on top of her or
 20 whoever was having sex with her?
 21 **A. I don't think so. I can't say for sure.**
 22 Q. You mentioned that when you came back to the
 23 house you smelled burning flesh a little bit in the
 24 house?
 25 **A. Burned bacon.**

1 Q. Had you ever smelled someone -- burning skin
 2 in the past before that day?
 3 A. **I had.**
 4 Q. And when had you had occasion to smell
 5 burning flesh?
 6 A. **A fire or two, a car accident once, and**
 7 **another little incident. I forgot what happened then.**
 8 **I think we was in Florida. Somebody accidentally got**
 9 **hit with the lighter fluid.**
 10 Q. So it was the same type of smell when you
 11 came back as those times you --
 12 A. **Like burning bacon.**
 13 Q. You commented earlier that one of the things
 14 you said to Stan Rice was, "Man, you need to get this
 15 girl out of here, you got family around here." I'm
 16 summarizing. I may not --
 17 A. **Yes.**
 18 Q. -- have that exactly right, but what did you
 19 mean by family? Who were you referring to?
 20 A. **His sisters, their kids.**
 21 Q. So --
 22 A. **Little children.**
 23 Q. Were there children living in the house at
 24 that time?
 25 A. **I believe there were.**

1 Q. Were they -- were they present in the house
 2 on that evening?
 3 A. **I believe at least one of them was.**
 4 Q. How old were those children?
 5 A. **They were infants. I think -- I don't know**
 6 **for sure. They be grown now.**
 7 Q. But they would have been -- were they still
 8 toddlers or younger?
 9 A. **Toddlers and infants.**
 10 Q. How many of them were there?
 11 A. **I don't know.**
 12 Q. What's your mother's name?
 13 A. **Ruth.**
 14 Q. What's her last name?
 15 A. **Moore.**
 16 Q. Is that M-o-o-r-e?
 17 A. **Yes, it is.**
 18 Q. Is she still alive today?
 19 A. **Yes, she is.**
 20 Q. Where does she live?
 21 A. **Arkansas, I imagine.**
 22 Q. Did you tell your mom about the mistreatment
 23 by the police after you were released?
 24 A. **Yes.**
 25 Q. What did you tell your mom?

1 A. **I got whooped.**
 2 Q. Did you give her anything -- any of the
 3 details about what happened?
 4 A. **For what? I wasn't planning on pursuing it.**
 5 Q. Other than your mom, who, if anyone else, did
 6 you tell about the fact the police had whooped you?
 7 A. **Howard Savage.**
 8 Q. And who is Howard Savage?
 9 A. **He was my attorney.**
 10 Q. That's right.
 11 Who is Kenny Lewis?
 12 A. **I don't know.**
 13 Q. Do you know who Butch Greenwood is?
 14 A. **No.**
 15 Q. What about Mildred Dyson?
 16 A. **Mildred Dyson. Don't ring no bell.**
 17 Q. Do you know why your attorney would have
 18 listed those people in your answers to discovery as
 19 people you may call at trial in your defense?
 20 A. **No.**
 21 Q. When the police came to your house and
 22 arrested you, did they mistreat you at all in your
 23 house before you were taken out to the car?
 24 A. **Just regular police stuff. I don't -- I**
 25 **wouldn't consider -- you know, just grab you, throw you**

1 **around a little bit, pop you up side the head. That's**
 2 **not really mistreatment; I don't think. Well, it**
 3 **wasn't considered then. Maybe it is now.**
 4 Q. Do you remember, did they pop you up the side
 5 of the head when you were in the house, or is that
 6 something you're just speculating about? Do you
 7 remember them popping you up the side of the head when
 8 you were in the house?
 9 A. **Just snatching me out of bed and holding my**
 10 **head down is all.**
 11 Q. At any point in time between when you were
 12 arrested and then when you were taken over to -- back
 13 to the Rice house, hospital, back to the Rice house,
 14 before you got to the police station, did any police
 15 officers beat you or otherwise physically abuse you
 16 during any of that point in time?
 17 A. **Nothing but the usual police stuff, the**
 18 **little slap up the back of the head, the grab you too**
 19 **tight by the neck to put you in the car. Nothing**
 20 **significant.**
 21 Q. At one point you mentioned that you thought
 22 Dignan was in charge; is that correct?
 23 A. **I did.**
 24 Q. What was it that led you to believe that
 25 Dignan was in charge?

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1 **A. He was the one swinging.**

2 Q. And this is back when you were in the police
3 department, correct?

4 **A. Yeah.**

5 Q. I thought you had said that in the context of
6 the point in time when you were being brought back to
7 Rice's house and then put back in the police car.

