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IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT

MITCHELL K. WRIGHT, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF SHANNON D. (WILLIAMS) WRIGHT, DECEASED; **RENEE BROOKS**, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF NATALIE BROOKS, A MINOR, DECEASED; **TONY R. HERRING AND PAMELA D. HERRING**, AS PERSONAL REPRESENTATIVES OF THE ESTATE OF PAIGE ANN HERRING, A MINOR, DECEASED, **TINA McINTYRE JOHNSON**, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF STEPHANIE DAWN JOHNSON, A MINOR, DECEASED; AND, **SUZANN MARIE WILSON**, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BRITTNEY RYEN VARNER, A MINOR, DECEASED

Plaintiffs,

VS. CIV 98-394(B)

ANDREW GOLDEN, A MINOR; MITCHELL JOHNSON, A MINOR; SCOTT JOHNSON; GRETCHEN WOODARD; DENNIS GOLDEN; PAT GOLDEN; DOUGLAS GOLDEN; SPORTING GOODS PROPERTIES, INC., F/K/A REMINGTON ARMS COMPANY, INC.; JOHN DOE, AND JOHN DOE, INC., AS THE SUCCESSORS IN INTEREST OF UNIVERSAL FIREARMS

Defendants.

THE VIDEOTAPED DEPOSITION OF ANDREW GOLDEN
Taken at the Craighead County Courthouse Annex Courtroom,
Jonesboro, AR on April 27, 2000
at 10:20 a.m.

A P P E A R A N C E S

1
2 **BOBBY McDANIEL** FOR THE PLAINTIFF
3 **DUSTIN McDANIEL** Mitchell K. Wright
4 Attorney at Law
5 McDaniel & Wells
6 400 S. Main Street
7 Jonesboro, AR 72401
8 (870) 932-5950

6 **DAVID CAHOON** FOR THE DEFENDANTS
7 Attorney at Law Dennis Golden
8 The Law Office of David Cahoon Pat Golden
9 420 W. Johnson Avenue
10 Jonesboro, AR 72403
11 (870) 932-4488

10 **BRICE MARSHALL** FOR THE DEFENDANTS
11 Attorney at Law Sporting Goods
12 Barrett & Deacon Properties
13 300 S. Church Street, Suite 300
14 Jonesboro, AR 72401
15 (870) 931-1700

13 **KARIN S. SCHWARTZ** FOR THE DEFENDANTS
14 Attorney at Law Sporting Goods
15 Debevoise & Plimpton Properties
16 875 Third Avenue
17 New York, NY 10022
18 (212) 909-6000

17 **MIKE ROBERTS** FOR THE DEFENDANT
18 Attorney at Law Mitchell Johnson
19 Law Professor
20 The University of Tennessee
21 Memphis, TN
22 (901) 761-3784

20 **VAL P. PRICE** FOR THE DEFENDANT
21 Chief Public Defender Andrew Golden
22 511 Union, Suite 327
23 P.O. Box 3072
24 Jonesboro, AR 72403-9072
25 (870) 932-6226

A P P E A R A N C E S

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DAVID A. HODGES

FOR THE DEFENDANT

Attorney at Law
One Union National Plaza
124 West Capitol Avenue, Suite 1550
Little Rock, AR 72201-3715
(501) 374-2400

STEVE GRILLETTA

VIDEOGRAPHER

Legal Video & Film
P.O. Box 19196
Jonesboro, AR 72402
(870) 935-8716

ALSO PRESENT: MARTIN LILLY
 MITCHELL WRIGHT
 TINA JOHNSON
 DENNIS GOLDEN
 PAT GOLDEN
 GRETCHEN WOODARD

I N D E X

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1 MR. McDANIEL: The Plaintiffs would like to stipulate
2 that the deposition is taken pursuant to the Arkansas Rules of
3 Civil Procedure upon the date, time and place as set by order of
4 this Court with objections as to the form of the questions to be
5 made at the time contemporaneous and objections as to competency,
6 relevancy and materiality and other substantive objections being
7 reserved. And it will be up to the witness as to whether or not
8 he chooses to read and sign. Any other stipulations?

9 MR. ROBERTS: I have a question, Mr. McDaniel. Are you
10 saying under your local rules that the phrase "object to the form
11 of the question" covers all possible objections under the
12 Arkansas Rules of Evidence or Procedure?

13 MR. McDANIEL: Mr. Roberts, with all due respect, I
14 don't think it's appropriate for me to give you legal advice as
15 to how to object or represent your client. If you have an
16 objection that you feel needs to be raised, I have no objection
17 to you stating it specifically. If you have an objection as to
18 the form of the question, if you'll tell me what your objection
19 is, I'll attempt to rephrase the question so as to make that
20 objection no longer important. But if there is some objection
21 you need to make, you're certainly free to do so. Objections as
22 to substantive matters are reserved.

23 MR. ROBERTS: I don't understand what you mean by the
24 word "reserved". I'm not a local lawyer. I want to be very
25 careful about what y'all mean by the local rules.

1 MR. McDANIEL: I think I've stated the rule as far as I
2 think I can go.

3 MR. HODGES: David Hodges. Let me state that my
4 willingness to vary the rule, which is what we would have to do
5 by agreement to reserve all objections except as to the form of
6 the question, that's what we would have to expressly agree to do
7 in order to have the standard rule not apply. And the standard
8 rule is that everybody makes an objection and no objections are
9 reserved.

10 MR. ROBERTS: I'll then articulate my objections fully
11 on the record to the protect my client's interest.

12 MR. McDANIEL: All right. May the stipulation then be
13 modified to any objection made or any objection to be made should
14 be made contemporaneously or otherwise deemed waived. Is that
15 the preference of counsel?

16 MR. ROBERTS: I'm not sure what the local practice is
17 by the meaning phrased "otherwise deemed -- I'm not trying to
18 quibble with y'all, but I don't take depositions here and I'm not
19 sure what the phrase "otherwise deemed waived" means in this
20 county.

21 MR. McDANIEL: Let me just rephrase it to say this:
22 I'm going to be asking questions. If any lawyer wants to object
23 regardless of what the stipulation is stated, if the other
24 lawyers have not agreed to the stipulation, so I intend to ask
25 questions and lawyers may object to when and as and under such

1 circumstances they deem appropriate.

2 MR. HODGES: I'd prefer that we have a stipulation so
3 that we don't all have to make an objection to it, and the
4 stipulation is that we would reserve all objections except as to
5 the form of the question. And the form would be limited to a
6 leading question or a compound question and the form being, not
7 the substance of it, but the manner in which it is asked. And
8 otherwise we're going to have a much longer day if we don't all
9 agree to reserve all objections except as to the form of the
10 question.

11 MR. ROBERTS: I'm very willing to adopt that procedure,
12 which is my home procedure, where if I say objection, that covers
13 every possible substantive objection and I'm still free to object
14 to compound, leading and those types of questions if I understand
15 Mr. Hodges.

16 MR. McDANIEL: That's exactly what the post-stipulation
17 was except that if you have an objection as to the form of the
18 question, the objection should be stated as to what that
19 objection is so it can be cured by a follow-up question.
20 Objection, for example, if he is asked to speculate on a matter
21 about which he is not competent, you do not have to object to
22 that because that would be reserved and could be raised should
23 that portion of the deposition attempt to be used.

24 MR. ROBERTS: Constitutional objections fall under
25 which --

1 MR. HODGES: Reserved.

2 MR. ROBERTS: -- form?

3 MR. HODGES: Reserved.

4 MR. ROBERTS: Thank you.

5 MR. HODGES: That's our stipulation understanding. And
6 as to the objection as to form, Bobby is saying you need to tell
7 him specifically what the objection is. You just can't say
8 object to the form. You've got to be specific, as I understand
9 it, and say I object to the form because it's a compound question
10 or something like that. .

11 MR. ROBERTS: And all other objections including
12 constitutional --

13 MR. McDANIEL: Are reserved.

14 MR. ROBERTS: -- are under the phrase "object to the
15 form"?

16 MR. HODGES: And that would include the proceedings
17 that just had in the court before Judge Burnett with all of the
18 motions and so forth. Those are all reserved, do not have to be
19 contemporaneously with the time of this deposition.

20 MR. ROBERTS: That's fine.

21 MR. McDANIEL: I would point out that if you are going
22 to instruct a witness not to answer the deposition (sic) on the
23 basis of privilege, then that under our rules as I interpret it
24 must be asserted and the basis of the privilege stated with
25 specificity as to privilege. Okay, may we proceed?

1 THE VIDEOGRAPHER: As the stipulations as discussed and
2 agreed to among all parties are so noted and would the court
3 reporter please swear in the witness?

4 MR. MARSHALL: Before we do, can I ask for one other
5 agreement and that is if defendant objects, that all are
6 considered to join in that objection unless they don't want to in
7 which then they can state that, and that will help move time and
8 not have everybody me tooing throughout the depositions.

9 MR. McDANIEL: That's agreeable.

10 MR. ROBERTS: Agreeable.

11 MR. HODGES: Agreeable.

12 MR. CAHOON: Agreeable.

13 MR. PRICE: Agreeable.

14 THE VIDEOGRAPHER: Again, that stipulation is noted and
15 would you please swear the witness.

16 ANDREW GOLDEN,

17 having been first duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. McDANIEL:

21 Q. Would you state your name, please.

22 A. Andrew Golden.

23 Q. Mr. Golden, you're going to have to speak up loudly please
24 so that everyone here can hear you. My name is Bobby McDaniel.
25 I'm going to ask you questions. This is a deposition. A

1 deposition is your testimony under oath where you're sworn to
2 tell the truth. Do you understand what swearing to tell the
3 truth is?

4 A. Yes, sir.

5 Q. Do you understand there are consequences, adverse
6 consequences, even potential criminal penalties if you swear to
7 false statements including perjury?

8 A. Yes, sir.

9 Q. Are you under any medication today that would affect your
10 ability to understand questions or to respond to them?

11 A. No, sir.

12 Q. Have you been subject to any physical abuse or difficulties
13 so that you cannot understand or comprehend questions?

14 A. No, sir.

15 Q. Do you consider yourself at this point able to understand
16 the questions I've asked you so far and to answer them?

17 A. Yes, sir.

18 Q. If at any time during my questioning if I ask you a question
19 and you do not understand it, will you let me know so that we can
20 try to communicate effectively?

21 A. Yes, sir.

22 Q. If during the course of the deposition you give an answer
23 and you later realize that answer is not correct or is incomplete
24 or needs to be changed in any format, I will tell you that if you
25 will let me know I will let you go back and add to an answer

1 you've previously given. Is that understandable?

2 A. Yes, sir.

3 Q. Is that agreeable?

4 MR. ROBERTS: Can I just interrupt one more time?

5 MR. McDANIEL: Sure.

6 MR. ROBERTS: Do I understand that the local rules do
7 not waive signature on a deposition?

8 MR. McDANIEL: The witness can waive signature if he
9 chooses.

10 MR. ROBERTS: But the local rules do not normally waive
11 signatures? I apologize for bringing it up late, but it's just
12 something I thought of.

13 MR. McDANIEL: The witness has the choice at the end of
14 the deposition.

15 MR. ROBERTS: My apologies.

16 MR. McDANIEL: Okay.

17 Q. (By Mr. McDaniel) So, Mr. Golden, then we're understanding
18 each other that I'm going to ask you questions and expect you to
19 give sworn truthful answers to the question asked and you will do
20 so. Is that agreeable?

21 A. Yes, sir.

22 Q. Tell me your full name.

23 A. Andrew Douglas Golden.

24 Q. What is your date of birth?

25 A. 5/25/86.

- 1 Q. Where were you born and raised?
- 2 A. In Jonesboro.
- 3 Q. How old are you now?
- 4 A. 13.
- 5 Q. 13?
- 6 A. Yes, sir.
- 7 Q. Where do you currently reside or stay?
- 8 A. In Alexander Youth Services.
- 9 Q. When did you first go to Alexander Youth Services?
- 10 A. I can't remember the date.
- 11 Q. Who are your parents?
- 12 A. Dennis and Pat Golden.
- 13 Q. Dennis and Pat Golden?
- 14 A. (Witness nodding affirmatively.)
- 15 Q. You can't nod your head. You have to answer out loud.
- 16 A. Yes, sir.
- 17 Q. Are they present today?
- 18 A. Yes, sir.
- 19 Q. Have you had an opportunity to talk with them today?
- 20 A. No, sir.
- 21 Q. Who are your grandparents?
- 22 A. Dennis and Jackie Golden.
- 23 Q. I'm sorry?
- 24 A. Dennis and Jackie Golden.
- 25 Q. Dennis and Jackie Golden?

