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Case No.

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Plaintiff,

vs.

JOHN DOUGLAS GRANGE,

Defendant.

No. 20138-4-III

(Stevens County
No. 00-1-00190-2)

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CLERK OF COURT OF APPEALS
STATE OF WASHINGTON III

DATES OF TRIAL: February 7, 8, 9, 12, 13, 14, 15, 16 and 17, 2001

BEFORE: Hon. REBECCA M. BAKER, Judge

APPEARANCES:

For the Plaintiff:

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For the Defendant:

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VOLUME 13 of 17
February 15, 2001
(Pages 1461 through 1569)

Transcript prepared by:
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February 15, 2001

EXHIBITS

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Exhibits, Volume 13 (02/15/01)

C.

Judy Americk
762 S. Pine
Colville, WA 99114
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1 FEBRUARY 15, 2001

2 COURT RECONVENED WITH JURY SEATED

3 WITNESS RETAKES THE STAND

4 WITNESS IS REMINDED HE IS STILL UNDER OATH

5 THE COURT: Mr. Wetle?

6 MR. WETLE: Thank you, your Honor.

7 JEFFREY CUNNINGHAM

8 CONTINUATION OF DIRECT EXAMINATION

9 BY MR. WETLE:

10 Q. Good morning, Mr. Cunningham. When we left, I had a
11 question for you about as you were going back to Portland
12 in the car, and the question is phrased: What, if
13 anything, did John Grange tell you about the order in
14 which the victims were shot?

15 A. He said that he shot Josh first 'cause he didn't know who
16 he was, then he shot Nicky.

17 Q. Pardon me?

18 A. He said he shot Josh first 'cause he didn't know who he
19 was, and then he shot Nicky.

20 Q. Was there any discussion about where they were shot?

21 A. No.

22 Q. That you remember?

23 A. Huh?

24 Q. That you remember?

25 A. No.

Jeffrey Cunningham - Direct (by Mr. Wetle)

1461.

- 1 Q. When did you get to Portland?
- 2 A. Some time around dark on Monday.
- 3 Q. So you think it was still Monday? You left Monday day,
4 Monday morning or some time mid-day and get to Portland,
5 it's dark, Monday night?
- 6 A. Yeah.
- 7 Q. What happened when you went to Rob's that-- when you got
8 there?
- 9 A. We got to Rob's, and I ate a whole bunch of Valiums and
10 drank a whole bunch of booze, went to bed.
- 11 Q. Who stayed at Rob's?
- 12 A. All three of us and Rob and a couple other people that
13 were his roommates.
- 14 Q. On Tuesday now, June 13th, did you have any discussions
15 with Rob?
- 16 A. Yeah, Rob and Dane and John and I were in Rob's room.
- 17 Q. Anybody else besides Rob show up?
- 18 A. Shadow came later.
- 19 Q. And where did this discussion take place?
- 20 A. In Rob's bedroom.
- 21 Q. And what happened there?
- 22 A. Yeah. _____ get too much into detail, but Rob was
23 informed of what happened.
- 24 Q. What did Chewy tell Rob and Shadow at that time?
- 25 A. He told them that he was the one that shot 'em, and Dane

Jeffrey Cunningham - Direct (by Mr. Wetle)

1462.

1 told them there was some other guy that was there, as
2 well.

3 Q. What did Dane ask?

4 A. Wanted to know when he was getting money.

5 Q. What was Schultz's answer to that?

6 A. Said it'd take a while to go through San Francisco and
7 everything.

8 Q. Was there supposed to be some money involved in this?

9 A. I don't know. I mean I guess there was, but I didn't--
10 I don't know.

11 Q. Was Chewy supposed to get any money?

12 A. Well, you know, he said there was \$100,000 for it, but I
13 didn't-- I didn't know if there was or not.

14 Q. Did you ever get any money for it?

15 A. No.

16 Q. After that conversation, what happens?

17 A. Everybody split up and went their own ways. I stayed at
18 the apartment for another day, maybe. Went and stayed
19 with a friend for a day or two.

20 Q. And then where did you go after you had stayed a few days
21 in the Portland area?

22 A. Phil Lesh was on tour, so we went to the Phil Lesh Tour.

23 Q. And who went on that tour?

24 A. Probably about 15, 20 Portland kids. Rob, Shadow, John
25 and I. And there was a lot at the first show, like pretty

Jeffrey Cunningham - Direct (by Mr. Wetle)

1463.

- 1 much everybody from Portland went to the first show.
- 2 Q. How were you being treated by the Family during this time?
- 3 A. Nobody was really talking to me much. I was kinda out
4 there.
- 5 Q. Were you being cut off?
- 6 A. I wouldn't say directly, no. I mean they're giving me a
7 ride and stuff from show to show, so--
- 8 Q. What happened in San Francisco?
- 9 A. We split up in San Francisco. I got left down there and
10 spun out.
- 11 Q. What do you mean you got left?
- 12 A. Well, I had another ride with some other people, and they
13 took off another way. They just took off, so I got a ride
14 with some other people.
- 15 Q. And when you say you got spun out, what happened there?
- 16 A. Someone fed me a whole bunch of LSD.
- 17 Q. More than you normally would use?
- 18 A. Uh-huh.
- 19 Q. What happens to you when that happens?
- 20 A. You get high for awhile.
- 21 Q. How long?
- 22 A. I was high until the Montana gathering.
- 23 Q. You--
- 24 A. Maybe a couple weeks.
- 25 Q. Did you have any finances to get to the Montana gathering?

Jeffrey Cunningham - Direct (by Mr. Wetle)

1464.

- 1 A. Just what tradeables I had, you know. All my-- Every-
2 thing I owned was in my backpack, so just what tradeables
3 I had and stuff.
- 4 Q. And when was that Montana gathering?
- 5 A. The weekend of the Fourth of July.
- 6 Q. What happened at the Montana gathering, Family gathering?
- 7 A. I got spun out there.
- 8 Q. Did you see Rob Schultz?
- 9 A. Yeah.
- 10 Q. What did you ask him?
- 11 A. I don't remember.
- 12 Q. How does the Family normally get rid of somebody?
- 13 A. Spin 'em out.
- 14 Q. When you took Nick and Josh to the Crown Creek cabin on
15 June 11th, what did you think was going to happen?
- 16 A. Well, when we first got there, I just thought maybe
17 there'd be a meeting between the two of them. Find out
18 what might have happened. And then I kinda figured that
19 it was a little bit more than that after-- afterwards.
- 20 Q. When did you think it was more than that?
- 21 A. Like they were going to die.
- 22 Q. And when did you figure that out?
- 23 A. When there was no gun in the room.
- 24 Q. Did you know where Chewy was at that time?
- 25 A. No.

Jeffrey Cunningham - Direct (by Mr. Wetle)

1465.