8 **A. Race's house?**

9 Q. I'm sorry.

10 **A. Rice's house?**

11 Q. Stanley Rice's house. Was I wrong that --

12 MR. ELSON: Object to the form of the question.

13 Q. BY MS. EKL: So was -- you didn't -- at what
14 point in time did you come to believe that Dignan was
15 in charge? Was it at the police station or some
16 earlier time?

17 **A. When I came to believe it?**

18 Q. Right.

19 **A. Was at the police station. When I started to
20 assume it, was earlier.**

21 Q. And why did you assume it earlier?

22 **A. Just like he was taking the lead in
23 everything.**

24 Q. I know it's been a long time and you've been
25 asked questions over both your motion to suppress and

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1 then by the special prosecutor about what the police
2 did to you and who did it, and I know some of the
3 questions have aggravated you, but I just want to make
4 sure I've got a clear record of everything that you
5 recall today in terms of what -- who struck you and
6 when and what objects you recall, to the best of your
7 memory them hitting you with.

8 So I just want to kind of go through it
9 chronologically in the different locations and just the
10 best of your memory today. If my questions aggravate
11 you, then let me know, just so I can get it. You know,
12 I want a clear --

13 **A. Let's go.**

14 MR. ELSON: Before you go into that, can I have a
15 standing objection, asked and answered since Lee asked
16 all these questions already today?

17 MS. EKL: You can have any standing objection you
18 want.

19 MR. ELSON: Okay. You want to take a break?

20 THE WITNESS: Yeah. A piss.

21 (Recessed from 1:10 p.m. to 1:13 p.m.)

22 THE WITNESS: Let's get this shit over with.

23 Q. BY MS. EKL: The police brought you to 91st
24 and Cottage Grove, correct?

25 **A. Correct.**

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1 Q. And when you first came into the building at
2 91st and Cottage Grove you testified earlier you were
3 brought upstairs to the second floor.

4 **A. I believe it was the second floor.**

5 Q. And I believe you already testified,
6 initially at least, you weren't abused on the second
7 floor, correct? The first time that you were abused by
8 the police it wasn't the first time you were brought up
9 there?

10 **A. Well, I felt abused when I was there.**

11 Q. What was the first place that you were
12 abused?

13 **A. That I felt abused down where -- if it was
14 the basement or first floor, it was downstairs.**

15 Q. What do you mean by felt abused?

16 **A. The name calling and little pops upside the
17 head. That's nothing.**

18 Q. So you're saying -- you're saying when
19 something more serious than that happened?

20 **A. That's right.**

21 Q. So you were taken from the second floor and
22 then brought down to either the first floor or basement
23 area, but you're not sure which one?

24 **A. I was brought downstairs.**

25 Q. Where were the stairs in relation to the

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1 interview room that you were handcuffed -- where you
2 were handcuffed initially?

3 **A. I can't remember that far.**

4 Q. And I think -- and I apologize if you were
5 asked this question earlier.

6 Do you remember how many stairs you went
7 down?

8 **A. No, I don't.**

9 Q. What happened to you once you got downstairs?

10 **A. I got beat.**

11 Q. And if you could just describe it in as much
12 detail as you can, in terms of where you were hit and
13 who hit you.

14 **A. I was hit with the rubber hose by Dignan
15 everywhere. I was hit in the back, shoulder, and
16 groin, and probably the knee. I'm not sure about the
17 knee now. With a heavy flashlight by Byrne.**

18 Q. Were you able to see where Dignan obtained
19 the rubber hose or are you --

20 **A. It was on the table along with the
21 flashlight.**

22 Q. The rubber hose, was it just like a regular
23 hose where it was bendable or was it something stiff?

24 **A. I have no idea.**

25 Q. About how long was this rubber hose?

1 **A. Foot, foot and a half. I know she can't**
2 **measure that, but that's what I'm thinking, about a**
3 **foot and a half.**

4 MS. EKL: Looks about a foot and a half; would you
5 agree?

6 MR. ELSON: Sure.

7 Q. BY MS. EKL: And just -- I know you said you
8 were hit everywhere, but were you hit anywhere on your
9 head?

10 **A. No.**

11 Q. What about your back?

12 **A. Yes.**

13 Q. Where on your back?

14 **A. Across the shoulders. Cross the shoulders,**
15 **whatever you call this, and the back area.**

16 Q. Were you still wearing a shirt at that point
17 in time?

18 **A. Yes, I was.**

19 Q. And was this before or after you were asked
20 to take your jacket off?

21 **A. After.**

22 Q. What kind of shirt did you have on that day?

23 **A. I don't recall. I'm pretty sure all I wore**
24 **was T-shirts and sweatshirts.**

25 Q. Do you remember if it was long-sleeved or

1 short-sleeved?