- 1 A. Yes, sir.
- 2 Q. Who is Douglas Golden?
- 3 A. My grandfather.
- 4 Q. Is he one in the same as Dennis? I asked you who were your
5 grandparents. Who are your grandparents?
- 6 A. Doug Golden and Jackie Golden.
- 7 Q. Where did you live prior to March 1998?
- 8 A. (No Response.)
- 9 Q. Where did you live before the shooting incident at Westside?
- 10 A. In Jonesboro.
- 11 Q. What was your street address?
- 12 A. I can't remember.
- 13 Q. Where was it?
- 14 A. (No Response.)
- 15 Q. You don't know where you lived?
- 16 A. I know, but I just don't know the street number, address.
- 17 Q. Do you know what street name it was?
- 18 A. No, sir.
- 19 Q. No?
- 20 A. No, sir.
- 21 Q. What was your -- where did you live close to? Did you live
22 close to Westside School?
- 23 A. Kind of.
- 24 Q. Was there some building, store, service station, road that
25 you can tell me that where your home was close to?

- 1 A. It is close to a church, I remember that.
- 2 Q. Close to what church?
- 3 A. I'm not sure the name.
- 4 Q. How did you get to school in the mornings?
- 5 A. On the bus.
- 6 Q. On the school bus?
- 7 A. (Witness nodding affirmatively.)
- 8 Q. You have to say yes or no.
- 9 A. Yes, sir.
- 10 Q. What school bus did you ride?
- 11 A. I can't remember.
- 12 Q. Do you know who the school bus driver was on your regular
13 route in March of 1998?
- 14 A. I can't remember.
- 15 Q. Was it a man or a woman as your usual bus driver?
- 16 A. A woman.
- 17 Q. What grade were you in in March of 1998?
- 18 A. Sixth grade.
- 19 Q. Where did you go to school for prior years? Had you always
20 gone to Westside?
- 21 A. Yes, sir.
- 22 Q. Did you go to kindergarten?
- 23 A. Yes, sir.
- 24 Q. Did you go to kindergarten at Westside?
- 25 A. Yes, sir.

1 Q. Prior to kindergarten did you attend any nursery school or
2 any sort of a pre-kindergarten school?

3 A. I can't remember.

4 Q. I want to ask you some questions concerning your prior
5 experiences in life and your background. Have you ever driven an
6 automobile before, a car or a pickup truck either with or without
7 an adult present?

8 A. (No Response.)

9 Q. That's a yes or no question.

10 A. (No Response.)

11 MR. PRICE: My client refuses to answer that question.

12 MR. McDANIEL: Wait a minute, Mr. Price.

13 MR. PRICE: He is invoking his Fifth Amendment right
14 against self-incrimination.

15 MR. McDANIEL: Mr. Price, your client did not refuse to
16 answer any question. He didn't answer.

17 MR. PRICE: I would like to confer with my client.
18 Refuse to answer the question.

19 A. I refuse to answer that question.

20 Q. (By Mr. McDaniel) On what grounds?

21 A. The Fifth Amendment.

22 Q. Prior to January 1 of 1998, had you ever driven an
23 automobile either with or without an adult present?

24 A. (No Response.)

25 Q. Yes or no.

1 MR. PRICE: I'd like to confer with my client. Refuse
2 to answer it.

3 A. I refuse to answer that question.

4 MR. McDANIEL: I think we need to adjourn the
5 deposition and bring the judge in. Your Honor, the question was
6 asked: Have you ever driven an automobile either with or without
7 an adult present prior to January 1, 1998. Mr. Price instructed
8 him to invoke the Fifth Amendment, and we think that's an
9 appropriate question to be asked.

10 MR. PRICE: Any questions concerning driving may impact
11 upon the event that took place on the day in question, and
12 therefore it is relevant and subject to the Fifth Amendment. My
13 client invokes that right.

14 THE COURT: Are you saying that he might subject
15 himself to some penalties for a driving violation by not being a
16 licensed driver? Is that what you're saying?

17 MR. PRICE: No, sir. I'm saying the fact of whether or
18 not he was driving on the date in question may impact upon
19 whether or not he's driven a car previously and that --

20 THE COURT: I thought the question was whether or not
21 he had ever driven a vehicle prior to that time alone or with
22 supervision.

23 MR. PRICE: Yes, sir.

24 THE COURT: I think that's an appropriate question. I
25 don't see how it could touch any possible thing that would

1 incriminate him except on a traffic violation perhaps.

2 MR. PRICE: One of the issues of whether or not he was
3 driving on the day in question and therefore it will relate to --

4 THE COURT: That's not what he asked. He asked whether
5 he had driven a car alone or with an adult supervision prior to
6 that.

7 MR. McDANIEL: Prior to January 1, 1998.

8 THE COURT: I think that's an appropriate question in a
9 civil case. I don't see where it affects his --

10 Q. (By Mr. McDaniel) Please answer the question.

11 A. No, sir.

12 Q. Prior to March 24, the date of the shooting at Westside
13 Schools, before March 24, 1998, between January 1 and March 24,
14 had you ever driven an automobile either in the presence of an
15 adult, alone or in the presence of anyone else?

16 A. No, sir.

17 Q. On March 24, 1998 did you drive an automobile?

18 MR. PRICE: I need to confer with my client now. Now
19 refuse to answer.

20 A. I refuse to answer that question.

21 MR. McDANIEL: When you instruct him so we can save
22 time to refuse to answer, you're assuming that's on the Fifth
23 Amendment?

24 MR. PRICE: Yeah, on the Fifth Amendment. And he's
25 refusing to answer any questions concerning any of the events

1 that took place on March 24.

2 MR. McDANIEL: Your Honor, I will reserve questioning
3 on the date of March 24 until I get to a whole series of
4 questions. I'll come back to that in a minute.

5 THE COURT: All right.

6 Q. (By Mr. McDaniel) I want to ask you questions now
7 concerning your experiences in watching others drive an
8 automobile. Had you ridden in automobiles on numerous occasions
9 prior to March 24, 1998?

10 A. Yes, sir.

11 Q. Had you ridden in the front seat of automobiles before March
12 24, 1998?

13 A. Yes, sir.

14 Q. Did your parents own an automobile?

15 A. Yes, sir.

16 Q. Did they have an automobile that had an automatic
17 transmission or a shift transmission, or do you know?

18 A. Automatic.

19 Q. I want to talk now about your experience with guns. Prior
20 to March 24, 1998 did you own a gun of any type?

21 MR. PRICE: I'd like to confer with my client. Refuse
22 to answer it.

23 A. I refuse to answer that question.

24 MR. PRICE: Specifically my client refuses to answer
25 that question or any questions concerning guns or firearms. He

1 is invoking his Fifth Amendment right against
2 self-incrimination.

3 MR. McDANIEL: Mr. Price, while we're going to get the
4 judge, I want to ask some other questions and see if you invoke
5 the Fifth likewise.

6 MR. PRICE: All right.

7 Q. (By Mr. McDaniel) Mr. Golden, at any time in your life
8 before March 24, 1998, had you ever been given any instructions
9 on how to fire a weapon, a firearm?

10 MR. PRICE: He invokes the Fifth. He invokes the Fifth
11 Amendment for the same reasons.

12 MR. McDANIEL: All right. At this point I'll agree
13 that --

14 MR. PRICE: Continuing objections for the same.

15 MR. McDANIEL: All right.

16 Q. (By Mr. McDaniel) Prior to March 24 of 1998 had you ever
17 been hunting with a firearm?

18 MR. PRICE: He invokes the Fifth.

19 Q. (By Mr. McDaniel) Prior to March 24, 1998 have you ever
20 been present whether you had a gun or not when someone else was
21 hunting with a firearm?

22 MR. PRICE: He invokes the Fifth.

23 Q. (By Mr. McDaniel) Had you ever played with guns prior to
24 March 24 of 1998?

25 MR. PRICE: He invokes the Fifth.

1 Q. (By Mr. McDaniel) Prior to 1998, had you seen others use
2 firearms for either target practicing or hunting when you
3 yourself were not shooting the gun?

4 MR. PRICE: He invokes the Fifth.

5 MR. McDANIEL: I think we can stop here and get the
6 judge. Let's go off the record.

7 (Off-the-record discussion.)

8 MR. McDANIEL: Mike, who is the gentleman?

9 MR. ROBERTS: This is Mitchell's parents. I got
10 permission for them to talk to him.

11 MR. McDANIEL: Is that his natural father or
12 stepfather?

13 MR. ROBERTS: It's his stepfather.

14 MR. McDANIEL: The stepfather doesn't have any right to
15 be in here. Your Honor, I don't want to violate the Court's
16 order. I notice that the gentleman speaking with Mitchell
17 Johnson now is a stepparent. He is not a party to the
18 litigation. I can't consent to a violation of the Court's order
19 for him to remain in this courtroom. He is not a party.

20 THE COURT: He's the stepfather?

21 MR. McDANIEL: Yes, who is not a party to the
22 litigation.

23 THE COURT: Anybody else got anything to say on it?

24 MR. ROBERTS: I had mentioned the word "humanitarian"
25 to Mr. McDaniel. I arranged for his mother and his stepfather to

1 just talk with him for a second while we were in recess, Your
2 Honor.

3 THE COURT: I don't have any problem with him visiting
4 with him. The sheriff's office might.

5 MR. McDANIEL: I don't have any problem with that, but
6 not in here during the course of the depositions.

7 THE COURT: All right. During the course of the
8 deposition, then I think that he'll need to wait outside. The
9 mother, of course, can stay. Is that all y'all need me for?

10 MR. McDANIEL: No, sir. We have a line of questions.
11 Your Honor, we're getting into a line of questioning relating to
12 his experience with guns and firearms and one question, for
13 example, was: Prior to March 24, 1998 had you ever owned a
14 firearm? That was objected to. Prior to March 24, the effective
15 date of this incident, had you ever gone hunting? Prior to March
16 24 had you ever been in the presence of others when they were
17 hunting? Had you ever been in the presence of others when they
18 were target shooting whether you had a gun or not? And we submit
19 that those are questions that a good faith basis cannot be made
20 that those would subject him to criminal jeopardy.

21 THE COURT: I agree with you. I'm going to direct him
22 to answer it.

23 MR. McDANIEL: Judge, you might just have to be around
24 for a while if you don't mind.

25 MR. PRICE: I need to confer with my client. Don't

1 answer that. For the record, I'm advising my client in spite of
2 the Court's ruling to not answer that question.

3 MR. McDANIEL: You're telling him to defy the judge's
4 ruling?

5 MR. PRICE: That's correct. We argued competency and
6 insanity on appeal. Those issues are viable issues. Anything
7 dealing with intent could impact upon his knowledge of firearms.
8 I have a good faith basis for that, and I'm advising my client at
9 this hearing --

10 THE JUDGE: I don't understand your basis for objecting
11 to those questions. Those are questions that could be asked of
12 anyone. That don't generally subject one to any criminal
13 sanctions. Whether or not they've gone target shooting, whether
14 or not they've owned a firearm, those are all lawful legitimate
15 purposes.

16 MR. PRICE: If the basis of this civil lawsuit is my
17 client reportedly using a firearm in a commission of a tort, then
18 I think it --

19 THE COURT: I think those are legitimate questions of
20 inquiry in the civil case. They do not subject one to criminal
21 sanctions.

22 MR. PRICE: I'm still advising my client not to answer
23 that in spite of the Court's ruling.

24 Q. (By Mr. McDaniel) Mr. Golden, before March 24 of 1998 did
25 you own a firearm, yes or no?

1 MR. PRICE: Don't answer that question.

2 A. I refuse to answer that question.

3 MR. McDANIEL: Your Honor, you're instructing him to
4 answer in spite of the refusal?

5 THE COURT: Yes, I've instructed him to answer. The
6 only remedy I've got is to hold him in contempt, which I get
7 somebody in his position to tell me what are you going to do, put
8 me in jail?

9 MR. McDANIEL: Your Honor, we'll reserve a request for
10 sanctions if we may so the Court may consider that.

11 THE COURT: Yes, I'm directing him to answer that
12 question. It's not one that would normally incriminate one or
13 subject one to criminal sanctions.

14 Q. (By Mr. McDaniel) Prior to March 24 of 1998 had you ever
15 fired a firearm, a rifle or a pistol in your life?

16 MR. PRICE: Don't answer that question.

17 A. I refuse to that answer question.

18 MR. McDANIEL: Can we just have this as a continuing
19 sanction?

20 MR. PRICE: Yes.

21 MR. McDANIEL: All right.

22 Q. (By Mr. McDaniel) Mr. Golden, prior to March 24 of 1998,
23 had you ever observed someone else shoot a firearm, be it rifle
24 or a pistol?