1 Q. I'd ask you to step to the drawing board again.

2 THE COURT: You want a new drawing or the same drawing?

3 MR. WETLE: That's a good question, your Honor. Maybe

4 we should try a different drawing. Another drawing.

5 THE COURT: Either way, I just want to clarify do you

6 want the easel out?

7 MR. WETLE: We need the easel out front. I'd ask

8 that-- We'd offer State's Exhibit-- whatever that is.

9 One-twelve.

10 MR. SIMEONE: No objection.

11 THE COURT: One-twelve is admitted.

12 Q. I'd ask if you could step to that easel again. Blue would

13 be fine. Or green. Let's do green.

14 MR. WETLE: And also a blue one, Mr. Bailiff, for the

15 creek.

16 Q. I'd ask if you could draw in the, just so the jury has

17 some orientation, the house and the A-frame, and then the

18 path that goes down by the garden, and then I'd like you

19 to draw the creek in blue, and where the road is. Then

20 the road, and then the creek is in blue.

21 A. And what else? The path that goes to the creek?

22 Q. Yes. Well, just the path--

23 A. The one I was standing on?

24 Q. Yes. And the road down there, and then-- and then the

25 blue line for the creek. Then just-- I'd ask if you

Jeffrey Cunningham - Direct (by Mr. Wetle)

1466.

1 could put in red--

2 MR. WETLE: Mr. Bailiff, if we could have--

3 Q. I'd like you to diagram if there was any obstruction to
4 cross that path down by the creek. And I'd ask you to
5 label that on the side. What was it?

6 A. It's just a fallen tree.

7 Q. Now, when the shots rang out, I'd like you to diagram
8 where you were standing in relation to the creek and that
9 log. And could you put J.C. for that? And when the shots
10 rang out, where was Dane standing? And could you put D.W.
11 for that?

12 MR. WETLE: Thank you. You could retake the stand.
13 I'd like to have that marked, Madam Clerk.

14 THE CLERK: Plaintiff's Exhibit 113.

15 MR. WETLE: We'd offer Plaintiff's Exhibit 113, your
16 Honor.

17 MR. SIMEONE: No objection.

18 THE COURT: One-thirteen is admitted.

19 Q. I'd ask the bailiff to hand you what's been marked as
20 Exhibit 55 and 54. Mr. Cunningham, I'd like you to look
21 at that picture. I think it's Exhibit 54.

22 A. Okay.

23 Q. And see if you can identify any marks on that particular
24 fireplace hood.

25 A. Yeah, some rust here, and some rust there. There's a seam

Jeffrey Cunningham - Direct (by Mr. Wetle)

1467.

1 and a rivet, and then some soot.

2 Q. With respect to-- With respect to Exhibit 108, you can
3 see a mark up here called Number 1?

4 A. Uh-huh.

5 Q. Can you identify that mark on the photograph?

6 A. I see it.

7 Q. When you were at the cabin and-- Did you ever notice that
8 mark?

9 A. I never particularly focused on it. I don't know. Never
10 really looked at it.

11 Q. You ever remember seeing it?

12 A. No.

13 Q. What did you do around that fireplace?

14 A. I sat there, cooked my food.

15 Q. Were you charged with rendering criminal assistance in the
16 first degree in this matter?

17 A. I was.

18 Q. And what did you do with respect to that charge?

19 A. I pled guilty.

20 Q. When was the last time that you saw Dane Williams?

21 A. The day of the Portland Phil Lesh show.

22 Q. Do you have a month that would have been?

23 A. June.

24 Q. So before the Montana gathering?

25 A. Uh-huh.

Jeffrey Cunningham - Direct (by Mr. Wetle)

1468.

1 Q. Did you ever discuss with him what you told the detec-
2 tives?
3 A. You mean after I got arrested, or at any time?
4 Q. At any time.
5 A. Well, we talked about what happened, you know, when it
6 happened.
7 Q. And at Rob-- At Rob Schultz's?
8 A. Yeah.
9 Q. And did you ever talk to him after that about this
10 incident?
11 A. No.
12 Q. Have you ever seen or heard what Dane Williams said about
13 this case?
14 A. No.
15 Q. Have you ever compared your account of the events of these
16 murders with Dane Williams?
17 A. No.
18 Q. I have one other question. Back up to the time that the
19 bodies had been loaded into the rigs, and you're still
20 back at the cabin, what was the plan at that time to get
21 rid of the vehicle after the bodies were buried?
22 A. I was going to drive it to Spokane and take a train.
23 Q. And take a train to where?
24 A. Portland.
25 Q. And where were you going to leave the vehicle?

Jeffrey Cunningham - Direct (by Mr. Wetle)

1469.

1 A. Anywhere I found in Spokane to leave it.

2 Q. When was that plan made?

3 A. When we were standing outside the truck.

4 Q. Before you went up the hill?

5 A. Yeah.

6 Q. Who all was there at that time?

7 A. Dane and John and I.

8 MR. WETLE: Thank you, Mr. Williams. I'm sorry, Mr.
9 Cunningham. I have no further questions.

10 THE COURT: All right, Mr. Simeone?

11

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Jeffrey Cunningham - Direct (by Mr. Wetle)

1470.

1 JEFFREY CUNNINGHAM

2

CROSS EXAMINATION

3

BY MR. SIMEONE:

4

Q. Mr. Cameron-- Cunningham. Did you tell the DEA agents
5 that Camerons had been supplying Rob Schultz with marijua-
6 na as well?

7

A. No.

8

Q. Do you agree that Ken and Andrea know Rob Schultz pretty
9 well?

9

10 A. I think they met him once.

11

Q. Once that you're aware of?

12

A. Yeah.

13

Q. You'll agree that Dane and Rob are pretty close together,
14 won't you?

14

15 A. They knew each other. They've met several times.

16

Q. Don't they have a marijuana business?

17

A. Yeah.

18

Q. So they must be pretty close with one another to be able
19 to trust one another to handle that illegal business.

19

20 A. No.

21

Q. Isn't that right?

22

A. No.

23

Q. Would Rob trust his business, dealing marijuana, with
24 anyone?

24

25

A. No.

Jeffrey Cunningham - Cross (by Mr. Simeone)

1471.

1 Q. So he must have some kind of a trust relationship with
2 Dane Williams, isn't that right?
3 A. Well, I introduced 'em, so he trusted me. I don't know
4 how much he trusted Dane.
5 Q. You're over there on your exhibit, and you mentioned where
6 it was that you heard the shots when they rang out.
7 A. Right.
8 Q. After you heard the shots and you ran up the hill, who
9 reached the top of that hill first, you or Dane?
10 A. Dane.
11 Q. Okay, now, when you're speaking to the detectives, you're
12 talking about Dane going through Josh's pockets. Do you
13 remember that? By the fire pit?
14 A. Okay.
15 Q. He went through Nick's pockets in the Bronco too, isn't
16 that correct?
17 A. May have been then.
18 Q. Well, was it any other time?
19 A. I don't remember.
20 Q. You told the detectives that, though, didn't you?
21 A. I might have.
22 MR. SIMEONE: May I ask that the witness be presented
23 with a copy of the transcript from his interviews with the
24 detectives, please? Jack, could you hand these to the
25 witness, please?