2 **A. I don't remember.**

3 Q. In addition to your back and your shoulders,
4 were you struck at all on your arms?

5 **A. Arms. Elbows. Even where the cuffs were on.**
6 **Got hit there, too.**

7 Q. So were you cuffed while you were being
8 struck with the hose?

9 **A. Yes, I was. So he had to reach up under**
10 **there and hit me like that.**

11 Q. Were you struck on the -- I'm sorry. Were
12 you cuffed in the front or in the back?

13 **A. I was cuffed under a chair.**

14 Q. Were you struck anywhere on your chest area?

15 **A. I got hit with -- in the chest with the**
16 **flashlight.**

17 Q. Were you struck with the hose at all on your
18 chest area?

19 **A. I don't remember that.**

20 Q. Were you struck on your -- anywhere on your
21 legs with the hose?

22 **A. Yes.**

23 Q. And where on your legs?

24 **A. Ankle to thigh, hip, the whole leg.**

25 Q. Were you wearing pants at that point in time?

1 **A. Yes, I was.**

2 Q. Do you remember if they were long pants or
3 short pants?

4 **A. They were long pants.**

5 Q. Were you being struck with the flashlight and
6 the hose basically at the same time or were -- was one
7 of them striking you before the other?

8 **A. I was hit with the hose. Then I got jabbed**
9 **with the flashlight. Then I got hit with the**
10 **flashlight, and I got hit a couple more times with the**
11 **flashlight. Then it went back to the hose again.**

12 Q. Where were you jabbed with the flashlight?

13 **A. In the nuts, scrotum.**

14 Q. And where were you struck with the
15 flashlight?

16 **A. In the chest and the back, maybe. After the**
17 **scrotum shot, I pretty much don't know too much of**
18 **nothing.**

19 Q. At any point in time did Dignan strike you
20 with the flashlight or was it always Byrne?

21 **A. Byrne had the flashlight; Dignan had the**
22 **hose.**

23 Q. Did Byrne ever strike with you the hose?

24 **A. Did Byrne ever -- no.**

25 Q. Other than the two of -- two of them, were

1 there any other people present in the area where you
2 were being struck?

3 **A. I could see somebody. I couldn't tell you**
4 **who it was.**

5 Q. Did you see how they were dressed?

6 **A. They wasn't in uniform, if that's what you**
7 **mean.**

8 Q. Could you tell if it was an officer or if it
9 was somebody -- a civilian?

10 **A. I couldn't tell you.**

11 Q. Where was that person in relationship to
12 where you were?

13 **A. Where I couldn't see him.**

14 Q. How did --

15 **A. I couldn't see. Like I say, I'm cuffed like**
16 **this. They standing in my peripheral, but I can't see.**

17 Q. So you could see enough to know that there
18 was someone there?

19 **A. A silhouette, yeah.**

20 Q. How long did this take place?

21 **A. I don't remember.**

22 Q. Were you able to observe any visible marks to
23 any part of your body as a result of this while you
24 were still in the basement, to your arms or your legs,
25 anything that you could actually see?

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1 **A. Could I actually see it?**

2 Q. Right. Did you see any welts or cuts or
3 anything like that on your arms?

4 **A. Not then.**

5 Q. At some point in time were you able to
6 observe injuries as a result of what took place?

7 **A. The welts, as you referred to. By the time I**
8 **got someplace where I was changing clothes, yes, I did**
9 **see a few.**

10 Q. This was -- was this the only time that you
11 were struck by these officers or did they strike you
12 more than once that day?

13 **A. You mean more than one occasion or more than**
14 **one time did they hit me?**

15 Q. Sorry. More than one occasion.

16 **A. No. That's pretty much it.**

17 Q. When were you first able to observe any welts
18 or any other injuries to your body?

19 **A. That would have been up at 103rd.**

20 Q. Do you know approximately how long you were
21 at 91st and Cottage Grove before you were taken to
22 103rd?

23 **A. Time sort of lost itself with me then.**

24 Q. Generally what time of day was it when you
25 were taken over to 91st and Cottage Grove, just in

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1 terms of morning, afternoon, night?

2 **A. I can't recall. It seemed like it was dark.**

3 Q. You were taken out of your bed, correct, or
4 you were asleep when the police came into your house?

5 **A. (Witness nods.)**

6 Q. Sorry. You have to answer out loud for the
7 court reporter.

8 **A. Yes. Or the couch, anyway.**

9 Q. So would it have been at least sometime
10 before noon?

11 **A. Yes. It was before noon.**

12 Q. Do you know if a day had passed before you
13 were taken to 103rd or if it was still sometime within
14 that day or night?