25 MR. PRICE: Don't answer that.

1 Q. (By Mr. McDaniel) Prior to March 24, 1998, had you ever
2 observed your grandfather, Douglas Golden, shoot a rifle?

3 MR. PRICE: He refuses to answer that question.

4 Q. (By Mr. McDaniel) Have you ever observed your grandfather
5 prior to March 24 of 1998 retrieve a gun or a rifle from a gun
6 rack inside his home?

7 MR. PRICES: Refuses to answer that question.

8 THE COURT: What is the basis for the refusal of that?

9 MR. PRICE: Judge, the facts involved in this case were
10 allegations that my client seized guns from the grandfather's
11 house. I think it's definitely pertinent. I think that it could
12 be subject to incrimination.

13 THE COURT: In what way? How would that incriminate
14 him?

15 MR. PRICE: It could be a basis of future criminal
16 charges, Your Honor.

17 MR. McDANIEL: What future criminal charges?

18 MR. PRICE: The State could charge my client with
19 burglary for breaking into grandfather's house for example.

20 THE COURT: That wasn't the question. The question was
21 whether or not he ever observed a firearm being taken down or
22 replaced, I believe -- that's generally what the question
23 was -- from a gun rack. Are you saying that that might subject
24 him to some criminal sanctions because he had knowledge of the
25 location of the gun rack? Is that what you're saying?

1 MR. PRICE: Yes, sir, perhaps that could be it. There
2 may be others.

3 THE COURT: All right. I'm ordering him to answer the
4 last series of questions. We'll deal that later.

5 Q. (By Mr. McDaniel) Mr. Golden, prior to March 24 of 1998,
6 had you ever held in your hands any gun owned by your
7 grandfather, Douglas Golden.

8 MR. PRICE: Refuses to answer that question.

9 Q. (By Mr. McDaniel) Prior to January 1, 1998, had you ever
10 held in your hands any gun owned by your grandfather, Douglas
11 Golden?

12 MR. PRICE: Refuse to answer that question.

13 Q. (By Mr. McDaniel) Prior to January 1, 1998, had you ever
14 seen Douglas Golden retrieve a gun from his gun rack in his
15 eating area of his home?

16 MR. PRICE: Refuse to answer that question.

17 Q. (By Mr. McDaniel) Prior to January 1, 1998, had you ever
18 observed any means used by your grandfather, Douglas Golden, to
19 attempt to secure guns in a gun rack by use of a cable and a
20 lock?

21 MR. PRICE: Refuse to answer that question.

22 Q. (By Mr. McDaniel) Prior to January 1, 1998, had you ever
23 seen Douglas Golden unlock or gain access to rifles in the gun
24 lock with a cable lock system on it?

25 MR. PRICE: Refuse to answer that question.

1 Q. (By Mr. McDaniel) The same question applicable to prior to
2 March 24 of 1998, at any time had you seen your grandfather get a
3 gun out of the gun rack by disengaging a padlock or removing a
4 cable lock system?

5 MR. PRICE: Refuse to answer that question.

6 Q. (By Mr. McDaniel) Have you ever had explained to you by
7 your grandfather how to gain access to guns in the cabinet?

8 MR. PRICE: Refuse to answer that question.

9 Q. (By Mr. McDaniel) Did you know where the key to the padlock
10 on the cable lock system was stored?

11 MR. PRICE: Refuse to answer that question.

12 Q. (By Mr. McDaniel) Had you ever seen your grandfather get
13 the key and unlock the padlock to the cable lock system securing
14 rifles in his eating area?

15 MR. PRICE: Refuse to answer that question.

16 Q. (By Mr. McDaniel) Had you ever observed your grandfather
17 fire a rifle or a shotgun at any time prior to March 24 of 1998?

18 MR. PRICE: Refuse to answer that question.

19 Q. (By Mr. McDaniel) Did you ever fire a rifle or a shotgun on
20 the residential property or surrounding property of the home of
21 Douglas Golden?

22 MR. PRICE: Refuse to answer that question.

23 Q. (By Mr. McDaniel) Did you ever fire a rifle from the patio
24 area of the home of Douglas Golden prior to March 24, 1998?

25 MR. PRICE: Refuse to answer that question.

1 Q. (By Mr. McDaniel) Did you ever go target shooting with your
2 grandfather, Douglas Golden?

3 MR. PRICE: Refuse to answer that question.

4 Q. (By Mr. McDaniel) Did you ever go target shooting with your
5 parents or either of them?

6 MR. PRICE: Refuse to answer that question.

7 Q. (By Mr. McDaniel) Did you ever receive any instruction on
8 safe firearm usage from either your grandfather, Douglas Golden,
9 or either of your parents?

10 MR. PRICE: Refuse to answer that question.

11 MR. McDANIEL: Judge, I'm assuming your ruling is
12 continuing, that he should answer all of these questions up to
13 now?

14 THE COURT: Most of them, yes. There would be some
15 that I probably wouldn't require him to answer of that last
16 series.

17 MR. McDANIEL: Well, if you can think of which one,
18 tell me so we've got a clear record so we don't have to go back
19 and play them back and get a ruling as to each one because I was
20 assuming that it was continuing unless you said otherwise.

21 THE COURT: Mr. Price, are you suggesting that that
22 last series of questions would subject him to a potential charge
23 of burglary for which he was not charged? Is that what you're
24 saying?

25 MR. PRICE: Yes, sir. That's a potential charge.

1 MR. McDANIEL: Those questions related to noncriminal
2 conduct. That was consensual voluntary conduct was the context
3 and the framework of those questions.

4 THE COURT: Most of them were relating to what he
5 observed his father do, and to those questions I certainly would
6 order him to answer those. I don't think they subject him to any
7 criminal responsibility.

8 MR. McDANIEL: As to the questions relating to
9 instructions or guidance that he would have received --

10 THE COURT: Those would be appropriate questions for
11 him to answer. As far as questions about his knowledge as to how
12 to open the locking system or where the key might be found, there
13 might be some vague suggestion that by knowing that that he
14 could -- in answering that he could subject himself to possible
15 charges of burglary. I'm not sure the State would even bring
16 those charges at this point, though, Mr. Price. I think it might
17 be barred.

18 MR. McDANIEL: Mr. Price, are you stating there is a
19 good faith basis for believing that if he answers the question
20 that he had seen Douglas Golden gain access to the guns that
21 there is a good faith basis for believing that that would subject
22 him to a potential criminal charge and if so, what charge and
23 brought by whom? I think we're entitled to know that.

24 MR. PRICE: Yeah. I'm obviously not a State or federal
25 prosecutor. My client may be subject to federal gun charges as

1 well and which also is another basis to object to any of these
2 questions concerning any firearms.

3 THE COURT: What did he plead to in federal court if it
4 wasn't gun charges? They had no jurisdiction on anything else
5 that I'm aware of.

6 MR. PRICE: Judge, I have no direct knowledge of what
7 may have taken place in federal court. I was not his attorney in
8 federal court, and I have seen nothing in writing concerning --

9 THE COURT: Who was?

10 MR. PRICE: Leon Fowler. I think there may be some
11 federal gag order concerning that. I'm not sure.

12 THE COURT: You're talking about gag orders. The
13 newspaper is outside wanting a copy of my written gag order, and
14 I didn't call it a gag order. Do you have a copy of that order?

15 MR. DUSTIN McDANIEL: I have a copy of Your Honor's
16 amended order that you signed this morning. It's the only copy
17 as I haven't had the opportunity --

18 THE COURT: Let me have and I'll put --

19 MR. PRICE: Have we got it filed under seal?

20 MR. DUSTIN McDANIEL: This order itself is filed under
21 seal. It contains all the information surrounding this morning's
22 hearing, including those things that we all agreed should not be
23 released.

24 MR. ROBERTS: If Your Honor pleases, I have an
25 objection to Mr. McDaniel's last question. We'll ask the court

1 reporter to read it back, please. I'm not trying to be
2 bothersome, but I think --

3 THE COURT: I think the last question was --

4 MR. ROBERT: That's what I assume we're all struggling
5 with. Mr. McDaniel's last question.

6 (The requested material was read.)

7 MR. McDANIEL: Mr. Price, you've interposed an
8 objection of the Fifth Amendment instructing him not to answer
9 the questions. My question is: Can you state for the record a
10 good faith basis for the objection and what criminal charge is he
11 facing and what jeopardy does he face by answering the question?

12 MR. PRICE: Judge, I'm not sure. As I've stated
13 earlier, I'm not a prosecutor. I'm not sure exactly what charge
14 he could be facing. The fact that we have an appeal pending, if
15 the Supreme Court reverses his juvenile delinquency conviction,
16 he's back in juvenile court again and the State could file
17 additional charges if they want to, and that's an even more
18 paramount reason that he's exercising the Fifth Amendment on this
19 question.

20 MR. ROBERTS: If Your Honor please, I object to Mr.
21 McDaniel's question because I don't think Mr. McDaniel as
22 Plaintiff's counsel has standing to compel a defense lawyer to
23 disclose the theory of his case and any communications between
24 himself and his client. I think the Court might have the power
25 to compel the disclosure of that, but I don't want to set a

1 precedent here. I certainly do not agree that Mr. McDaniel has
2 any right to compel me to articulate a reason otherwise than to
3 this Court for my constitutional objection on behalf of my
4 client. So I object that --

5 THE COURT: I think there probably was a question that
6 the Court asked in some fashion that Mr. McDaniel is repeating.
7 I don't mind the Fifth Amendment being employed to defend him
8 against some real substantive potential claim that could be made
9 by the State and the federal government. But all this smoke and
10 this innuendo, that to me is not a justification or a basis for
11 the Fifth Amendment. It needs to be something specific that we
12 can see and we can articulate that people know exists, not just
13 some guess or maybe. This is a civil case.

14 MR. PRICE: Yes, sir, but my client was charged with
15 capital murder. We have five counts of capital murder of which
16 two key elements are the act and intent. The questions Mr.
17 McDaniel is asking could go to the intent. And by my client
18 being forced to answer the questions in this civil matter today,
19 if the Supreme Court reverses his conviction, then that may
20 impact upon his --

21 THE COURT: The prosecuting attorney is just two doors
22 down. I'm going to go down there and confer with him about his
23 position on these matters and maybe we can resolve that.

24 MR. McDANIEL: Should we go off the record or --

25 THE COURT: Y'all can go right ahead.

1 MR. McDANIEL: We'll get into some other background
2 areas maybe that are not objectionable and come back to them.

3 Q. (By Mr. McDaniel) Mr. Golden, we'll come back to questions
4 about guns. Let me ask you about your home. Who all lived in
5 your home prior to March 24 of 1998?

6 MR. PRICE: Go ahead and answer it.

7 A. My dad and mom.

8 Q. (By Mr. McDaniel) Did you have any brothers and sisters?

9 A. Yes, sir.

10 Q. Who were they?

11 A. Wesley McDermit.

12 Q. What?

13 A. Wesley McDermit and Amy Bates.

14 Q. Wesley McDermit and Amy Bates?

15 A. Yes, sir.

16 Q. I'm going to have to ask you to speak up a little louder if
17 you will. Did they live with you there in the home with your
18 parents?

19 A. No, sir.

20 Q. Where did they live?

21 A. My sister had her own house, and my brother lived with my
22 grandmother.

23 Q. Did you have your own room or did you share a room with
24 someone else?

25 A. I had my own room.

1 Q. Tell me about your room. How was it decorated? Did you
2 have posters on the wall for example?

3 A. No, sir.

4 Q. Did you have any pictures on the wall?

5 A. I can't remember.

6 Q. Did you have a stereo or any music playing device in your
7 room?

8 A. Yes, sir.

9 Q. Did you have -- and I'm going to say records or recordings
10 meaning either a record, a CD, a tape, a cassette tape or any
11 means by which sound is recorded and then played, did you have
12 any recorded sound in your room?

13 A. Yes, sir.

14 Q. What type of music did you listen to prior to March of 1998?

15 MR. PRICE: Go ahead and answer.

16 A. Classic rock, sir.

17 Q. (By Mr. McDaniel) Classic rock?

18 A. Yes, sir.

19 Q. Can you give me the name of some of the artists whom you
20 particularly favored? What groups or names of groups did you
21 listen to?