Jeffrey Cunningham - Cross (by Mr. Simeone)

1472.

1 Q. Handing you copies of transcripts, Mr. Cunningham, of two
2 interviews you had with the police. Would you please look
3 at those for a moment and see whether or not you can
4 identify those as transcripts of the interviews you had
5 with police?

6 A. Yeah.

7 Q. Do those appear--

8 A. This one ain't mine.

9 Q. Not yours?

10 A. No.

11 THE COURT: You want to hand that back to the bailiff?

12 Q. Does that appear to be your other transcript?

13 A. Yeah.

14 Q. You _____ two lengthy statements, didn't you?

15 A. Two what?

16 Q. Lengthy statements, didn't you?

17 A. Oh. Sure.

18 Q. Could you refer to page 2640 of your-- I guess that would
19 be your second transcript.

20 A. Okay.

21 Q. At that time you talked to the police officers about the
22 very same subject that I just discussed with you, didn't
23 you?

24 A. (No audible response)

25 Q. And the police officer, Loren Erdman, asked you:

Jeffrey Cunningham - Cross (by Mr. Simeone)

1473.

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Do you recall people going through Nick and Josh's pockets, or was it just Dane?

And what is your answer to that question, for the jury, Mr. Cunningham?

A. I don't see where you're talking about.

Q. That would be the first one, two, three, four, five lines.

A. Oh, okay. It says:

Dane went through Josh's pockets in the fireplace, and I was--

Q. When he was-- When he was in the fireplace? Is that what it says?

A. When he was in the fireplace and I was in the truck.

Q. And when who was in the truck?

A. I was-- When he was in the truck.

Q. And then does it say:

Dane was going through the front of the truck with Chewy?

A. Yeah.

Q. Okay.

A. And I was in the back of the truck and I was looking in the backpack.

Q. Okay. So then the answer to your question correctly would be that he did, in fact, go through Josh's pockets by the firepit, and through Nick's in the Bronco?

A. Right.

Q. You also told the detectives that when you saw Chewy

Jeffrey Cunningham - Cross (by Mr. Simeone)

1474.

1 carrying Nick's body down the hill, over his shoulder,
2 that was when Nick was wrapped in-- Was he wrapped in
3 anything? Was Nick wrapped in anything when Chewy was
4 carrying him down?

5 A. I don't think so.

6 Q. And please describe for the jury how it was that Nick and
7 Josh were positioned in the Bronco.

8 A. Josh was facing towards the rear of the truck, and Nick
9 was facing forwards of the truck.

10 Q. And on what side was each?

11 A. Ah--

12 Q. You don't know?

13 A. I can't remember.

14 Q. Do you remember that you said Dane helped carry Josh to
15 the Bronco and helped load him?

16 A. I-- I think he might have helped John carry him towards
17 the Bronco.

18 Q. Now, going back to the other question about where they
19 were positioned, could you please refer to page 2640?
20 That would be Jeff too, the second transcript.

21 A. There is no page 2640. Oh, the one I was just on?

22 Q. Yeah. _____ page 2640. Your page 44.

23 A. Okay.

24 Q. Now, what did you say there about-- You said you didn't
25 remember where they were positioned. But what did you say

Jeffrey Cunningham - Cross (by Mr. Simeone)

1475.

1 in your interview as to the Sheriff's question:
2 Where did they put him?
3 Referring to Nick. Do you see that? That would be the
4 8th and 9th lines, Mr. Cunningham, if you'd just follow
5 down. You see the Sheriff-- Erdman's question?
6 A. Doesn't say that in mine. Twenty-six-forty-four?
7 Q. Twenty-six-forty, sir. It says:
8 Okay, to get back, after they put Nick in
9 the vehicle, where did they put him?
10 You answered that question, didn't you?
11 A. Yeah.
12 Q. And what did you say?
13 A. On the driver's side.
14 Q. So is that your testimony now, then, that's behind the
15 driver's side?
16 A. Yeah.
17 Q. And now do you remember that?
18 A. No.
19 Q. But that was your recollection at the time you spoke to
20 the Sheriff, wasn't it?
21 A. Uh-huh.
22 Q. Do you have any reason to doubt that?
23 A. No.
24 Q. But I want to fast-forward a little bit here to the point
25 where you allege that you were digging the graves. Who

Jeffrey Cunningham - Cross (by Mr. Simeone)

1476.

1 was it that wanted to stop digging? Was that you or was
2 that Dane?

3 A. I just stopped digging. I think Dane saw what I was doing
4 and he pretty much agreed with me, and it was like, you
5 know.

6 Q. When you and Dane go back in Nick's truck, after giving up
7 on the-- the decision and the plan to dig the graves
8 here, you told detectives that Dane and you discussed a
9 different way to go and burn-- burn up that Bronco. Is
10 that right?

11 A. Yeah.

12 Q. So was it both yours and Dane's plan to burn the Bronco,
13 or was that yours, or whose was it?

14 A. Just something that we agreed on. _____ say who said what
15 first. I don't remember.

16 Q. Isn't it true that at some point Dane said: Let's just
17 burn the thing?

18 A. Yeah, that was earlier. Before we even went to-- up the
19 hill.

20 Q. Before you even went to the final burn site, you mean?

21 A. Yeah.

22 Q. Right, you walked back to the cabin, didn't you?

23 A. Yeah.

24 Q. Isn't that where Dane said let's just burn the thing? You
25 went to the grave site--

Jeffrey Cunningham - Cross (by Mr. Simeone)

1477.

1 A. He said it there as well.

2 Q. Well, let me get this straight. You went to the grave
3 site first.

4 A. Right.

5 Q. And you drove to a burn site second.

6 A. Right.

7 Q. Your testimony is that you were unable to burn the vehicle
8 at that time, correct?

9 A. Right.

10 Q. And you walked back to the cabin. Isn't that where Dane
11 would have said to you, Let's just burn the thing?

12 A. He also said it then, yeah.

13 Q. So he said it a second time?

14 A. Yeah.

15 Q. Did you ever bring it to the detectives' attention any
16 time before this that he said it another time?

17 A. No.

18 Q. Then when you got back to the cabin, were-- I'll just
19 quickly race through the events there. You went to the
20 grave site, went to the burn site, walked back to the
21 cabin. Now, you're back at the cabin. Is it correct that
22 you told the detectives that John was sitting at the
23 bottom of the stairs and that he hadn't changed his
24 clothes?

25 A. That he had?

Jeffrey Cunningham - Cross (by Mr. Simeone)

1478.