15 **A. Do I know? No, I don't know. But I'm sure**
16 **we could check with the chronology of the statements or**
17 **police reports.**

18 Q. And I'm just asking you to the best of your
19 memory today.

20 Did you tell anyone at all, whether it was
21 police personnel or any other civilians that you saw
22 while you were still at 91st and Cottage Grove, about
23 what had taken place at the police station with Dignan
24 and Byrne?

25 **A. I seen no civilians at 91st and Cottage Grove**

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1 **that I remember, and I wouldn't trust them no way at**
2 **that time.**

3 Q. And when I say civilians, let me back up.

4 You said you didn't see anyone from the party up on the
5 second floor, correct?

6 **A. I didn't see anybody -- no, I didn't see**
7 **anybody until we got back down to the bench. When they**
8 **brought us down, they separated us. Did they keep them**
9 **together? I don't know. They put me in a different**
10 **room.**

11 Q. As far as when I say civilians, I don't mean
12 just civilian police officers. I mean civilians,
13 meaning any other witnesses that might be there or
14 other offenders or anything like that that might be at
15 the police station.

16 You didn't talk to anyone about what had
17 taken place, correct?

18 **A. No.**

19 Q. And I'm sorry. I think I kind of started
20 asking you a question and cut you off.

21 What injuries, if any, did you observe once
22 you were given a chance?

23 **A. All I can see was welts.**

24 Q. And where did you see those welts?

25 **A. Legs, chest and arm. Couldn't look no**

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1 **further. My scrotum was swollen, but -- just swollen.**

2 Q. Were you able to see the welts on your arms
3 at all when you were talking to the assistant state's
4 attorney?

5 **A. No. I had my jacket back on by then.**

6 Q. When you talked to the assistant state's
7 attorney, was your statement truthful?

8 **A. Yes, it was. To me it was very truthful.**

9 Q. I think you mentioned when you saw Stanley
10 Rice, you said he looked like shit. And you said that
11 you based that on how he moved and how he -- based it
12 on how he moved?

13 **A. How he moved and how he was holding himself.**
14 **He looked like shit.**

15 Q. You didn't see any bruises or cuts to him,
16 correct?

17 **A. I couldn't see anything.**

18 Q. Did he tell you about any injuries?

19 **A. We didn't talk right then. We was**
20 **antagonistic at each other because they kept telling**
21 **each one that we telling on each other.**

22 Q. How did you know -- how did you know what the
23 police were telling him? Did he --

24 **A. I didn't know what they told him. I know**
25 **what they said I'm lying, because somebody admitted to**

1 **doing it, and I helped.**
 2 Q. So you were angry with him thinking he's
 3 blaming you?
 4 **A. I'm not angry. Disappointed, but not angry.**
 5 **I was angry at him for doing it in the first place.**
 6 Q. Did you blame him at that point in time for
 7 your situation, the fact that you were brought into the
 8 police station?
 9 **A. Did I blame Stanley?**
 10 Q. Right.
 11 **A. I'm not sure my exact state of mind, but I**
 12 **probably did.**
 13 Q. When you were taken to 11th and State, let
 14 me -- is that where you were -- is that where you were
 15 fingerprinted or was that back at 103rd Street?
 16 **A. 103rd.**
 17 Q. At 103rd Street, did anyone -- any of the
 18 police officers ask you anything about your health?
 19 **A. Did they ask?**
 20 Q. Right.
 21 **A. Yeah.**
 22 Q. And what'd you tell them?
 23 **A. Nothing.**
 24 Q. Meaning you didn't tell them about what had
 25 happened with the other officers?

1 **A. No.**
 2 Q. You testified earlier that you made bond
 3 after you were arrested?
 4 **A. Eventually, yeah.**
 5 Q. Do you remember how much bond you had to
 6 post?
 7 **A. No.**
 8 Q. Where were you -- what was the source of your
 9 money at that point in time?
 10 **A. I was sort of like a courier, messenger. I**
 11 **took odd jobs, loading and unloading trucks down on the**
 12 **docks, down on the meat docks, down around Lake Street.**
 13 **And I was a cook.**
 14 Q. Did anyone from any of the gangs provide you
 15 with any money for your bond?
 16 **A. No.**
 17 Q. When you talked to Mr. Elson yesterday, was
 18 he reading from any documents to you?
 19 **A. Did he read from any documents to me?**
 20 Q. Right.
 21 **A. No.**
 22 Q. I think you were asked whether or not he
 23 showed you any documents, any transcripts or reports;
 24 is that correct?
 25 **A. Did he ask me any questions from a document?**