22 A. All different kinds.

23 Q. Do you remember any of them?

24 A. No, sir, not right now.

25 Q. I'm sorry?

- 1 A. Not right now, sir.
- 2 Q. Did you have a videotape and television in your room?
- 3 A. Yes, sir.
- 4 Q. Did you watch videotape movies in your room?
- 5 A. Yes, sir.
- 6 Q. What type videotapes did you watch?
- 7 A. Action.
- 8 Q. Action films?
- 9 A. Yes, sir.
- 10 Q. Like what?
- 11 A. (No Response.)
- 12 Q. Tell me some of the films you used to watch.
- 13 A. I can't really think of any.
- 14 Q. Are you telling me under your oath you can't remember one
- 15 single movie that you watched in your room as an action film?
- 16 A. (No Response.)
- 17 Q. I need an answer.
- 18 A. Yes, sir.
- 19 Q. What is an action film? What do you call an action film?
- 20 A. Kind of like venture, sir.
- 21 Q. What is an adventure film, action film? What type films are
- 22 we talking about?
- 23 A. (No Response.)
- 24 Q. Are you talking about films where war movies or Sylvester
- 25 Stallone type movies, the guys that do the karate things? What

1 kind of movies are you talking about?

2 MR. HODGES: Object to leading.

3 Q. (By Mr. McDaniel) Go ahead and answer.

4 A. (No Response.)

5 Q. Sir, can you answer me?

6 A. No, sir.

7 Q. Did you own some films, videotapes or did you rent them?

8 A. Both, sir.

9 Q. Uh?

10 A. Both.

11 Q. Where did you rent videotapes from?

12 A. Blockbuster.

13 Q. From Blockbuster. Anywhere else?

14 A. Hastings.

15 Q. Hastings. Anywhere else?

16 A. Not that I can think of.

17 Q. Did you have your own card to get videos at Blockbuster and
18 Hastings, or would your parents or either one of them have to get
19 them for you?

20 A. I didn't have a card or anything.

21 Q. How did you get the films at Blockbuster and Hastings if you
22 did not have a card?

23 A. Parents would rent them.

24 Q. Your parents?

25 A. Yes, sir.

- 1 Q. Did you listen to the radio?
- 2 A. Sometimes, sir.
- 3 Q. What radio stations did you listen to?
- 4 A. I can't remember.
- 5 Q. You can't remember. Did you have HBO or Cinemax in your
6 room?
- 7 A. No, sir.
- 8 Q. Did you have access to watch HBO or Cinemax in your home?
- 9 A. No, sir.
- 10 Q. Did your home have a computer?
- 11 A. Yes, sir.
- 12 Q. Was the computer attached to the -- or connected to the
13 internet?
- 14 A. Yes, sir.
- 15 Q. Did you use the computer and the internet?
- 16 A. Sometimes.
- 17 Q. When you used the internet, did you know how to get into the
18 internet yourself?
- 19 A. No, sir.
- 20 Q. So then any time you watched the internet, was an adult
21 present or worked on the internet?
- 22 A. Yes, sir.
- 23 Q. Who would those adults have been?
- 24 A. My mother and father.
- 25 Q. Did you ever rent any R rated movies, action films where

1 there was say, people being shot like war movies and things like
2 that?

3 A. Yes, sir.

4 Q. Did you watch a lot of action movies or war type movies or
5 Commando, Green Beret, Navy Seal, any of those elite fighting
6 group movies? Did you watch some of those?

7 A. Yes, sir.

8 Q. Did you watch in those movies people being shot and killed?

9 A. Yes, sir.

10 Q. Did you watch in movies how for increased accuracy sometimes
11 they would use telescopic sights?

12 MR. PRICE: Refuse to answer that question.

13 Q. (By Mr. McDaniel) You refuse to answer?

14 A. Yes, sir.

15 Q. Do you know what a telescopic sight is?

16 MR. PRICE: Refuse to answer that question.

17 Q. (By Mr. McDaniel) In the movies that you watched, did you
18 watch them alone or did your parents watch these movies with you,
19 these action films?

20 A. My parents watched them with me.

21 Q. Did you ever watch them alone?

22 A. Not that I can remember.

23 Q. Let's go to books. Did you have books in your room?

24 A. No, sir.

25 Q. Did you ever get books from a library?

- 1 A. No, sir.
- 2 Q. Were you ever bought books by your parents as gifts?
- 3 A. No, sir, not that I can remember.
- 4 Q. Did you watch videos at anyone else's home other your own?
- 5 A. My grandparents.
- 6 Q. When you were at your grandparent's, what type movies would
7 you watch over there?
- 8 A. Same thing.
- 9 Q. Adventure films?
- 10 A. Uh-huh.
- 11 Q. War movies, that sort of thing?
- 12 A. Yes, sir.
- 13 Q. Do you remember the names of any of them?
- 14 A. No, sir.
- 15 Q. Did you watch them alone or with them?
- 16 A. With them.
- 17 Q. Were they R rated movies as well because of the violence?
- 18 A. I think so, sir.
- 19 Q. Did your grandparents live close to your parents?
- 20 A. Pretty close.
- 21 Q. Did you ever walk from your home to your grandparent's home?
- 22 A. No, sir.
- 23 Q. Were you always driven there one way or the other?
- 24 A. Yes, sir.
- 25 Q. In the sixth grade -- you started the sixth grade in August

1 of '97, is that right, and then went to school until this
2 incident occurred at Westside?

3 A. Yes.

4 Q. During the school year of your sixth grade year, did you
5 spend any time at your grandparent's home?

6 A. Yes, sir.

7 Q. When you got out of school, where would you usually go after
8 you got of sixth grade in the afternoon?

9 A. To home.

10 Q. When you would get home after school, were you alone or with
11 someone else at the home?

12 A. Alone, sir.

13 Q. Alone?

14 A. Yes, sir.

15 Q. After school did you ever go to your grandparent's?

16 A. If she was there, then she would come pick me up from
17 school.

18 Q. Sometimes your grandmother would pick you up at school and
19 take you to her home?

20 A. Yes, sir.

21 Q. Out of the average five-day school week, how many days on
22 average would you go to your grandparent's home?

23 A. It wasn't every week.

24 Q. Would you go at least one day every week or some weeks you
25 wouldn't go?

- 1 A. Some weeks I wouldn't go.
- 2 Q. Would some weeks when you did go, would you go more than one
3 day like two or three days in a week?
- 4 A. Sometimes.
- 5 Q. In the summertime between school terms, did your mother and
6 dad work?
- 7 A. Yes, sir.
- 8 Q. What did your dad do in the summer before you started sixth
9 grade? What was his job?
- 10 A. Postmaster.
- 11 Q. Do you know what time he went to work and what time he got
12 home, about?
- 13 A. Probably about 6:00, left about 6:00, 7:00 and then got home
14 about 5:00, 4:00 or 5:00.
- 15 Q. What did your mother do?
- 16 A. Postmaster.
- 17 Q. What were her hours of work?
- 18 A. She would leave about 7:00, around 7:00.
- 19 Q. What time would she normally get home?
- 20 A. About 5:00, 4:00 or 5:00.
- 21 Q. Did that continue during the school year as well?
- 22 A. Yes, sir.
- 23 Q. Did you catch a bus to school or were you taken to school in
24 sixth grade?
- 25 A. I caught a bus.

1 Q. Where did you get on the bus? Where was the bus stop?

2 A. In front of my house.

3 Q. How long was your bus ride to school? Were you on the bus
4 for ten minutes, a half an hour?

5 A. It wasn't very long.

6 Q. Was your house one of the last stops before the school? Was
7 the bus pretty well full by the time you got on?

8 A. Yes, sir.

9 Q. In sixth grade you came home and stayed alone in the
10 afternoon if your grandmother didn't get you until your parents
11 came home, correct?

12 A. Yes, sir.

13 Q. Did sometimes friends come over to your house?

14 A. No, sir.

15 Q. You were always alone?

16 A. Yes, sir.

17 Q. In the fifth grade, the prior year, what did you do when you
18 got out of school?

19 A. I went to a baby-sitter.

20 Q. Who was the baby-sitter?

21 A. It was -- I forgot the name of the place. It was a day
22 care.

23 Q. It was a day care?

24 A. Uh-huh.

25 Q. Do you know the name at all?

1 A. No, sir.

2 Q. Where was it?

3 A. It was just outside of Bono or right in Bono.

4 Q. Did your parents have a rule that you could not have any
5 friends come over to your house?

6 A. Yes, sir.

7 Q. Did you ever break that rule?

8 A. No, sir.

9 Q. Did you ever get in trouble for not being where you were
10 supposed to be?

11 A. No, sir.

12 Q. Did you ever get kicked out of or removed from day care in
13 the fifth grade?

14 A. No, sir.

15 Q. Did you stay in day care throughout the entire school term
16 of the fifth grade?

17 A. Yes, I'm pretty sure.

18 Q. Did you start sixth grade staying at home or going to day
19 care?

20 A. Staying at home.

21 Q. In fourth grade were you in day care after school?

22 A. Yes, sir.

23 Q. The same one or a different one?

24 A. I can't remember. I think it was the same one though.

25 Q. In third grade did you go to day care?

1 A. Yes, sir.

2 Q. The same one or a different one?

3 A. I'm not real sure.

4 Q. In second grade after school did you go to day care or stay
5 at home?

6 A. Day care.

7 Q. At the end of first grade when you got out of school did you
8 go to day care or stay at home?

9 A. Day care.

10 Q. Can you give me the name of any day care you've ever stayed
11 at?

12 MR. PRICE: Object to relevancy.

13 Q. (By Mr. McDaniel) Go ahead.

14 A. No, sir.

15 Q. Can you give me the names of any day school or day care
16 teachers or supervisors that you had?

17 A. No, sir.

18 Q. Did you subscribe to any magazines or did your family have
19 magazines delivered to the home?

20 A. Yes.

21 Q. What magazines were delivered to your home?

22 A. JCPenney.

23 Q. What?

24 A. JCPenney.

25 Q. All right. Any others?

1 A. None that I can think of.

2 Q. Were there any hunting magazines in your home?

3 A. Yes, sir.

4 Q. Were there any gun and ammo or magazines that feature guns
5 or ammunition in your home?

6 A. Yes, sir.

7 Q. Do you remember the names of any of those?

8 A. No, sir.

9 Q. Did you ever look at those magazines?

10 A. Sometimes.

11 Q. Did you read the magazines or look at the pictures of the
12 guns and how they worked or stories about guns?

13 MR. PRICE: Refuse to answer that question.

14 Q. (By Mr. McDaniel) Did you ever print any material from the
15 internet about guns?

16 A. No, sir.

17 Q. Did you ever look at the internet and gain information about
18 guns from the internet?

19 A. No, sir.

20 Q. What kinds of sites on the internet would you visit you were
21 visiting internet sites?

22 A. I didn't get on the internet that much. I usually got on
23 there for school stuff, for school reports.

24 Q. When you got out of school and you came home alone, what did
25 you do with your time from the time you got home until your

1 parents came home from work later in the day?

2 A. Homework.

3 Q. Homework?

4 A. And I watched TV.

5 Q. What were your academic achievements or what were your
6 grades in sixth grade? How had they been?

7 A. I think I had As and Bs. I'm not real sure. I can't
8 remember.

9 Q. What were your grades in fifth grade?

10 A. I can't remember.

11 Q. Had you ever been expelled or suspended from school for any
12 reason?

13 A. No, sir.

14 Q. Had you ever been sent to the office for any reason?

15 A. Yes, sir.

16 Q. In the sixth grade were you ever sent to the office?

17 A. I can't remember.

18 Q. Just tell me all the times you can remember you were sent to
19 the office and why.

20 A. Once in the fourth grade for throwing paper on the bus.

21 Q. For what?

22 A. In fourth grade for throwing paper on the bus.

23 Q. Okay. After you were sent to the office, were your parents
24 notified of that? Did they discuss that with you?

25 A. Yes, sir.

1 Q. Any other time you were sent to the office?

2 A. Not that I can remember.

3 Q. In first grade, did you have any problems in school in first
4 grade?

5 A. Not that I can remember.

6 Q. Did you ever shoot another child with a pop gun that had
7 sand or dirt in the barrel?

8 MR. McDANIEL: Refuse to answer it.

9 Q. (By Mr. McDaniel) Prior to January 1 of 1998, did you ever
10 point at or shoot a pop gun or a toy gun with sand or dirt in the
11 barrel at a girl's face?

12 MR. PRICE: Refuse to answer it.

13 Q. (By Mr. McDaniel) Did you know that if someone prior to
14 March 24, 1998, did you know at that time if someone was shot
15 with a high-powered rifle that it might kill them? Did you know
16 that?

17 MR. McDANIEL: Refuse to answer that question.

18 Q. (By Mr. McDaniel) Did you know if you shot someone with a
19 high-powered rifle prior to March 24 of 1998 that it could
20 inflict serious injury or death upon them?