1 Q. Had not.
2 A. Right.
3 Q. 'Cause he hadn't?
4 A. He hadn't?
5 Q. He had not changed his clothes.
6 A. Right.
7 Q. Okay. And as far as you knew, he never did bury any of
8 his clothes or burn them?
9 A. Not that I know.
10 Q. The answer's no to that?
11 A. Yeah.
12 Q. I'm sorry, but the answer to that question is no, correct?
13 A. Right. Correct.
14 Q. Okay. So the plan was made to go back and burn the
15 Bronco, now that you're at the cabin. And who retrieved
16 John's Bronco from the side of the house? If you want to
17 look at your map and point to the jury so we know where
18 the Bronco was again, that's fine with me. Who was--
19 A. I couldn't tell you.
20 Q. --it, then, that went and retrieved John's Bronco?
21 A. I don't know.
22 Q. I'll refer you to page-- Bate's page 2652, Mr. Cunning-
23 ham. That's page 56 of your interview.
24 A. Twenty-six-fifty-six?
25 A. Fifty-two, sir. It's page 56 of the interview, but it's

Jeffrey Cunningham - Cross (by Mr. Simeone)

1479.

1 Bate's page 2652. I'm looking more than half way down.

2 A little more. Question from Loren Erdman:

3 Okay, now he got into his vehicle. It was
4 parked up in the side of the house. Did you
go up with him to get in the car?

5 And what was your answer to that?

6 A. No, he came, pulled up to pick us up.

7 Q. He pulled out and came and picked us up. Is that the
8 correct answer?

9 A. Yeah.

10 Q. So it would be, according to you, who, then, that picked
11 you up?

12 A. Well, John was driving when we went up to the top of the
13 hill.

14 Q. And he did that-- He did that by himself then, is that
15 correct? Picked up the car by himself?

16 A. I guess.

17 Q. And you were seated where on the way up the hill?

18 A. In the back seat.

19 Q. After the activity here that occurred, is it correct that
20 you did not go to the White Bird Tavern?

21 A. I don't remember.

22 Q. So if it were shown that you weren't, you would not
23 disagree?

24 A. Right.

25 Q. Isn't it correct you told the DEA that Rob Schultz put

Jeffrey Cunningham - Cross (by Mr. Simeone)

1480.

1 Loki, that is Shauna--

2 A. Right.

3 Q. --in a safe home?

4 A. Yeah.

5 Q. The purpose of that was to protect her from people who

6 were after Nick, isn't that right?

7 A. I don't really know.

8 Q. Why would he do that otherwise?

9 A. To keep her away from Nick, to make it so maybe the cops

10 couldn't find her either.

11 Q. Well, when in time was it that he supposedly put her in a

12 safe home?

13 A. Right after the cops released her.

14 Q. He wasn't-- You have no knowledge that he was trying to

15 isolate her from him, do you?

16 A. Yeah, he told me he was.

17 Q. He told you he was trying to keep her away from him?

18 A. He told me that they-- that he had her somewhere safe and

19 separate from everybody so nobody could talk to her,

20 'cause Rob didn't want her talking to anybody about what

21 happened.

22 Q. The idea of safe was to protect her from physical harm,

23 isn't that right?

24 A. Or just keep her out of the circle so that rumors don't

25 start flying about what happened.

Jeffrey Cunningham - Cross (by Mr. Simeone)

1481.

1 Q. Going back to Portland, is it true that Dane wanted to
2 know how much he was going to get paid for what happened
3 here? Isn't that correct?

4 A. Eventually.

5 Q. Well, that was discussed in Portland, wasn't it?

6 A. Yeah.

7 Q. I'll refer you to page 2658 of your second transcript.

8 A. Twenty-six-fifty-eight?

9 Q. Or page 62.

10 A. Okay.

11 Q. Now, it was Dane who was asking the questions about the
12 money, isn't that right?

13 A. Where?

14 Q. Loren Erdman asks you on top there,

15 Was there any discussion about money?

16 Do you remember that?

17 A. I don't remember it, but it's on paper in front of me,
18 so--

19 Q. You have no reason to dispute that that's what you said,
20 is it?

21 A. No.

22 Q. And your answer was:

23 Yeah, Dane wanted to know how much he was
24 going to get paid for it.

25 A. Right.

- 1 Q. And what was the detective's next question to you?
- 2 A. Did John say anything?
- 3 Q. And your answer?
- 4 A. I didn't know that it was a money thing.
- 5 Q. And how about the next question,
- 6 Did John say anything?
- 7 What did you say?
- 8 A. No.
- 9 Q. What about the talk of the mushroom money? Is there any
- 10 discussion about the money that Nick or Josh might have
- 11 had on them?
- 12 A. No.
- 13 Q. I'll refer you to the next page, Mr. Cunningham.
- 14 A. Okay.
- 15 Q. Middle of the page. Loren Erdman asks you the question:
- 16 Was there any reason to expect they had
- 17 money on them?
- 18 And we agree that when he says they he's referring to Nick
- 19 and Josh.
- 20 A. Okay.
- 21 Q. And what was your answer there?
- 22 A. Well, I guess I thought that they were--
- 23 that they would.
- 24 Q. To buy mushrooms, is that right?
- 25 A. Right.
- Q. And the rest of your answer was:

Jeffrey Cunningham - Cross (by Mr. Simeone)

1483.

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So Dane just assumed that they'd have money to buy mushrooms.

A. Right.

Q. And did you know there was five pounds of mushrooms that they were going to buy?

A. Well, that was about what we were going to get.

Q. And that would be a lot of money's worth of mushrooms, wouldn't it?

A. Not really.

Q. Maybe \$3,000?

A. Maybe.

Q. Well, that's a fairly large sum of money, isn't it?

A. Okay.

Q. But basically Dane wanted to go to Portland to collect for these killings that were done, didn't he?

A. I don't know. I'm sure he got-- I'm sure he didn't want to be in the area.

Q. And you talked about that on the next page of your transcript with Detective Erdman. That would be page 64.

The plan was to go to Portland.

And if you'd look at that question and answer series there, that's more than half way down the page, but not much more.

The plan was to go to Portland.

A. I don't see that in here.

1 Q. Page 26--

2 THE COURT: Would you just use the base numbers,
3 instead of referring to both sets of numbers. Just use
4 the base numbers.

5 MR. SIMEONE: The only reason I sometimes say both,
6 your Honor, is because some of them aren't legible.

7 THE COURT: I see.

8 Q. Twenty-six-sixty.

9 A. Twenty-six-sixty.

10 Q. Correct.

11 A. Okay.

12 Q. A little more than half way down the page.

13 The plan was to go to Portland.

14 A. Okay.

15 Q. That was what you said. And Loren Erdman said:

16 All of you?

17 You said,

18 Yeah.

19 Permanently, or--

20 And what is your answer to that?

21 A. I was gonna leave and Chewy was gonna leave,
and Dane was gonna eventually get paid.

22 Q. What does it say there?

23 Dane was--

24 A. Gonna go get money.

25

Jeffrey Cunningham - Cross (by Mr. Simeone)

1485.