1 **Yes.**
 2 Q. Was he asking you -- was he reading things
 3 and asking you whether or not you remembered saying
 4 certain things?
 5 **A. That ain't quite the way he did that.**
 6 Q. How did he do it?
 7 **A. He read something on his -- whatever he was,**
 8 **he was looking at, and asked me did I recall a certain**
 9 **situation.**
 10 Q. And then you would just relate to him as you
 11 are today what you recalled about that?
 12 **A. It was pretty much the same thing, except he**
 13 **wasn't as antagonistic.**
 14 Q. Well, I'm trying not to be antagonistic.
 15 **A. That's quite all right. I'm just trying to**
 16 **go.**
 17 Q. What did he tell you about this lawsuit in
 18 general, the reason why we're here today?
 19 **A. Did he tell me? Something about a Darrell**
 20 **Cannon, who's been locked up for a long time, who's got**
 21 **a civil suit against some Chicago policemen who, after**
 22 **going back through certain files, they saw my name in a**
 23 **similar situation.**
 24 Q. Did he tell you anything about Mr. Cannon's
 25 gang status?

1 **A. Did he tell me anything about it?**
 2 Q. Right.
 3 **A. No.**
 4 Q. Have you ever heard from any source at any
 5 point in time about Darrell Cannon's gang status?
 6 **A. Yes.**
 7 Q. Where have you heard about Darrell Cannon's
 8 gang status?
 9 **A. Just now.**
 10 Q. Other than today, had you previously heard
 11 about Darrell Cannon's gang status?
 12 **A. Somebody asked me -- he asked me, did I know**
 13 **of Darrell Cannon and his standing in the Black Stones**
 14 **and I told him, no, I didn't.**
 15 Q. Did you tell him anything about his standing
 16 in the Black Stones?
 17 **A. No, he didn't.**
 18 Q. Did you ever consider filing a lawsuit
 19 against the Chicago Police Department?
 20 **A. Did I? I thought about it.**
 21 Q. Did Mr. Elson talk to you about potentially
 22 filing any lawsuit against the Chicago Police
 23 Department?
 24 **A. If I haven't -- well, I've been in a little**
 25 **trouble since then. It would seem to me like statute**

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1 of limitations have run out, unless I had put something
2 in back then. So I don't think I would even bother.
3 That was long time ago. I thought about it, maybe like
4 while I was still in Cook County Jail trying to figure
5 something out. Once I got out, it was like, I'm free,
6 let it go. Not to mention there might have been some
7 retaliation.

8 Q. Mr. Hettinger asked you some questions about
9 whether or not you'd filed a complaint with OPS. Do
10 you remember him asking you about that?

11 A. OPS?

12 Q. I'm sorry. The Office of Professional
13 Standards.

14 A. Yes.

15 Q. And you said that you didn't complain with
16 OPS. Why was that that you didn't complain to OPS?

17 A. One, I probably didn't even know what OPS
18 was.

19 Q. Do you remember telling -- being asked about
20 whether or not you'd filed a complaint with the Office
21 of Professional Standards -- being asked that question
22 by the assistant special prosecutor who talked to you
23 over the telephone?

24 A. Yeah. I think something, but not sure.

25 Q. Do you remember saying in summary that you

1 Q. Did Melvin have his own abuse against the
2 police -- or was he abused by the police?

3 A. I guess so. I never seen it. I don't know.

4 Q. Well, did he tell you about why it was that
5 you couldn't win?

6 A. Because I was a black kid and it wasn't going
7 to work.

8 Q. Do you remember telling the assistant special
9 state's attorney that his mother -- that Melvin Jackson
10 had some bad things -- had some bad things with the
11 police?

12 A. Yeah.

13 Q. What were those bad things?

14 A. He never told me.

15 Q. I think you also told the assistant special
16 prosecutor that when you went through the system at
17 11th and State, you ran into people and that you sought
18 some advice from them about what you should do; is that
19 correct?

20 A. That is correct.

21 Q. Who are those people?

22 A. Just people.

23 Q. Were they other people who had been -- who
24 were incarcerated in the Cook County Jail at that time?

25 A. Well, we was at 11th and State.

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1 didn't file a complaint because you were kind of new to
2 going against the law back then, and you were told that
3 bad things would happen to you or your family; so it
4 was best to leave it alone and not to press it?

5 A. Isn't that just what I told you a minute ago?

6 Q. Who was it that -- who was it that told you
7 bad things would happen?

8 A. My mother's husband, her brother -- I mean,
9 his brother. Some more people that I knew that had
10 been involved with the police.

11 Q. Who was it that you talked to about prior
12 police involvement that told you not to get involved?

13 A. My stepfather's brother.

14 Q. And who is he? What's his name?

15 A. Dead.

16 Q. What's his name?

17 A. Dead.

18 Q. Dead?

19 A. Dead. He's dead.

20 Q. Oh, he's dead. I'm sorry. But what was his
21 name when he was alive?

22 A. Melvin Jackson.

23 Q. What did Melvin Jackson tell you about his
24 own experience?

25 A. Can't win.

1 Q. Did you subsequently see them in the Cook
2 County Jail?

3 A. No.

4 Q. Who was it that you saw at 11th and State,
5 any of the names you can recall?

6 A. I can't remember back then.

7 Q. What did you tell them had happened to you?

8 A. I just gave them the scenario, if you was to
9 get beat up by the police and say something, what would
10 happen. No good.