21 MR. PRICE: Refuse to answer that question.

22 Q. (By Mr. McDaniel) Whether you shot -- let me rephrase the
23 question this way. From your observations of television,
24 magazines, books, videos or personal observations, did you know
25 that if someone were shot with a high-powered rifle it might kill

1 them?

2 MR. PRICE: Refuse to answer.

3 Q. (By Mr. McDaniel) When you were in school, were any notes
4 ever sent home to your parents concerning discipline?

5 A. Not that I can remember.

6 Q. I want to go now to very briefly to the day of the event at
7 the Westside School on March 24 of 1998.

8 MR. PRICE: My client will refuse to answer any
9 questions concerning that day.

10 MR. McDANIEL: Your Honor, I take it there is going to
11 be a blanket one, so any question I would ask concerning where
12 you went, what you did, who said what, who did what, what you
13 observed, what, if any, events took place, he would be instructed
14 not to answer?

15 MR. PRICE: Yes, sir; that's correct.

16 THE COURT: Mr. Price, I need for you to clarify the
17 reason you're directing him to invoke the Fifth. One area I can
18 understand. But as far as new charges being brought, they would
19 have to be by law juvenile charges. I just visited with the
20 prosecutor, and I'm going to probably have him make some kind of
21 statement on it in a minute. Mr. Davis is on the way back from
22 Little Rock, and Alan is not prepared to answer for them to do
23 anything at all.

24 MR. PRICE: For the record, Alan Copelin, the deputy
25 prosecutor?

1 THE COURT: Alan Copelin, the deputy prosecutor, I
2 addressed the issue to him and they're trying to resolve that
3 from their office. If they can, they'll tell us so. If they
4 can't, they'll indicate that. So that's -- but the thing that
5 gets me is that they can't bring any new charges in a juvenile
6 forum that would produce any more punishment than what was meted
7 out if they filed ten thousand charges. He got all he could
8 possibly get.

9 MR. PRICE: I agree with the court that he received the
10 maximum punishment under the juvenile delinquency laws.

11 THE COURT: And the juvenile court can't do anymore
12 than what it did regardless of the number of additional charges.
13 So I think it's kind of superfluous to say that the Fifth
14 Amendment should be invoked to protect him against new charges.
15 Now on the other hand, if all of your objections are directed
16 toward if he answers these questions it goes to the issue of his
17 competency and his ability to understand and articulate
18 circumstances and events and his knowledge of them, then maybe
19 they're well-taken.

20 MR. PRICE: This last batch of questions dealt with the
21 day in question.

22 MR. McDANIEL: Yes.

23 THE COURT: As far as the central issue of the appeal
24 and the only issue that it would even have any bearing, I think,
25 would be whether or not his competency.

1 MR. PRICE: And also it would be the insanity defense
2 which we've also raised.

3 THE COURT: I'm not sure an insanity defense is
4 applicable in a civil case. I think you could probably call a
5 person who was incompetent and question them. I don't know
6 whether you would want to or not. As far as your potential claim
7 for his competency, some of these questions might tend to show
8 that because of his actions and his conduct that he knew and
9 comprehended and understood what he was doing. So they might be
10 well-taken. Has a competency hearing been done?

11 MR. PRICE: No, sir. Judge --

12 THE COURT: Has an examination been performed? Is that
13 available?

14 MR. PRICE: The judge refused to allow me to argue that
15 at the juvenile court proceeding.

16 THE COURT: I think at the juvenile proceeding it
17 certainly would be relevant as to any potential punishment that
18 might be meted out. But as far as guilt or innocence in a
19 juvenile proceeding, I don't think it would be relevant.

20 MR. PRICE: My arguments to the trial court at the time
21 were that we could raise competency and also insanity with the
22 criminal code and those were defenses that would apply to a
23 juvenile as well as an adult defendant.

24 THE COURT: He's not going to be subjected to the adult
25 criminal code ever.

1 MR. PRICE: But he's charged with the adult criminal
2 code as a juvenile. He's charged with five counts of capital
3 murder, ten counts of battery, and my argument was the same
4 criminal code that filed charges against him also contains
5 defenses that he should be allowed to -- or the state should not
6 be allowed to charge him under the charges but deny him the right
7 to argue defenses under the same code.

8 THE COURT: And I think Judge Wilson ruled because he
9 was status offender that that didn't apply.

10 MR. PRICE: That's essentially his ruling.

11 MR. ROBERTS: If Your Honor please, Mike Roberts on
12 behalf of Mitchell Johnson. Did I understand the court to say
13 that you have spoken to the prosecutor about Mr. Golden and about
14 the potentiality of Mr. Golden being indicted?

15 THE COURT: That's not the way I put it. I went down
16 and told him that a deposition was being taken and the Fifth
17 Amendment was being invoked and that I wanted to know what the
18 prosecutor's position would be on any statement that might be
19 made relative to new charges or any statement that might be made
20 that would potentially be used to demonstrate competency or
21 knowledge or intent.

22 MR. ROBERTS: I certainly would want the court to
23 inquire about my client and the potentiality of further charges
24 being brought against Mitchell Johnson. I will be up next in
25 this deposition and anticipating invoking the Fifth Amendment

1 selectively as is counsel presently. And if the prosecutor is
2 presently willing to put on the record, Your Honor, that there
3 will be no more criminal charges against Mitchell Johnson, then
4 that would speed up his deposition substantially.

5 THE COURT: Well, I'm not sure he's ready to do that.
6 We haven't gotten a hold of Mr. Davis, who is an elected
7 prosecutor. I'm sure he'll want to make that decision. I did
8 limit it to either of the young men. I said that that was an
9 issue that was occurring in the civil case; what was their
10 position? Of course, he wants to find out from his boss. Your
11 client is in a little bit different situation. He's plead guilty
12 to the juvenile proceedings and there is no pending appeal.

13 MR. ROBERTS: I agree, Your Honor, it is different.
14 But just for the sake of the record here, if the prosecutor is
15 going to make a statement on the record, then I would like him to
16 consider --

17 THE COURT: I don't know that he's going to do that. I
18 just approached him with the problem that was developing, and I'm
19 not even sure that that would solve it.

20 MR. McDANIEL: Judge, I hate to interrupt but can we
21 get back to the deposition?

22 THE COURT: Yeah.

23 MR. CAHOON: I would just like to make this statement
24 at this time with all due respect to the court. If there are
25 going to be any further ex parte communications with the office

1 of the prosecuting attorney as it might affect the deposition in
2 this case, I would like these parties to be a party to those
3 communications.

4 THE COURT: I'm reporting to you. Before I left here,
5 I told I was going to walk down the hall and see what their
6 position was. I thought that was -- I sure wasn't trying to do
7 it behind anybody's back.

8 *Mr. McD* → THE COURT: Judge, I'm being charged probably three
9 dollars and a half a page for these ramblings of lawyers talking
10 about things that aren't relevant to this deposition. I'd like
11 to get on with my deposition.

12 MR. CAHOON: How can it not be relevant to the
13 deposition when the court is making rulings of questions that are
14 being asked? These rulings are being made based in some part
15 upon communications that are taking place outside this room.

16 MR. McDANIEL: Your Honor, may I proceed with my
17 deposition?

18 THE COURT: Yes, you can proceed.

19 MR. ROBERTS: For the record, Your Honor, Mike Roberts
20 on behalf of Mitchell Johnson. I have absolutely no objection to
21 the court talking to the prosecutor whatsoever.

22 Q. (By Mr. McDaniel) Mr. Golden, in terms of events of March
23 24th, 1998, are you going to refuse to answer each and every
24 question I ask of you about what occurred that day?

25 MR. McDANIEL: And, Mr. Price, are you going to

1 instruct him not answer?

2 MR. PRICE: Yes, sir, that's correct. He will refuse
3 to answer.

4 Q. (By Mr. McDaniel) Before March 24 of 1998, I want to ask
5 you all contact you had with Mitchell Johnson before that date,
6 not related to the events of the shooting itself, do you
7 understand? In other words, I'm going to ask you, for example,
8 did you know Mitchell Johnson, yes or no. Did you know Mitchell
9 Johnson?

10 A. Yes, sir.

11 Q. How long had you known Mitchell Johnson?

12 A. I'm not sure, sir.

13 Q. Did you know him in fifth grade?

14 A. Yes.

15 Q. Did you know him in fourth grade?

16 A. No, sir.

17 Q. Did you ever go to his house or did he ever come to your
18 house?

19 A. No, sir.

20 Q. Did you all talk after school?

21 A. On the bus.

22 Q. On the bus?

23 A. Yes.

24 Q. Did you ride the same bus?

25 A. Yes, sir.

1 Q. I'm going to ask you a question now that your lawyer may
2 instruct you not to answer, this series of questions. Why did
3 you shoot some of the people at the Westside School?

4 MR. PRICE: Refuse to answer this question.

5 Q. (By Mr. McDaniel) Did you intend to hurt or kill any one
6 individual specifically?

7 MR. PRICE: Refuse to answer the question.

8 Q. (By Mr. McDaniel) Was anyone targeted by you specifically
9 to kill or to injure?

10 MR. PRICE: Refuse to answer.

11 Q. (By Mr. McDaniel) Did you and Mitchell Johnson at any time
12 talk about who you were going to kill and why?

13 MR. PRICE: Refuse to answer.

14 Q. (By Mr. McDaniel) Did you and Mitchell Johnson at any time
15 talk about the circumstances by which this shooting incident
16 would develop and take place?

17 MR. PRICE: Refuse to answer.

18 Q. (By Mr. McDaniel) Were you in Kelly Taylor's Day Care at
19 any time?

20 A. Yes.

21 Q. Why were you pulled out of Kelly Taylor's Day Care, do you
22 know?

23 A. No, sir.

24 Q. Do you know Becky Shannon, a school bus driver, Ms. Shannon?

25 A. Yes, sir.

- 1 Q. Was she your school bus driver for sixth grade?
- 2 A. Yes, sir.
- 3 Q. Did you ever have any problems or difficulties with Ms.
- 4 Shannon?
- 5 A. No, sir.
- 6 Q. Did Ms. Shannon ever have to discipline you in any way while
- 7 on the bus?
- 8 A. No, sir.
- 9 Q. Do you know an individual by the name of Johnathon Woodard?
- 10 A. Yes, sir.
- 11 Q. Was he a friend of yours?
- 12 A. Yes, sir.
- 13 Q. How long had you known Johnathon Woodard?
- 14 A. I'm not real sure.
- 15 Q. Was Johnathon Woodard an African-American or a black boy or
- 16 Caucasian?
- 17 A. He was black, sir.
- 18 Q. Did he go to Westside School?
- 19 A. Yes, sir.
- 20 Q. I'm not talking about March 24 of 1998. I'm talking about
- 21 on other occasions had you talked with him?
- 22 A. Yes, sir.
- 23 Q. Did you consider him your friend?
- 24 A. Yes, sir.
- 25 Q. Did you ever go to his house or he come to yours?

1 A. No, sir.

2 Q. Did you ride the same bus?

3 A. No, sir.

4 Q. Did you visit during recess or out in the halls or at lunch?

5 A. Yes, sir.

6 Q. Did you tell Johnathon Woodard that you were going to shoot
7 people at Westside School about three or four months before the
8 shooting actually took place?

9 MR. PRICE: Refuse to answer the question.

10 Q. (By Mr. McDaniel) Were you ever brought into the school in
11 the presence of either Ms. Render or anyone else to discuss a
12 claim that you had told Mr. Woodard, Johnathon Woodard, that you
13 were going to shoot someone?

14 MR. PRICE: Refuse to answer the question.

15 Q. (By Mr. McDaniel) Who was your principal at Westside
16 School?

17 A. Mrs. Curtner.

18 Q. Did you ever have a discussion with Mrs. Curtner about a
19 statement that you allegedly made to Johnathon Woodard about
20 shooting someone?

21 MR. PRICE: Refuse to answer.

22 Q. (By Mr. McDaniel) Did at any time Mrs. Curtner order you to
23 get counseling while you were a student at Westside School?

24 MR. PRICE: Refuse to answer.

25 MR. McDANIEL: Val, I don't see how that could be

1 incriminating if he was ordered to get counseling. Are you
2 seriously telling him not to answer that?

3 MR. PRICE: At this point.

4 Q. (By Mr. McDaniel) Did you ever get any counseling from the
5 time you were born up until the time of March 24 of 1998?

6 A. No, sir.

7 Q. Did you ever go to a psychologist or a psychiatrist or a
8 counselor of any type for therapy of any -- mental therapy of any
9 sort?

10 A. No, sir.

11 Q. To your knowledge were your parents ever told to put you in
12 counseling or take you to a therapist or get you some
13 consultation concerning mental health at any time?