1 Q. That was your present understanding of why Dane was going
2 to Portland, wasn't it?
3 A. Well, you know, I think Rob owed him money anyway, so he
4 was going to go to Portland for whatever.
5 Q. Did you ever mention that before?
6 A. Mention what?
7 Q. That Rob owed him any money.
8 A. I don't think so.
9 Q. Well, look down to the next line, if you would, then,
10 after you said Dane was going to go get money. Loren
11 Erdman asked you:
12 He was going to go get money.
13 Do you see that?
14 A. Yeah, I see it.
15 Q. For the homicides.
16 A. Right.
17 Q. And what did you say?
18 A. I said yeah.
19 Q. Did you ever say anything at that time about Rob owing him
20 any money?
21 A. No.
22 Q. Okay. But Loren Erdman asked you next,
23 Why did he feel he deserved the money?
24 And what did you say?
25 A. His greed.

1 Q. He's greedy?
2 A. (No response from witness)
3 Q. So is it fair to conclude that Dane wanted money out of
4 this, or else he wouldn't have been involved at all?
5 A. You'd have to ask him that.
6 Q. You don't know?
7 A. I couldn't tell you.
8 Q. I'll refer you to page 2672 of your interview. Look on
9 the last five lines.
10 A. Yeah.
11 Q. Loren Erdman asked you a question there, towards the
12 bottom:
13 And do you think Dane's involvement was just
14 similar to yours as far as he just got
 caught up in the middle of it?
15 Do you see that question?
16 A. Yeah.
17 Q. What was your response at that time?
18 A. I said:
19 I don't know.
20 Q. And then what did you say?
21 A. I said:
22 I think maybe Dane wanted money out of it.
23 Q. And then what?
24 A. Otherwise he might not have gotten involved.
25 Q. Wait a minute. Did you say that's why he did it?

Jeffrey Cunningham - Cross (by Mr. Simeone)

1487.

1 A. Yeah.

2 Q. That's why he did it. Otherwise he wouldn't
3 have got involved in it at all.

4 Isn't that what you said?

5 A. Yeah.

6 Q. And you thought he knew about it ahead of time, isn't that
7 correct?

8 A. I said probably.

9 Q. But Loren Erdman pursued it, and he said:

10 Why do you think that?

11 And what did you say on the next page?

12 A. Said:

13 Why else would he be so inquisitive about money
14 if he didn't think he was going to get paid
15 afterwards.

16 Q. And you told me-- Do you remember when we had an inter-
17 view in the jury room a couple weeks ago, you and I?

18 A. Yeah.

19 Q. It was in the presence of Mr. Wetle. You remember?

20 A. (No audible response)

21 Q. I asked you at that time whether or not you thought Dane
22 would do anything for money. What did you say?

23 A. I don't know. Is it written on paper?

24 Q. Do you remember what you said?

25 A. No.

Q. Don't remember telling me he'd do anything for money, that

1 he's greedy?

2 A. No.

3 Q. Could you have said it?

4 A. I could have.

5 Q. Somebody sitting at that interview agrees that that's what
6 you said, would you agree that that's what you said?

7 A. No.

8 Q. Would include murder, wouldn't it, among the things that
9 Dane would do for money?

10 A. I don't know.

11 Q. Well, you so much as said it in your interview earlier on,
12 didn't you?

13 A. Well, then I guess it would.

14 MR. SIMEONE: I have no further questions for the
15 witness at this time, your Honor. I'll be calling him
16 later in our case.

17 THE COURT: All right, Mr. Wetle, any redirect?
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1 JEFFREY CUNNINGHAM

2 REDIRECT EXAMINATION

3 BY MR. WETLE:

4 Q. Mr. Cunningham, when you said-- _____ Mr. Simeone referred
5 to 2672, I want to look at that particular page.

6 A. Okay.

7 Q. When you're saying that's why he did it, what does it mean
8 to you in that sentence?

9 A. Be involved with what happened.

10 Q. And what does being involved mean?

11 A. His involvement. What he did.

12 Q. And what did he do?

13 A. He helped us after the-- you know, after they were shot,
14 to put the bodies in the truck, and went up to the top of
15 the hill with me and all that.

16 Q. So he was involved?

17 A. (Inaudible)

18 Q. Do you think Dane expected to get paid for his involve-
19 ment?

20 A. Eventually.

21 Q. So when you came back down from the hill-- I guess I'm
22 reading page 2652 of the-- your transcript. And about
23 the fourth line down. This is-- You're now-- You come
24 back down from leaving the car up on top of the hill and
25 you're talking to Chewy. Loren Erdman says:

Jeffrey Cunningham - Redirect (by Mr. Wetle)

1490.

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Okay, where were you sitting in the vehicle when you drove up?

Is that going back up to the hill the second time?

A. I guess so, 'cause John wasn't with us when we went up the first time.

Q. Okay, and what did you say about in terms of the positioning of the parties?

A. Dane was in the passenger seat and John was driving, and I was in the back.

Q. I was confused on your answer on whether or not you knew whether Chewy had burned any clothes in the fire.

A. I didn't.

Q. Do you know whether he burned clothes in the fire?

A. I don't.

MR. WETLE: I have no further questions, your Honor.

THE COURT: Any recross?

MR. SIMEONE: Yeah.

1 JEFFREY CUNNINGHAM

2 RE-CROSS EXAMINATION

3 BY MR. SIMEONE:

4 Q. I want to make sure I understand the answer to that
5 question. Didn't you tell me that you didn't think he
6 burned any clothes?

7 A. You asked me if he did. I said I don't know.

8 Q. Did you see any burned clothes anywhere of his?

9 A. No.

10 Q. You didn't see any burning?

11 A. No.

12 Q. He was wearing the same clothes?

13 A. To my knowledge, yeah.

14 Q. Jeff knew about this-- I'm sorry. Dane knew about this
15 whole thing ahead of time, didn't he? He didn't stumble
16 into it?

17 A. If he discussed it with John on the ride up there, then I
18 suppose he did.

19 Q. Don't you think he knew about whatever it was that was
20 going to happen before that day?

21 MR. WETLE: Objection. Calls for speculation of what
22 Dane knew, your Honor.

23 MR. SIMEONE: I don't think so, your Honor.

24 THE COURT: Well, sustained, unless you want to lay the
25 foundation of how he knew about it.

1 Q. Okay, I'll refer you again to page 2673 of your interview,
2 Mr. Cunningham.

3 A. Twenty-six-seventy-three?

4 Q. That's correct.

5 A. Okay.

6 Q. Detective Erdman's question, the second line:

7 So he knew full well that there was a hit
8 put out on Nick, and that there was money, a
reward, for following through with that hit?