11 Q. Prior to that day, had you heard of other
12 people being arrested and have -- hear about bad things
13 happening to them in the police station?

14 A. I'm sorry. This is Chicago, right?

15 Yes, I had.

16 Q. So was it pretty common out on the street
17 that if you got arrested, you're going to get whooped?

18 A. Somebody's going to take a whooping,
19 somebody's guilty. It's been that way since before
20 Mayor Daley. When did he get office? '85.

21 Q. Had you ever heard of anyone claiming they
22 were whooped with a rubber hose prior to that time?

23 A. Pistol whooped, rubber hose, flashlights,
24 dunked in the ocean -- I mean the lake, hit with
25 bricks, telephone books, padded baseball bats, golf

1 **clubs. I've heard all the stories.**
 2 Q. So was it pretty common, even among the talk
 3 of the gang, that -- of different things that happened
 4 when people got arrested?
 5 A. Was it?
 6 Q. Was it common -- was that conversation
 7 common, at least to your knowledge when people talk
 8 about things when they got arrested?
 9 A. **Those wasn't the gang members saying that.**
 10 Q. Who was it?
 11 A. **Those were ordinary people, like my**
 12 **stepfather and his friends.**
 13 Q. Did you ever hear any of the gang members
 14 also talk about things happening to them?
 15 A. **Most gang members would never admit to that.**
 16 **At least not back then. Not the ones I knew.**
 17 **Everybody was tougher than tough.**
 18 Q. Had you heard prior to just recently when you
 19 met Mr. Elson -- had you heard the name Flint Taylor?
 20 A. No.
 21 Q. Had you ever heard of Andrew or Jackie
 22 Wilson?
 23 A. **Jackie Wilson?**
 24 Q. Right.
 25 A. **I'm taking you're not meaning the singer.**

1 Q. No.
 2 A. No.
 3 Q. Had you ever heard about an incident where
 4 two Chicago police officers were shot and killed on the
 5 South Side and then some individuals were arrested
 6 for -- two brothers were arrested for their killing?
 7 A. **How long ago was this?**
 8 Q. Back in the early '80s.
 9 A. **I probably wasn't around.**
 10 Q. Do you still have the letter that was sent to
 11 you from the People's Law Office recently?
 12 A. **I just finally got it.**
 13 Q. Do you have it -- I mean, do you have it
 14 currently with you or did you throw it away?
 15 A. **I don't -- they don't bring the paperwork in**
 16 **here.**
 17 Q. Do you remember what it said?
 18 A. **That somebody wanted to talk to me.**
 19 Q. Did they explain in the letter why they
 20 wanted to talk to you?
 21 A. **Vaguely.**
 22 Q. What did they say?
 23 A. **They wanted to talk to me about what happened**
 24 **to me in '82 in regards to something that happened to**
 25 **somebody else.**

1 Q. Do you remember, was the envelope marked
 2 "legal mail"?
 3 A. Yes.
 4 Q. They've never represented you at any point in
 5 time, right?
 6 A. **Never even heard of them before this.**
 7 Q. Is your understanding that legal mail is used
 8 for communications between attorneys and inmates?
 9 A. Yes, I am.
 10 Q. So were you surprised to get a letter that
 11 wasn't from an attorney representing you that said
 12 "legal mail"?
 13 A. **Well, you all sent one first.**
 14 Q. Well, do you recall ours saying legal mail on
 15 it?
 16 A. Yes.
 17 Q. Did ours go through -- directly to you or did
 18 it go through the warden?
 19 A. **One came directly to me and another one, I**
 20 **guess, went to the white-haired guy. I'm pretty sure I**
 21 **have that up in the cell, too.**
 22 Q. You talked about when you gave the statement
 23 to the special prosecutor's office that the person who
 24 is the assistant special prosecutor who was questioning
 25 you wanted an answer right away; so you were confused,

1 but you were trying to -- you wanted an answer right
 2 away.
 3 Do you recall saying something to that
 4 effect.
 5 A. **I recall saying something to that effect.**
 6 Q. And I know it's not verbatim. Did you --
 7 have you since that point in time reviewed something
 8 that refreshed your memory as to what it was Byrne did
 9 and what it was Dignan did that you didn't have
 10 available to you at the time you talked to the special
 11 prosecutor?
 12 A. **Yeah. The only thing I had available to me**
 13 **was time to sit down and think about it, a cup of**
 14 **coffee and a cigarette, and some time. He kept rushing**
 15 **me for answers.**
 16 Q. Do you still have in your possession any of
 17 the paperwork from back when you were arrested in
 18 relation to this?
 19 A. **No. I didn't keep that no longer than the**
 20 **court time it took.**
 21 Q. Was there anything else that makes you more
 22 certain today that it was Dignan that had the rubber
 23 hose and Byrne that had the flashlight that you didn't
 24 know about back when you talked to the special
 25 prosecutor?