14 A. No, sir.

15 Q. Were you ever placed on any medication relative to mental
16 health?

17 A. No, sir.

18 Q. Did you ever take a drug for example called Ritalin?

19 A. No, sir.

20 Q. Did you ever take a drug called Prozac?

21 A. No, sir.

22 Q. Did you ever take any prescription medication other than
23 antibiotics when you had the flu or something like that?

24 A. No, sir.

25 Q. Are you on any medications of any kind now?

- 1 A. No, sir.
- 2 Q. When is the last time that you can remember that you took
3 any prescription medications?
- 4 A. I can't remember.
- 5 Q. At your grandparent's home, were you ever there when they
6 got locked out of the home?
- 7 A. No, sir.
- 8 Q. Where did they keep the hidden key to the house?
- 9 A. I don't know.
- 10 Q. I'm sorry?
- 11 A. I don't know, sir.
- 12 Q. What door would you usually enter when you went to visit
13 your grandparents?
- 14 A. The back door.
- 15 Q. The back door?
- 16 A. The back door.
- 17 Q. Is that the door that comes in almost underground?
- 18 A. No, sir.
- 19 Q. The back door back by the garage, is that the one you're
20 talking about, by the carport?
- 21 A. Yes, sir.
- 22 Q. Where you come in by the kitchen?
- 23 A. Yes, sir.
- 24 Q. Were you familiar with the other doors to the house? Did
25 you know where they were?

1 A. Yes, sir.

2 Q. Had you seen guns at your grandparent's house other than in
3 the gun rack, like on top of the refrigerator or in bedrooms?

4 MR. PRICE: Refuse to answer the question.

5 Q. (By Mr. McDaniel) Were you familiar with a fence around
6 your grandparent's home?

7 A. Yes, sir.

8 Q. Had you played out there around the home since you were a
9 small child?

10 A. Yes, sir.

11 Q. Had you climbed over that fence to go play in the fields and
12 stuff?

13 A. Yes, sir.

14 Q. Had you played out in that field with your grandparents
15 present?

16 A. Yes, sir.

17 Q. Climbed the fence with your grandparents present?

18 A. Yes, sir.

19 Q. Had you known that they had a shop building out by the
20 house?

21 A. Yes, sir.

22 Q. And they kept tools and equipment in the shop building?

23 A. Yes, sir.

24 Q. Did you go to church prior to March 1998? Did you attend a
25 church?

1 A. No, sir.

2 Q. Have you ever attended church?

3 A. Yes, sir.

4 Q. When is the last time before March of 1998 you remember
5 attending any church?

6 A. I can't remember, sir.

7 Q. Had you attended a church any time while you were in the
8 sixth grade?

9 A. Not that I can remember.

10 Q. Do you remember attending a church while you were in the
11 fifth grade?

12 A. I can't remember, sir.

13 Q. Do you remember the denomination or the type of church it
14 was that you attended if you ever remember going --

15 MR. ROBERTS: Objection relevancy.

16 Q. (By Mr. McDaniel) Go ahead and answer.

17 A. Baptist.

18 Q. Were you a member of any groups or clubs or organizations
19 while you were in the sixth grade?

20 A. Like what?

21 Q. Like anything. Anywhere from a school club to boy scouts to
22 you name it, any clubs or organizations of any kind.

23 A. No.

24 Q. No?

25 A. No, sir.

1 Q. Had you ever told anyone prior to March 24 of 1998 that you
2 were either in or affiliated with a gang?

3 A. No, sir.

4 Q. Prior to March 24 of 1998 had you ever used any illegal
5 drugs?

6 A. No, sir.

7 Q. Prior to March 24 of 1998 had you ever consumed alcoholic
8 beverages?

9 A. No, sir.

10 Q. Had you ever observed Mitchell Johnson use any illegal drugs
11 of any kind, marijuana or any other drug?

12 A. No, sir.

13 Q. Had you ever heard Mitchell Johnson say that he had used
14 drugs such as marijuana or anything else?

15 MR. ROBERTS: Objection hearsay. Objection competency.

16 Q. (By Mr. McDaniel) Go ahead and answer.

17 A. Yes, sir.

18 Q. Yes?

19 A. Yes, sir.

20 Q. What did Mitchell tell you that his drug use or what he had
21 done with drugs --

22 MR. ROBERTS: Objection hearsay. I'm sorry, Mr.
23 McDaniel. I apologize.

24 MR. McDANIEL: No, go ahead.

25 MR. ROBERTS: No, go ahead and finish your sentence.

1 Objection hearsay. Objection competency.

2 Q. (By Mr. McDaniel) Go ahead and answer it.

3 A. What was the question?

4 Q. I can't hear you.

5 MR. PRICE: Repeat the question.

6 Q. (By Mr. McDaniel) What had Mitchell Johnson told you in the
7 past about him using drugs, whether it's marijuana or anything
8 else or alcohol.

9 MR. ROBERTS: Objection --

10 Q. (By Mr. McDaniel) Tell me what he told you.

11 MR. ROBERTS: Objection hearsay, competency,
12 foundation, leading.

13 Q. (By Mr. McDaniel) Go ahead.

14 A. He said he had found some of his dad's marijuana and smoked
15 it.

16 Q. When did this conversation take place?

17 MR. ROBERTS: Objection hearsay, competency,
18 foundation, leading.

19 A. I can't remember.

20 Q. (By Mr. McDaniel) Was it in sixth grade?

21 MR. ROBERTS: Objection hearsay, competency,
22 foundation, leading.

23 A. I think it was.

24 MR. McDANIEL: For these questions about this, I will
25 agree that's a continuing objection.

1 MR. ROBERTS: Continuing objection.

2 Q. (By Mr. McDaniel) Where were you when this conversation
3 took place?

4 A. I can't remember.

5 MR. ROBERTS: Objection.

6 Q. (By Mr. McDaniel) When he told you that he had found some
7 of his dad's marijuana, what did he tell you he did with it?

8 MR. ROBERTS: Objection.

9 A. He said he had smoked it.

10 Q. (By Mr. McDaniel) Did he tell you anything about the effect
11 of the smoking of the marijuana, how it affected it?

12 MR. ROBERTS: Objection.

13 A. No, sir.

14 Q. (By Mr. McDaniel) Did you ever smoke any marijuana?

15 A. No, sir.

16 Q. Did you ever tell anyone that you had?

17 A. No, sir.

18 Q. Did Mitchell Johnson brag to either you or anyone else that
19 he had smoked marijuana other than the incident you've told me
20 about?

21 MR. ROBERTS: Objection. Continuing objection.

22 A. Yes, sir.

23 Q. (By Mr. McDaniel) Tell me about the other things Mitchell
24 Johnson had said about the use of marijuana.

25 MR. ROBERTS: Objection. Continuing objection.

1 A. It was the same thing but just other people told me about
2 it.

3 Q. (By Mr. McDaniel) Who were some of the other people he told
4 about that?

5 MR. ROBERTS: Objection. Continuing objection.

6 MR. McDANIEL: I'll agree with you it's continuing as
7 to all questions related to the marijuana.

8 *Roberts* MR. McDANIEL: Mr. McDaniel, I just want to make sure
9 I'm making a good record.

10 MR. McDANIEL: Certainly. No problem.

11 A. Other of his friends.

12 Q. (By Mr. McDaniel) Who?

13 A. Josh Brand.

14 Q. Josh who?

15 A. Brand.

16 Q. B-R-A-N-D?

17 A. Uh-huh.

18 Q. Okay. Who else?

19 A. That's all I can think of.

20 Q. I can't hear you.

21 A. That's all I can think of.

22 Q. Who were your friends in sixth grade? Who did you consider
23 your friends?

24 A. Johnathon Woodard.

25 Q. Johnathon Woodard?

- 1 A. Johnathon Newman.
- 2 Q. I can't hear you.
- 3 A. Johnathon Newman.
- 4 Q. Johnathon Newman?
- 5 A. (Witness nodding affirmatively.)
- 6 Q. How do you spell his last name?
- 7 A. I'm not real sure.
- 8 Q. Okay. Who else?
- 9 A. Triston Brewer.
- 10 Q. Who?
- 11 A. Triston Brewer.
- 12 Q. Triston Brewer?
- 13 A. Yes, sir.
- 14 Q. Okay. You're going to have to speak up louder for us now.
- 15 Go ahead. Who else were your friends?
- 16 A. That's really it.
- 17 Q. So you only had three friends in sixth grade?
- 18 A. About.
- 19 Q. Was Mitchell Johnson a friend?
- 20 A. Yes, sir.
- 21 Q. Did you ever spend the night at any of your friend's homes
- 22 in the sixth grade?
- 23 A. No, sir.
- 24 Q. Did any of your friends ever spend the night at your home in
- 25 sixth grade?

1 A. No, sir.

2 Q. Who were Mitchell Johnson's friends?

3 MR. ROBERTS: Objection. Continuing.

4 A. I'm not real sure.

5 Q. (By Mr. McDaniel) When Mitchell Johnson told you about
6 smoking the marijuana -- and I realize it's a continuing
7 objection -- did he tell you how he smoked it, with a pipe or
8 cigarette papers or how he smoked it?

9 MR. ROBERTS: Objection. Continuing.

10 A. He said he had cigarette papers.

11 Q. (By Mr. McDaniel) That he had cigarette papers. Did he
12 tell you who taught him how to roll a cigarette?

13 MR. ROBERTS: Objection. Continuing.

14 A. Huh-uh.

15 Q. (By Mr. McDaniel) Did he tell you how he knew how to roll a
16 cigarette?

17 MR. ROBERTS: Objection. Continuing.

18 A. No, sir.

19 Q. (By Mr. McDaniel) Did he tell you how often he had smoked
20 marijuana?

21 MR. ROBERTS: Objection. Continuing.

22 A. No, sir.

23 MR. McDANIEL: Mr. Price, do I understand if I ask
24 questions concerning his prior experience with gun training and
25 from whom he had had gun training, you're going to object to

1 those?

2 MR. PRICE: Yes, sir.

3 MR. McDANIEL: You all, would this be an appropriate
4 time to take a five-minute break for the court reporter and for
5 counsel if we may?

6 (A lunch break was taken.)

7 Q. (By Mr. McDaniel) Mr. Golden, I want to pick up where we
8 left off, and I'll vary some questions and come back to some
9 things. Again, the same rule as you realize you're oath, right?

10 A. Yes, sir.

11 Q. Prior to March 24 of 1998, had you ever killed any animals?

12 A. (No Response.)

13 Q. It's a yes or no.

14 A. Yes. Yes, sir.

15 Q. What animals or types of animals had you killed in your
16 life?

17 A. Squirrels.

18 Q. Squirrels? Had you ever killed any cats?

19 A. No, sir.

20 Q. Had you ever killed any animals other than squirrels?

21 A. Ducks.

22 Q. Ducks?

23 A. Yes, sir.

24 Q. Any other animals?

25 A. No, sir.

1 Q. Did you kill the ducks while they were sitting or flying?

2 A. Flying.

3 Q. So then you would have shot them with a shotgun?

4 A. Yes, sir.

5 MR. PRICE: Refuse to answer that question.

6 Q. (By Mr. McDaniel) As far as the squirrels were concerned,
7 did you kill them with a stick or a rock?

8 A. No, sir.

9 Q. Did you kill them with a gun?

10 MR. PRICE: Refuse to answer that question.

11 Q. (By Mr. McDaniel) I want to go back to a question, and I
12 want to make sure that you understand it. I asked you if in
13 school you had gotten in trouble for pointing a little pop gun or
14 a toy gun at a girl and shooting her and whether it was filled
15 with sand or rocks or dirt, and you said you don't remember doing
16 that. Is that right?

17 MR. PRICE: Refuse to answer it.

18 MR. McDANIEL: I think he already answered that and
19 discussed that, Val.

20 MR. PRICE: I'm not sure.

21 Q. (By Mr. McDaniel) Do you remember that?

22 A. No, sir.

23 Q. Do you remember going to the office and getting a paddling
24 for doing that when you were in first grade, I believe it was?

25 A. I think.

- 1 Q. You think you do remember that?
- 2 A. Yes.
- 3 Q. You have to speak up.
- 4 A. Yes, sir.
- 5 Q. When you got the paddling, were your parents notified that
6 you got the paddling?
- 7 A. Yes, sir.
- 8 Q. Were your grandparents notified?
- 9 A. I'm not sure.
- 10 Q. Did either your parents or grandparents come to the school
11 and tell the school that you were not to be paddled again?
- 12 A. I don't remember.
- 13 Q. You remember now what you got the paddling for, don't you?
- 14 A. Yes, sir.
- 15 Q. Tell me why you got paddled at school.
- 16 A. For pointing a gun, a pop gun at a girl.
- 17 Q. For pointing a pop gun at a girl?
- 18 A. Yes, sir.
- 19 Q. Who was the girl?
- 20 A. I don't remember her name.
- 21 Q. You did more than point the pop gun at her, didn't you? You
22 pulled the trigger and the air discharged some grass or sand or
23 dirt or rocks at her face, didn't it?
- 24 A. Yes, sir.
- 25 Q. Yes?