9 And what did you say?

10 A. I guess, and I don't know.

11 Q. So a hit would mean-- If he knew about a hit, he knew
12 about it well before any time that day, isn't that what
13 you meant?

14 A. No.

15 Q. That he never knew about a hit?

16 A. I don't know.

17 Q. But you told the detective:

18 I guess.

19 A. I don't know.

20 Q. In any event, it's your testimony and your belief that he
21 had just stumbled into this, isn't that right?

22 A. You have to ask him that. I'm-- I don't know.

23 Q. But what is your belief?

24 MR. WETLE: Objection, your Honor.

25 THE COURT: Sustained.

1 Q. I want to ask you some questions about where it was that
2 you saw Mr. Williams leaving. When you-- Where you first
3 saw him, that is at the house that day.

4 A. Okay.

5 Q. That is the Crown Creek cabin. Do you remember doing a
6 drawing for me when we had our interview?

7 A. Yeah.

8 MR. SIMEONE: Could I have the witness handed Exhibit
9 Number 107, please?

10 MR. WETLE: Your Honor, I don't know if this is beyond
11 the scope of redirect. I object on that basis.

12 THE COURT: Overruled. If you'll hand it to the
13 witness, please.

14 Q. Do you recognize the drawing, Mr. Cunningham?

15 A. Surely.

16 Q. There's two pages to that exhibit.

17 A. Yep.

18 Q. Are there not? Look on the second page, if you would,
19 please, sir.

20 A. Okay.

21 Q. You did this on February 3rd.

22 A. Uh-huh.

23 Q. You see your initials on the lower hand corner-- lower
24 right-hand corner?

25 A. Yeah.

Jeffrey Cunningham - Recross (by Mr. Simeone)

1494.

1 Q. Okay. Where did you position Dane?

2 A. About the same place I did there.

3 Q. Can you point on the board where it is, for the jury?

4 A. It's that red circle. A triangle and then the-- Well,
5 the red triangle and then the two numbers above it. Two
6 letters above it. Is where he was. The triangle is
7 where-- I don't know why I put 'em there at first. That
8 drawing's not that accurate.

9 Q. So where-- Where did you think he was coming from?

10 A. He was coming from that way.

11 Q. Didn't you tell me that you thought he was coming up from
12 where Chewy's car was, behind the A-frame?

13 MR. WETLE: For purp-- Your Honor, for the purpose of
14 the record, I know "that way" [quotes supplied] cannot be
15 shown on the record, so I'd ask if, to answer that
16 question, he could draw a line where he was coming from.
17 What he means by "that way."

18 Q. Well, if you would, Mr.--

19 THE COURT: You know, I'm thinking that maybe this is
20 opening up some additional area, Mr. Simeone, other than
21 what was covered on redirect, but I'm going to let you do
22 it just to save time.

23 MR. SIMEONE: Okay.

24 THE COURT: I'm going to give Mr. Wetle a chance to do
25 any re-redirect.

1 Q. Maybe if you would, Mr. Cunningham, show in the exhibit
2 that you did yesterday, continued on today, with a
3 different color, the two different places where you think
4 you saw Dane coming, relative to the map you did with me
5 and where it is over there.

6 A. Okay.

7 THE COURT: And this is Exhibit 112 you wanted to mark?

8 MR. SIMEONE: Yes, please.

9 THE COURT: Okay, with-- Let's try a brown pen, since
10 we haven't used that color yet. I'm sorry, what were you
11 asking him to place?

12 MR. SIMEONE: Trying to show us on the board. He
13 should already have a place where he saw Dane for the
14 first time.

15 A. Right about here.

16 Q. It's marked?

17 A. Yeah, right about here.

18 Q. How does that compare with what you did on my map?

19 A. It's the same.

20 Q. About the same? So he's actually coming from around where
21 the A-frame is, isn't he?

22 A. Yeah. This way.

23 Q. But you drew him up by the A-frame, didn't you?

24 A. Well, all right. The A-frame sits a little bit higher,
25 like-- I don't know how to explain it to you. There's an

1 A-frame, the house, and a path. There's about-- I don't
2 know, there's a path that goes right here between the A-
3 frame and this path that goes this way, then there's some
4 trees here and stuff. You can walk this way, or you can
5 come up from this way, and I saw him coming from this way.

6 MR. WETLE: I'm sorry. I know the jury can't see this,
7 your Honor.

8 THE COURT: Are the jurors able to see the drawing?
9 Anybody not able to see?

10 [NO AUDIBLE RESPONSE FROM JURORS]

11 MR. SIMEONE: May I approach the witness, your Honor?

12 THE COURT: All right.

13 Q. You positioned him here, is that correct, Jeff? A brown
14 _____?

15 A. Right.

16 Q. But he could just as easily be coming from John's vehicle,
17 isn't that right?

18 A. Okay.

19 Q. And you have no reason-- This is where you first saw him?

20 A. Right.

21 Q. You don't know that he was coming from this direction, do
22 you?

23 A. I'm just saying that that's the direction he could be--
24 of coming from.

25 Q. But it's just as-- It's just as possible that the

1 direction was from the vehicle?

2 A. Yeah.

3 Q. Now, this direction would be from the road that leads--
4 This is the Crown Creek Road, isn't it?

5 A. Yeah.

6 Q. But this is the direction from which he'd walk to get to
7 the cabin, isn't it?

8 A. This one here?

9 Q. No. Wouldn't he walk up the Crown Creek Road to get to--

10 A. Yeah.

11 Q. --the cabin?

12 A. Yeah.

13 Q. And isn't there a crossing over here to get to the cabin?

14 A. Yeah.

15 Q. Okay.

16 THE COURT: You still want the witness at the drawing?

17 MR. SIMEONE: No, he could take-- re-take your seat.

18 That will be it for now, then, your Honor.

19 THE COURT: All right, Mr. Wetle, anything further
20 then?

21 MR. WETLE: Yes, your Honor.

22

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1 JEFFREY CUNNINGHAM

2 REDIRECT EXAMINATION

3 BY MR. WETLE:

4 Q. Is there another back way into the Crown Creek cabin if
5 you were coming over the hill from Dane's?

6 A. There is.

7 Q. And if you were coming over that back way, how would you
8 come into the property?

9 A. You can-- Well, you can make your own trail. You can
10 come any way you want. There's a road that comes from the
11 direction that the arrow's in. And there's a clearing
12 down that way a little bit.

13 Q. So he could have come up that road?

14 A. Well, there's no road over in the side of the hill. You'd
15 have to make a path over the side of the hill.

16 Q. There are various ways to come up there from that side to
17 the cabin?

18 A. Yeah. Any way you came down the side of the hill.

19 MR. WETLE: I have no further questions, your Honor.

20 THE COURT: All right, thank you. Mr. Simeone,
21 anything further?

22 MR. SIMEONE: Just a follow-up to that.

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JEFF CUNNINGHAM

RE-CROSS EXAMINATION

BY MR. SIMEONE:

Q. The easiest way to get to that cabin is walking-- from this cabin is from walking down the Crown Creek Road, isn't it?