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1 **A. I was pretty sure then, but like I say, he**
 2 **kept rapid firing me answers, trying to make me think**
 3 **Dioguardi was the one with the hose, and I kept asking**
 4 **him why, and so I just went with him. In other words,**
 5 **no.**

6 Q. Did he tell you why it was he was questioning
 7 you? The assistant special prosecutor?

8 **A. Yes.**

9 Q. So you were aware that he was investigating
 10 claims of abuse by the same Chicago police officers?

11 **A. Yes. I didn't quite believe him.**

12 Q. Did you talk to someone to try to verify who
 13 he was and why he wanted to talk to you?

14 **A. No. I didn't really care.**

15 Q. You didn't want to try to help him be
 16 truthful about what took place?

17 **A. Excuse me?**

18 Q. Didn't you want to help him out and let him
 19 know what had taken place with you and tell him that
 20 abuse was taking place?

21 MR. ELSON: Object to the form of the question.

22 **A. I think I know what you're trying to say.**
 23 **But as to did I really want -- would I like to do --**
 24 **nobody's believed me this far. Why should I have any**
 25 **inkling that anybody's going to believe me from here on**

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1 **out? Nobody's ever believed me. And to be honest with**
 2 **I, I thought it was a joke.**

3 Q. BY MS. EKL: Thought what was a joke?

4 **A. The special prosecutor.**

5 Q. Let me just check real quick. I think . . .

6 **A. Till you all showed up, anyway.**

7 Q. Did the officers ever threaten to hang you?

8 **A. Did they ever threaten to hang me?**

9 Q. Right.

10 **A. That's not quite the way I would put it.**

11 **They said they would hang me.**

12 Q. When did that take place?

13 **A. Downstairs.**

14 Q. Who threatened to hang you, or who said they
 15 would hang you?

16 **A. Shit. Dignan.**

17 Q. Had you ever heard of anyone else being
 18 threatened to -- any police officers threatening anyone
 19 else to hang them prior to that day?

20 **A. All my life.**

21 Q. Okay.

22 **A. All my life. You hear suicide in prison.**
 23 **It's not suicide in prison.**

24 Q. Do you know of any particular -- the names of
 25 any people who were alleged to have committed suicide

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1 in the Cook -- in the presence of the Chicago Police
 2 Department that you believe wasn't suicide?

3 **A. I haven't been home in years. I could not --**
 4 **if you hadn't have been coming up here now, I wouldn't**
 5 **remember a bunch of this stuff.**

6 MS. EKL: Why don't we just take a quick break and
 7 I might probably be done.

8 THE WITNESS: That would be lovely.
 9 (Recessed from 1:42 p.m. to 1:43 p.m.)

10 MR. ELSON: You ready?

11 THE WITNESS: Oh, yeah. Fire away.

12 MS. EKL: All right. Well, I am finished. So I
 13 thank you very much for your time. And I think
 14 Mr. Hettinger has a few follow-ups, and I just --

15 MR. ELSON: Yeah. I do, but I just want to object
 16 because you've already had your term.

17 MS. EKL: He can follow up to what I've asked.

18 MR. ELSON: Are you going to follow-up to what he
 19 asks?

20 MS. EKL: No. I have no follow-up to my
 21 follow-up.

22 MR. HETTINGER: Yeah. I just have a couple of
 23 questions, Mr. Benson.

24

25 EXAMINATION

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1 BY MR. HETTINGER:

2 Q. When Mr. Reed came to see you -- or I'm
 3 sorry.

4 When he took the statement over the phone,
 5 before he did that, he sent to you a copy of the
 6 testimony that you gave at the motion to suppress,
 7 correct?

8 **A. A partial.**

9 Q. Then he asked you if you read it, and you
 10 said that you did have a chance to take a look at it;
 11 is that correct?

12 **A. That is correct.**

13 Q. Then you said on -- I believe in your
 14 testimony that when you spoke to the assistant state's
 15 attorney you told him the truth about what happened
 16 over with KB, correct?

17 **A. Correct.**

18 Q. Were you asked these questions -- strike
 19 that.

20 Did you tell the assistant that Stanley Rice
 21 was hitting KB in the head?

22 **A. No.**

23 Q. Were you asked these questions and give these
 24 answers:

25 "QUESTION: And you then told the state's

1 attorney that you were, in fact, upstairs at that time;
2 didn't you?