1 A. Yes, sir.

2 Q. Had you ever pointed a gun at anyone else?

3 MR. PRICE: Refuse to answer.

4 Q. (By Mr. McDaniel) Do you refuse to answer that?

5 A. Yes, sir.

6 Q. Do you remember an incident in which a man had shot a deer
7 and your dog went over by the deer? Do you remember that
8 incident and there was a confrontation of sorts? Do you remember
9 that?

10 A. No, sir.

11 Q. Do you remember an incident where your dog tried to get on a
12 deer that a man had shot and he tried to take your dog away from
13 the deer? Do you remember that?

14 A. No, sir.

15 Q. Do you remember any incident in which you had a
16 confrontation with a man about your dog?

17 A. No, sir.

18 Q. Did you ever point gun at a man relating to an incident
19 involving your dog?

20 MR. PRICE: Refuse to answer.

21 Q. (By Mr. McDaniel) Do you refuse to answer?

22 A. Yes, sir.

23 Q. Did you ever go down to Weiner or in the Weiner area for
24 recreational purposes?

25 A. Yes, sir.

1 Q. How frequently would you go to the Weiner area for
2 recreational purposes?

3 A. Every now and then.

4 Q. Every now and then?

5 A. (Witness nodding affirmatively.)

6 Q. Was it more in the summer than in the winter?

7 A. No, it was winter.

8 Q. It was what?

9 A. Winter.

10 Q. You went more in the winter than the summer?

11 A. Yes, sir.

12 Q. Did you engage in conduct at Weiner involving things such as
13 throwing food at your mother, kicking at your mother or yelling
14 at your mother?

15 A. No, sir.

16 Q. Do you know a Mrs. Criter?

17 A. Yes, sir.

18 Q. Who is Jan Criter?

19 A. Terry Criter's wife.

20 Q. Where do you know them from and what's your relationship
21 with them?

22 A. They were my parent's friends.

23 Q. Did they spend time around you and your parents?

24 A. Yes, sir.

25 Q. Did you spend time with them down at Weiner?

1 A. Yes, sir.

2 Q. Did you engage in shooting activities down at Weiner with
3 them present?

4 MR. PRICE: Refuse to answer.

5 Q. (By Mr. McDaniel) Do you know a Mrs. Mackelvoy?

6 A. No, sir.

7 Q. Betty Mackelvoy?

8 A. No, sir.

9 Q. Had you ever gone to any organized training on how to safely
10 handle a firearm?

11 MR. PRICE: Refuse to answer.

12 Q. (By Mr. McDaniel) Have you ever had any training in gun
13 repair?

14 MR. PRICE: Refuse to answer.

15 MR. McDANIEL: Val, do you suggest that that could
16 incriminate him?

17 MR. PRICE: Yes, sir.

18 MR. McDANIEL: Okay.

19 Q. (By Mr. McDaniel) Have you ever taken a gun apart?

20 MR. PRICE: Refuse to answer.

21 Q. (By Mr. McDaniel) Do you know what a trigger lock is?

22 MR. PRICE: Refuse to answer.

23 MR. McDANIEL: His knowledge of knowing what a trigger
24 lock is, you're instructing him to answer?

25 MR. PRICE: Yes, sir.

1 MR. McDANIEL: We'll get back to that.

2 Q. (By Mr. McDaniel) Have you ever seen a trigger lock before?

3 MR. PRICE: Refuse to answer.

4 MR. McDANIEL: Is the judge around?

5 MR. ROBERTS: He's still -- for your information, he's
6 still at the --

7 MR. PRICE: He was still at lunch when I came back.

8 MR. ROBERTS: He was down to his cold drink though.

9 Q. (By Mr. McDaniel) Had you ever received any other in-school
10 suspensions or disciplines other than the padding in the first
11 grade or anything else we've talked about?

12 A. No, sir, not that I can remember.

13 Q. I want to ask you some questions and see if you remember any
14 of these circumstances. Did you ever tell anyone you could get
15 to or gain access to your family's weapons?

16 MR. PRICE: Refuse to answer.

17 Q. (By Mr. McDaniel) Did you ever have difficulty getting
18 other children to play with you?

19 A. No, sir.

20 Q. To your knowledge had any other children ever been told by
21 their parents not to play with you?

22 MR. PRICE: Object to hearsay.

23 Q. (By Mr. McDaniel) Go ahead and answer.

24 A. No, sir.

25 Q. Did you own a knife back in 1998?

1 MR. PRICE: Refuse to answer.

2 Q. (By Mr. McDaniel) Did you own a hunting knife in 1998?

3 MR. PRICE: Refuse to answer.

4 Q. (By Mr. McDaniel) Did you have access to a hunting knife
5 before March 24 of 1998?

6 MR. PRICE: Refuse to answer.

7 Q. (By Mr. McDaniel) Did you ever wear a knife strapped to
8 your leg?

9 MR. PRICE: Refuse to answer.

10 Q. (By Mr. McDaniel) Did you ever wear a knife in public on
11 your person?

12 MR. PRICE: Refuse to answer.

13 Q. (By Mr. McDaniel) Did you wear camouflage as clothing to
14 school on occasion?

15 A. Sometimes.

16 Q. Did you wear camouflage when you were not in school?

17 A. Sometimes.

18 Q. Your attorney has indicated that you are intending to or
19 have attempted to interpose a defense of insanity to the Westside
20 shootings. Did you hear him say that?

21 A. Yes, sir.

22 Q. Do you claim that you were insane on March 24 of 1998?

23 MR. PRICE: Refuse to answer.

24 Q. (By Mr. McDaniel) In March of 1998 did you know who you
25 were and where you were and what you were doing?

1 MR. PRICE: Refuse to answer.

2 Q. (By Mr. McDaniel) On March 24 of 1998 did you know your
3 name?

4 A. Yes, sir.

5 Q. On March 24 of 1998 did you know where you lived? Could you
6 see your home and recognize it as yours from the street?

7 A. Yes, sir.

8 Q. On March 24, 1998 did you know who your parents were?

9 A. Yes, sir.

10 Q. On March 24, 1998 did you know who your teachers were?

11 A. Yes, sir.

12 Q. March 24, 1998 did you know where you went to school?

13 A. Yes, sir.

14 Q. March 24, 1998 did you know Mitchell Johnson?

15 A. Yes, sir.

16 Q. March 24, 1998 did you know individuals involved in this
17 lawsuit?

18 MR. PRICE: Refuse to answer.

19 Q. (By Mr. McDaniel) On March 24 of 1998 did you know that it
20 was wrong to kill somebody?

21 MR. PRICE: Refuse to answer.

22 Q. (By Mr. McDaniel) March 24 of 1998 did you know that some
23 things were okay to do and some things were not okay to do? Did
24 you know that?

25 MR. PRICE: Refuse to answer.

1 Q. (By Mr. McDaniel) March 24 of 1998 were you aware of your
2 surroundings, where you were, what day of the week it was, what
3 time of day it was and the circumstances that you were in?

4 MR. PRICE: Refuse to answer.

5 Q. (By Mr. McDaniel) Have you ever had any psychiatric
6 counseling up until today?

7 MR. PRICE: Refuse to answer.

8 MR. McDANIEL: I'm not asking what they said; I'm
9 asking whether it's ever occurred, and I think I'm entitled to
10 know that.

11 MR. PRICE: Refuse to answer.

12 Q. (By Mr. McDaniel) While you've been in custody, who have
13 you talked to about the Westside incident?

14 MR. ROBERTS: Objection.

15 MR. PRICE: And refuse to answer.

16 Q. (By Mr. McDaniel) Have you talked to any lawyers besides
17 Mr. Price?

18 MR. PRICE: Refuse to answer.

19 Q. (By Mr. McDaniel) Has any lawyer represented you other than
20 Mr. Price?

21 MR. PRICE: Refuse to answer.

22 Q. (By Mr. McDaniel) Have you been charged in any federal
23 criminal proceeding?

24 MR. PRICE: Refuse to answer.

25 MR. ROBERTS: Objection.

1 Q. (By Mr. McDaniel) Have you been sentenced to any sentence
2 other than what has been imposed upon you from the Craighead
3 County Juvenile Court?

4 MR. ROBERTS: Objection.

5 MR. PRICE: Refuse to answer.

6 Q. (By Mr. McDaniel) To your knowledge are any charges pending
7 or about to be brought or you think might be brought against you?

8 MR. PRICE: Refuse to answer.

9 MR. ROBERTS: Objection.

10 Q. (By Mr. McDaniel) Have you ever been disciplined by your
11 family?

12 A. Yes, sir.

13 Q. What type discipline has your family used upon you?

14 A. Like what? Like what?

15 Q. Well, like spankings.

16 A. Yeah.

17 Q. Being told to stay in your room?

18 A. Yes, sir.

19 Q. Denial of privileges?

20 A. Yes, sir.

21 Q. Being yelled at?

22 A. Not really.

23 Q. Any other type punishments that your parents had imposed
24 upon you?

25 A. No, sir.

1 Q. What about your grandparents, did they ever impose any
2 punishments on you?

3 A. No, sir.

4 Q. What type activities would you do that would get you
5 spanked?

6 A. Cussing, stuff like that.

7 Q. Cussing and what else?

8 A. That's about it.

9 Q. How often would you get a spanking?

10 A. Not very often.

11 Q. How often is that, once a week, once a month, once a year?
12 How often would you get a spanking?

13 A. Probably once or twice a year.

14 Q. Who would spank you?

15 A. Dad, mom.

16 Q. What type action would you engage in that would result in
17 you being ordered to stay in your room as discipline?

18 A. Staying out too late or something like that.

19 Q. Staying out too late?

20 A. Or staying on the phone too long.

21 Q. Staying on the phone too long. What else?

22 A. (No Response.)

23 Q. When you would stay out too late, what time would you come
24 in that you would get in trouble so you would have to stay in
25 your room?

1 A. Usually my parents gave me like a time to be back, over 30
2 minutes or something like that.

3 Q. What about denial of privileges, what activities would you
4 engage in for denial of privileges?

5 A. About the same thing.

6 Q. When you got the spanking at school and you got home, did
7 you get another spanking when you got home?

8 A. Yes, sir.

9 Q. So your parents definitely knew about the pop gun incident
10 and shooting the child in the face because they spanked you for
11 it too?

12 A. Yes, sir.

13 Q. Have you ever been the subject of any physical abuse?

14 A. No, sir.

15 Q. Have you ever been the victim of any sexual abuse by anyone?

16 A. No, sir.

17 Q. Inappropriate touching?

18 A. No, sir.

19 Q. Have you ever abused anyone else sexually or physically?

20 A. No, sir.

21 Q. Have you ever shot at anyone else other than on March 24 of
22 1998?

23 MR. PRICE: Refuse to answer.

24 Q. (By Mr. McDaniel) Have you ever had any fights in your
25 life?

1 A. Not that many.

2 Q. You don't remember ever having any fights?

3 A. No. I said not that many.

4 Q. Not that many?

5 A. Huh-uh.

6 Q. How many have you had?

7 MR. PRICE: Refuse to answer.

8 Q. (By Mr. McDaniel) Have you ever had any prior contact with
9 the police?

10 A. No, sir.

11 Q. Have you ever set any fires?

12 A. No, sir.

13 Q. Have you given any interviews to anyone about what happened
14 or lead up to what happened at the Westside School?

15 ? MR. McDANIEL: Refuse to answer.

16 Q. (By Mr. McDaniel) To your knowledge have any of your family
17 members given any interviews as to what happened about the
18 Westside School incident?

19 MR. PRICE: Refuse to answer and also hearsay, both.

20 MR. McDANIEL: Val, help me out. How is it potentially
21 incriminating to him if he knows his parents gave an interview?
22 Help me out here.

23 MR. PRICE: Well, first of all, I think it would be
24 hearsay. He would have no direct knowledge of his parents --

25 MR. McDANIEL: This is discovery. You're not going to

1 report him not to answer that, are you?