A. It's the way I always went.

MR. SIMEONE: Okay, no further questions.

WITNESS STEPS DOWN BUT IS NOT EXCUSED

THE COURT: Mr. Wetle, you may call your next witness.

MR. WETLE INDICATES HIS NEXT WITNESS IS NOT AVAILABLE

COURT DISCUSSES WITH JURY POSSIBILITY OF
HOLDING COURT ON SATURDAY

JURY IS RECESSED

1 THE COURT: Mr. Simeone?

2 MR. SIMEONE: Your Honor, what I wanted to say is I'm a
3 little bit uncomfortable with the idea of the jury coming in
4 on Saturday, and this is my reason for that: The jury's been
5 here all week, they've been listening to trial testimony.
6 Maybe we're done with this case by the time mid-day comes
7 around tomorrow, maybe we're done with this case by the time
8 late afternoon comes around tomorrow. At that point the
9 jury's going to be asked to maybe start deliberating Friday,
10 come back deliberating Saturday. This is a major, weighty
11 issue. I'm afraid what they'll be forced to do at that point
12 is feel like they have to make a decision by the end of
13 Saturday somehow because of the time constraints that are
14 imposed upon them. Then what do we say, that they come back
15 Sunday and deliberate? In any event, you're talking about
16 them having to be out-- If you're going to excuse them
17 Sunday, then I assume you have to excuse them Monday. In any
18 event, you're talking about them being out a couple of days
19 here before they finish their deliberation if they don't come
20 to a verdict. So if you have them here Saturday, and they're
21 left with the proposition well, maybe we have to come back
22 Sunday, I feel that what they'll be saying to themselves is
23 let's get this over with, one way or the other. And I don't
24 know that I like them being put under time constraints. So I
25 think I'm leaning towards a position of having them come back

1501.

1 on the next work day, which would be Tuesday.

2 THE COURT: All right. Well, thank you for your input,
3 Mr. Simeone. I agree there's always-- In any case, there's
4 always the pressure of reality on the jurors wanting to know
5 when they have to come back, if they do have to come back. We
6 cross those bridges essentially when we come to them. On a
7 case like this, obviously, we want to do some planning so that
8 the jurors who had other plans, especially since we've run
9 over so badly, so that the jurors will not be completely
10 blindsided. But we'll cross that bridge when we get to it.

11 My sense of it is that certainly I'm not interested in
12 giving the message to them that they need to come to a verdict
13 by the end of Friday night or something, and that's the other
14 message I'm giving to them by not dealing with it now, and not
15 indicating to them what we're expecting of them. And clearly,
16 the majority of the jurors had no-- the vast majority of the
17 jurors had no problem with continuing on to Saturday.

18 So we're going to approach it that way and then cross the
19 next bridge if and when we have to.

20 MR. SIMEONE: Meaning--

21 THE COURT: But that'll give them a good chunk of time to
22 reach a verdict, and we may have to start a little later than
23 we ordinarily would on Saturday. Certainly, not right at
24 9:00, perhaps, but maybe 10:00 or so, because of the other
25 juror, but we'll see how that works out.

1502.

1 Yes, Mr. Simeone?

2 MR. SIMEONE: I'm sorry. When we say cross the bridge
3 when we come to it, would you be telling the jury in advance
4 that if they're tired after Saturday, that they might be
5 entitled to a break if they haven't reached a verdict before-
6 hand?

7 THE COURT: Oh, sure, and, you know, then that's why I'm
8 purposely not mentioning to them Sunday. My thought would be
9 to give them Sunday off. Maybe even have them come back
10 Monday, on the holiday. And most likely have them come back
11 Monday, on the holiday.

12 MR. SIMEONE: Okay.

13 THE COURT: So the other logistical problem dealing with
14 this, that we have another jury trial starting on Tuesday, as
15 Mr. Simeone knows, so we're going to have to accommodate
16 somehow two spaces for 12 person-plus juries, and we can do
17 that, but we need to make arrangements with District Court and
18 so on if that's going to be happening, and to make use of the
19 courthouse over the weekend, that can maybe alleviate that
20 problem as well, having to worry about putting jurors in the
21 old law library or something like that. But I think we can
22 deal with it whichever way we end up handling it, or even if
23 it dribbles over, if they want to keep deliberating through--
24 to next week.

25 MR. WETLE: Thank you, your Honor.

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THE COURT: So anything else then, counsel?

MR. SIMEONE: That's all, your Honor.

COURT RECESSED

1504.

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COURT RECONVENED WITH JURY SEATED

THE COURT: All right, Mr. Wetle, you may call your next witness.

MR. WETLE: Thank you, your Honor. The State would call Dane Williams.

WITNESS IS SWORN

THE COURT: Give us your name, right into that microphone, please.

MR. WILLIAMS: Dane Matthew Williams.

THE COURT: And, Mr. Williams, your spelling on your first name?

MR. WILLIAMS: D-A-N-E.

THE COURT: And the last name is spelled just like it sounds?

MR. WILLIAMS: Yes.

THE COURT: And your current address, Mr. Williams?

MR. WILLIAMS: Vancouver.

THE COURT: All right, Vancouver, Washington?

MR. WILLIAMS: Yeah.

THE COURT: All right, thank you. Mr. Wetle?

DANE MATTHEW WILLIAMS

**Being first duly sworn, on
oath testified as follows:**

DIRECT EXAMINATION

BY MR. WETLE:

Q. Good morning, Mr. Williams.

Dane Matthew Williams - Direct (by Mr. Wetle)

1505.

1 A. Morning.

2 Q. I'd ask you first to state to the court and the jury your
3 occupation.

4 A. I'm a fund-raiser, trained to be a sales manager for the
5 Washington State Council of Fire Fighters.

6 Q. And how old are you?

7 A. Twenty-eight.

8 Q. And where did you grow up?

9 A. I grew up in Marysville, Washington.

10 Q. And how did you become familiar with Stevens County?

11 A. My mom's lived out here for oh, about the last 20 years or
12 so.

13 Q. And who is your mom?

14 A. Andrea Cameron.

15 Q. And when did you move to Stevens County?

16 A. I moved to Stevens County in '98. I believe it was June
17 of '98.

18 Q. And how did you decide to move to Stevens County?

19 A. I'd been living near Seattle for almost my life, off and
20 on, and I was tired of the city. It's beautiful out here,
21 so I wanted to live out in the country.

22 Q. How were you going to support yourself?

23 A. I was going to work with my step-dad. That's what I
24 started to do, and that was my intentions when I first
25 moved out here.