3 "ANSWER: No, I don't believe so. I believe
4 I stated that I saw -- I went up there to see the
5 victim.

6 "QUESTION: I can't hear you.

7 "ANSWER: I believe I stated I went up to see
8 the victim, and while I was up there I saw her bumped
9 three times with the iron."

10 Did you give that answer to that question?

11 **A. That's not the answer I gave.**

12 Q. Well, you were under oath back on the date of
13 the hearing on the motion to suppress, correct?

14 **A. Well, whatever they say. Once again, I
15 already know and I've said this at least to you five
16 times today.**

17 Q. I understand what you're saying, but when you
18 were before Judge Fitzgerald --

19 **A. But who wrote that? Let me -- whoever wrote
20 that, wrote it wrong. I said nothing about iron. I
21 said fork.**

22 Q. So I'm clear, at the time you were attempting
23 to have Judge Fitzgerald suppress any statement that
24 you gave to the assistant state's attorney based on the
25 allegations you were making about the conduct of the

1 police officers at Area 2, correct?

2 **A. Correct.**

3 Q. Did you give this answer to this question --

4 MR. ELSON: Can you give me a page number?

5 MR. HETTINGER: Sure. I'm sorry. 114 and 115.

6 Q. BY MR. HETTINGER: "QUESTION: You told the
7 state's attorney that when you were upstairs Stanley
8 Rice began punching the victim in the head; didn't you?

9 "ANSWER: Yes, I did.

10 "QUESTION: And you also told the state's
11 attorney that when you were upstairs that you saw Rice
12 burn the victim several times.

13 "ANSWER: I believe I stated three times."

14 Did you give those answers to those
15 questions?

16 **A. The second one, yes. The first one I don't
17 believe so.**

18 MR. HETTINGER: I have nothing further.

19 THE WITNESS: Thank you very much.

20 MR. HETTINGER: Thank you for your time.
21 Appreciate it.

22 MR. ELSON: Kenya, do you have any questions is
23 she still on the phone?

24 MS. JENKINS: No. I don't have any questions.

25 Thank you for asking.

EXAMINATION

1 BY MR. ELSON:

2 Q. Okay. I just have a couple of questions for
3 you, Mr. Benson.

4 When I spoke with you yesterday, did I offer
5 you anything in exchange for your testimony today?

6 **A. No.**

7 Q. Now, Lee asked you before if you had given a
8 complete description of what the police did to you at
9 Area 2. Do you remember him asking you that?

10 **A. Yes.**

11 Q. Were you knocked off the stool by the police
12 officers at one point?

13 **A. I wasn't exactly knocked off of it. I was
14 knocked over.**

15 Q. You were knocked over when you were sitting
16 on the stool?

17 **A. Yes.**

18 Q. And the stool was knocked over with you?

19 **A. Well, I was cuffed to the stool.**

20 Q. So you and the stool tipped over?

21 **A. Yes.**

22 Q. And were you -- what happened after you and
23 the stool tipped over?

24 **A. I don't know. Eventually, I guess, I got**

1 **back up or was held back up, but I can't remember
2 exactly. Nothing but getting hit some more. I don't
3 remember.**

4 MR. ELSON: Okay. I have nothing.

5 MS. EKL: I have nothing based on that.

6 MR. HETTINGER: Nothing further.

7 (Discussion off the record.)

8 THE WITNESS: She's probably about the only one in
9 here I trust.

10 MS. EKL: So you'll waive?

11 THE WITNESS: Yes.

12 MR. HETTINGER: All right. The deposition is
13 over. Thanks.

14 (Deposition concluded at 1:49 p.m.)

15 (Signature waived.)

1 CERTIFICATE

2
3 I, NAOLA C. VAUGHN, a Certified Court
4 Reporter within and for the States of Missouri and
5 Kansas, hereby certify that the within-named witness
6 was first duly sworn by me to testify to the truth; and
7 that the deposition by said witness was given in
8 response to the questions propounded, as herein set
9 forth; was first taken in machine shorthand by me and
10 afterwards reduced to writing under my direction and
11 supervision; and is a true and correct record of the
12 testimony given by the witness.

13 I further certify that I am not a relative or
14 employee or attorney or counsel of any of the parties,
15 or a relative or employee of such attorneys or counsel,
16 or financially interested in the action.

17 WITNESS my hand and official seal at
18 Kansas City, Jackson County, Missouri, this 16th day of
19 October 2008.
20
21
22

23 _____
24 NAOLA C. VAUGHN, CCR, CRR, RPR
25 Missouri CCR No. 1052
Kansas CCR No. 0895

A

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