2 MR. PRICE: You can go ahead and answer that question.

3 Q. (By Mr. McDaniel) Do you know about your parents giving any
4 interviews?

5 A. No, sir.

6 Q. Or your grandparents?

7 A. No, sir.

8 Q. Do you agree that it would be wrong if you got paid any
9 money for a story, a movie or a book or an interview or anything
10 related to this Westside incident? Do you agree that would be
11 wrong?

12 MR. ROBERTS: Objection. Leading, speculative.

13 Q. (By Mr. McDaniel) Go ahead and answer.

14 A. Yes, sir.

15 Q. Do you agree that you will not ever take any benefits, any
16 money or any profit from this incident?

17 A. Yes, sir.

18 Q. Do you know of anyone who has been paid anything relating to
19 this Westside incident?

20 A. No, sir.

21 Q. Have you had a chance to talk to Mitchell Johnson from the
22 time that you were placed in police custody up until today?

23 MR. PRICE: Refuse to answer.

24 Q. (By Mr. McDaniel) How many times have you talked to
25 Mitchell Johnson from the time you were placed in custody up

1 until now?

2 MR. PRICE: Refuse to answer.

3 Q. (By Mr. McDaniel) When you were a child, did you put on a
4 puppet show that was video taped for your school?

5 A. Yes, sir.

6 Q. And your puppet show was done as part of a school project.
7 Is that correct?

8 A. Yes, sir.

9 Q. Who helped you organize that or plan it or put it together,
10 your mom, your dad or both?

11 A. Both.

12 Q. Both of them did?

13 A. (Witness nodding affirmatively.)

14 Q. And your puppet show, what did it involve? Tell me about
15 it.

16 A. It had a puppet.

17 Q. Well, what was the subject of the matter? What was the
18 theme of the puppet show?

19 A. I can't really remember now.

20 Q. What was the title of it, do you remember?

21 A. No, sir.

22 Q. It involved the puppet using a gun and shooting, didn't it?

23 A. I'm not sure. I don't remember.

24 Q. You don't remember the puppet holding a gun?

25 A. No.

1 Q. What do you remember about the puppet show?

2 A. Nothing really. I don't even remember having it.

3 Q. You what?

4 A. I don't remember it.

5 Q. Have you ever talked to Tom Firth, an attorney?

6 MR. ROBERTS: Objection.

7 A. No, sir.

8 Q. (By Mr. McDaniel) When you were served with lawsuit papers
9 when this case first started, what did you do with those papers?
10 Did you give them to your mom and dad? What did you do with
11 them?

12 A. I gave them to my mom and dad.

13 Q. What did they tell you they would do with them, or what did
14 they tell you they would do?

15 A. They said they would put them up for me.

16 Q. Whose class was the puppet show for?

17 A. I think it was Mrs. Writes' class.

18 Q. Did you get a grade for that puppet show?

19 A. Yes.

20 Q. Do you know what grade you got?

21 A. No.

22 Q. Was the puppet show a quick draw scene? Did it have a quick
23 draw scene with a puppet?

24 A. I don't remember.

25 MR. McDANIEL: I think we need to get the judge in on

1 those questions that we spoke about earlier. Can you see if you
2 can get the judge and we'll go off the record for a moment?

3 (A break was taken.)

4 MR. McDANIEL: I think until the judge returns, I'd
5 like to adjourn the deposition or pass questioning over to other
6 lawyers rather than wait and waist time and let other lawyers
7 take questioning and then wait until the judge gets back. Is
8 that agreeable? I pass until the judgment --

9 MR. HODGES: No questions.

10 MR. CAHOON: No questions.

11 MR. ROBERTS: No questions.

12 MR. MARSHALL: No questions.

13 MR. PRICE: No questions.

14 MR. McDANIEL: Then may we consider the deposition
15 temporarily adjourned until the judge returns or start with Mr.
16 Johnson? Is that agreeable?

17 MR. HODGES: Agreeable.

18 (A break was taken.)

19 MR. McDANIEL: Your Honor, at this point I had asked
20 some questions earlier that you were not available and I'd like
21 to revisit those and get a ruling on them if I may.

22 THE COURT: For the record, I just went to lunch.

23 MR. McDANIEL: I know. I wasn't being critical.

24 Q. (By Mr. McDaniel) Mr. Golden, do you know what a trigger
25 lock is?

1 MR. PRICE: Refuse to answer.

2 MR. McDANIEL: I think we're entitled to have that
3 answer, Your Honor.

4 MR. PRICE: Like I said, there may be some type of
5 federal gun charge that may be filed against my client.

6 THE COURT: Has anybody in this case gone to the
7 federal prosecutors? I know you hadn't gone to the state
8 prosecutors because one of you objected when I said I was going
9 to. I can't believe that nobody has contacted them on that
10 issue. Has that been done?

11 MR. CAHOON: I have tried to make inquiry, Your Honor,
12 and --

13 THE COURT: Of the federal prosecutor or --

14 MR. CAHOON: Yes.

15 THE COURT: The local prosecutors said nobody has even
16 mentioned it to them. They were shocked that the matter was even
17 being -- that a hearing was being presently held.

18 MR. CAHOON: That and the federal judge involved,
19 neither will even acknowledge that these two young men even exist
20 in this world. They will not talk with you on any
21 circumstances. There is other civil litigation involved in which
22 the transcript of the proceedings is being -- attempted to be
23 obtained to no avail. So they just don't acknowledge that it
24 exists.

25 MR. McDANIEL: Judge, irrespective of that, I think

1 these questions that I'm asking are questions we're entitled to
2 have an answer on.

3 THE COURT: I think that question can easily be
4 answered without risk of criminal sanctions being brought. So
5 yes, I'd say that's a question he should answer. I direct him to
6 answer it.

7 Q. (By Mr. McDaniel) Go ahead and answer it. Do you know what
8 a trigger lock is?

9 A. Yes, sir.

10 Q. You do know what a trigger lock is?

11 A. Yes, sir.

12 Q. What is a trigger lock?

13 A. It's the lock to keep the trigger from being used.

14 Q. Have you ever seen a trigger lock before?

15 A. Yes, sir.

16 Q. When is the first time you remember ever seeing a trigger
17 lock?

18 A. In a magazine, sir.

19 Q. In a magazine?

20 A. (Witness nodding affirmatively.)

21 Q. Would that have been when you were in fifth grade or sixth
22 grade, or what grade would you have been in when you saw that?

23 A. I'm not sure, sir.

24 Q. Obviously it was certainly before March of 1998, wasn't it?

25 A. Yes, sir.

1 Q. Do you know how to open a trigger lock if you don't have the
2 key or the combination to it?

3 MR. PRICE: Refuse to answer.

4 MR. McDANIEL: I think we're entitled to that answer,
5 Judge. There is not a contention that that was done in this
6 case.

7 MR. PRICE: How to do something could go towards
8 intent.

9 MR. McDANIEL: No. It's only asked as to what his
10 knowledge of.

11 Q. (By Mr. McDaniel) Did you know how to get into a trigger
12 lock if you didn't have the key --

13 THE COURT: I think he can answer that.

14 Q. (By Mr. McDaniel) -- or know the combination of a lock?

15 A. No, sir.

16 Q. So if a trigger lock was on a gun, if you didn't have the
17 key to the trigger lock or know the combination, you couldn't
18 have used that gun if you wanted to, could you?

19 MR. MARSHALL: Objection. Calls for speculation.

20 Q. (By Mr. McDaniel) Go ahead.

21 A. No, sir.

22 Q. No, sir is the answer, correct?

23 A. Yes, sir.

24 Q. Had anyone ever shown you how to dismantle or get around or
25 break into a trigger lock?

1 MR. PRICE: Refuse to answer.

2 Q. (By Mr. McDaniel) Go ahead and answer it.

3 MR. PRICE: My client refuses to answer that question.

4 MR. McDANIEL: Judge, I think we're entitled to an
5 answer.

6 THE COURT: I think that's one I direct him to answer
7 too. I don't see how it would subject him to any additional
8 criminal charges or how it could be used in any retrial of the
9 juvenile hearing.

10 Q. (By Mr. McDaniel) I'll phrase the question so it will be
11 easy for you, and somebody might object to leading, so go ahead.
12 Isn't it true that no one ever showed you how to break into or
13 dismantle a trigger lock? Isn't that true?

14 MR. MARSHALL: Objection. Leading.

15 MR. PRICE: Objection. Leading and refuse to answer.

16 Q. (By Mr. McDaniel) Is that true?

17 A. (No Response.)

18 Q. Let me ask it the other way. Had anyone ever told you how
19 to break into a trigger lock or to take one off if you didn't
20 have the key or know the combination, anyone ever shown you how
21 to do that?

22 MR. PRICE: Object to hearsay and also refuse to
23 answer.

24 Q. (By Mr. McDaniel) Go ahead and answer.

25 A. (No Response.)

1 Q. Do you understand my question?

2 A. Yes, sir.

3 Q. Had anyone ever shown you how to break into a trigger lock
4 if it was properly applied to a gun and you didn't know the
5 combination or you didn't have a key, anyone ever shown you how
6 to get that trigger lock off and go ahead and use the gun?

7 MR. PRICE: Object to hearsay. Refuse to answer.

8 MR. MARSHALL: Objection. Leading.

9 MR. PRICE: Don't answer that question.

10 Q. (By Mr. McDaniel) I think the court has already ordered you
11 to answer it.

12 MR. PRICE: My advice is still, in spite of the court's
13 ruling, don't answer the question.

14 Q. (By Mr. McDaniel) What's your answer?

15 MR. PRICE: Don't answer it.

16 Q. (By Mr. McDaniel) You do not know how to get into a trigger
17 lock if it was on a gun unless you had the key or know the
18 combination. Isn't that true?

19 MR. PRICE: Refuse to answer.

20 MR. MARSHALL: Object to leading.

21 MR. PRICE: And leading.

22 Q. (By Mr. McDaniel) Go ahead.

23 MR. PRICE: Don't answer it.

24 MR. ROBERTS: Objection. Leading.

25 MR. MCDANIEL: Judge, I think I'm entitled to an answer

1 on that one.

2 THE COURT: I think you are, too. I don't see where he
3 needs protection against that kind of question.

4 Q. (By Mr. McDaniel) The judge has ordered you to answer.
5 Will you answer the question?

6 MR. PRICE: Don't answer the question.

7 MR. McDANIEL: Your Honor, we will reserve a motion for
8 sanctions after we get the transcript and adjourn the deposition
9 rather than conclude it, adjourn it for further proceedings after
10 sanctions motion is presented.

11 MR. HODGES: Your Honor, we object -- for the record, I
12 object to an adjournment of the deposition. He can certainly
13 have a right to have a motion, but I'd ask that the termination
14 be concluded -- I mean, the deposition be concluded rather than
15 adjourned.

16 THE COURT: I guess his position would be the only way
17 it could be concluded is if he gets answers to his questions.
18 I've also had a quandary of what kind of sanctions this court has
19 available to it under these circumstances. As a defendant, I
20 think I've mentioned it before, why don't you tell me what he's
21 going to do, put me in jail? He's in there for life. So what do
22 you do? Can I sanction Mr. Price? I don't think I can do that
23 either. He's being in good faith instructing his client not to
24 answer the question.

25 MR. HODGES: I'm not really addressing the issue of

1 sanctions, Judge. I'm just saying that this deposition ought to
2 be terminated as opposed to being adjourned.

3 MR. McDANIEL: Pass the witness subject to the previous
4 statement.

5 MR. MARSHALL: Could we have just a minute, take just a
6 second?

7 MR. McDANIEL: Sure. Off the record.

8 (Off-the-record discussion.)

9 MR. MARSHALL: Pass the witness.

10 (The deposition concluded at 1:10 p.m.)

11 (Signatures waived.)
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C E R T I F I C A T E

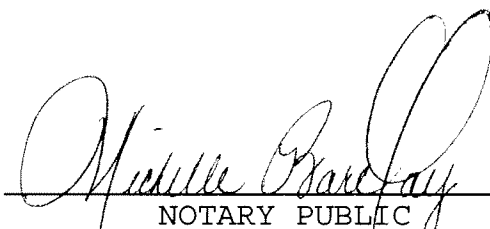
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I, MICHELLE BARCLAY, a Notary Public in and for the County of Craighead, State of Arkansas, do hereby certify:

That **ANDREW GOLDEN**, the witness in the foregoing deposition, was by me duly sworn to testify the truth, the whole truth and nothing but the truth, in the within-entitled cause; that said deposition was reported at the time and place therein stated by me by the method of machine shorthand and thereafter transcribed by me.

I further certify that I am not interested in the outcome of said action, nor connected with nor related to, any of the parties in said action or their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 28th day of April, 2000.



NOTARY PUBLIC

In and for the County of Craighead
State of Arkansas

My commission expires:
March 25, 2009