Dane Matthew Williams - Direct (by Mr. Wetle)

1506.

1 Q. And did you do that for some time?

2 A. Yes.

3 Q. How long?

4 A. I would say about-- probably a month, at the most.

5 Q. And where were you living at that time?

6 A. I was living with my mother.

7 Q. And did you subsequently find another place to live?

8 A. Yes, I did.

9 Q. And where was that?

10 A. Up Hamlet Road.

11 Q. About how close is that to your mom's?

12 A. Well, it's about a 25 minute walk. I guess a mile, maybe.

13 Half a mile.

14 Q. What--

15 A. I'm not very good at distances, so--

16 MR. WETLE: I'd ask the bailiff to hand the aerial
17 photograph to Mr. Williams. I believe that's Exhibit 21.

18 Q. I'd ask if you could try to orient yourself a little bit
19 to that map.

20 A. Okay.

21 Q. Are you able to find where your folks'-- your mom's
22 place?

23 A. I believe it's the large circle. Correct?

24 Q. Okay, just based on your own recollection. And where are
25 you in relation to that? You want to hold that up for the

Dane Matthew Williams - Direct (by Mr. Wetle)

1507.

1 jury to see?

2 A. I believe right there. I could be wrong. I'm not very
3 good at overhead maps.

4 Q. Let's see. Let's turn it right side up.

5 A. Okay.

6 Q. Assume this is the Crown Creek Road.

7 A. Right. Crown Creek Road.

8 Q. Can you find the Crown Creek cabin?

9 A. Actually, no, I can't.

10 Q. Okay, can you find the Hamlet Road area?

11 A. I believe that's up in here.

12 Q. No. I'm sorry, I confused you.

13 A. Yeah, I--

14 MR. WETLE: Strike that, your Honor.

15 Q. And what were the rental conditions when you were living
16 at the Hamlet Road cabin?

17 A. I was a caretaker.

18 Q. And what did that entail?

19 A. Upkeep, paying utility bills, propane tank, that sort of
20 stuff. It's basically free rent, other than that.

21 Q. Did you meet any neighbors in May of '99?

22 A. Yes.

23 Q. And who would that be?

24 A. Jeff Cunningham.

25 Q. How did you meet him?

Dane Matthew Williams - Direct (by Mr. Wetle)

1508.

- 1 A. I met him through my mother. I believe he went over and
2 introduced himself to her, and from there she mentioned
3 that she had a son about his age, and after that we met.
- 4 Q. And was there anybody there with Jeff at that time?
- 5 A. Yes, his girlfriend, Maija, and a friend of his, Wade.
- 6 Q. So what was the nature of your relationship?
- 7 A. Neighbors and friends.
- 8 Q. And were you at that time growing some marijuana?
- 9 A. No, I was not.
- 10 Q. Did Jeff Cunningham-- Subsequent to that time did you
11 begin to grow marijuana?
- 12 A. Yes.
- 13 Q. And did Jeff Cunningham learn that you were growing
14 marijuana?
- 15 A. Yes, he did.
- 16 Q. And what type of communication did you have with him about
17 that?
- 18 A. Not a whole lot. I kinda stuck to my business. I showed
19 him, you know, some of what I had, basically, and that was
20 about as far as it went.
- 21 Q. Okay, were any offers made to help you?
- 22 A. No.
- 23 Q. He didn't? Who did you meet at the fall barter fair?
- 24 A. Rob Schultz.
- 25 Q. And this would have been in 1999?

Dane Matthew Williams - Direct (by Mr. Wetle)

1509.

1 A. Yes.

2 Q. And what was the nature of that meeting?

3 A. Jeff Cunningham introduced me to him. He was kinda
4 introducing me to him, sort of as someone to go through to
5 get rid of marijuana for-- or to him, actually.

6 Q. So you distribute to him?

7 A. Exactly.

8 Q. Or supply to him?

9 A. Yeah. That was the reason for the introduction.

10 Q. And where did Rob Schultz live?

11 A. Portland.

12 Q. And what was the first proposition you had from Mr.
13 Schultz?

14 MR. SIMEONE: Leading, your Honor. I think that
15 assumes a fact not yet in evidence.

16 THE COURT: Sustained. What proposition, if any, did
17 you have.

18 Q. What proposition, if any, did you have with Mr. Schultz,
19 Mr. Williams?

20 A. He asked if I could fill an order for 20 pounds of
21 marijuana.

22 Q. And when did that occur?

23 A. Occurred at the fall barter fair.

24 Q. So basically when you met him?

25 A. Yeah. I believe it was the next day.

Dane Matthew Williams - Direct (by Mr. Wetle)

1510.

1 Q. And what did you think when you got that proposition?
2 A. It was too big for me to fill. There's no way.
3 Q. What happened? He made that proposition, you said it's
4 too big, what happened-- what resulted?
5 A. Resulted after that, I basically told him I could get
6 smaller quantities, and he said if the price is right, you
7 know, we got a deal.
8 Q. Where was Jeff Cunningham in this picture?
9 A. Basically just someone that introduced me. Kind of wanted
10 a cut out of things.
11 Q. And then what happened with respect to Jeff, after those
12 initial buys or introductions?
13 A. I basically gave him a cut. A small percentage of what
14 went on between me and Rob.
15 Q. And did you go through him anymore?
16 A. Through Jeff? No.
17 Q. So now you're dealing directly with Rob?
18 A. Exactly.
19 Q. And did Jeff get-- What did Jeff get out of it?
20 A. After the fact?
21 Q. Yes.
22 A. He would get paid his percentage, basically, in marijuana.
23 No more money. Small amounts.
24 Q. So what was Jeff Cunningham doing for Rob Schultz in the
25 fall of '99, to your knowledge?

Dane Matthew Williams - Direct (by Mr. Wetle)

1511.

- 1 A. To the best of my knowledge, he was selling acid at barter
2 fairs for him.
- 3 Q. And what were you doing for Rob Schultz in 1999?
4 A. Selling him marijuana.
- 5 Q. And what was the price per pound?
6 A. It ranged anywhere from seventeen hundred to \$4,000.
- 7 Q. How would Rob Schultz get the marijuana?
8 A. He'd either come down and pick it up, or I would deliver
9 it to Portland.
- 10 Q. What is the Family?
11 A. The Family is a congregation of people that buy, use, sell
12 drugs. As far as I know, they're nationally based through
13 Rainbow gatherings and Grateful Dead concerts. Now it's
14 called something else, but as far as them meeting through
15 the concerts nationally, getting together, making ties
16 that way.
- 17 Q. Do they have names other than true names?
18 A. Yeah, a lot of them use nicknames.
- 19 Q. How did Rob Schultz get his LSD?
20 A. He was told-- I was told at one time that he had got it
21 through Seattle, through Nick Kaiser.
- 22 Q. And did you know Nick Kaiser's family name?
23 A. Echo.
- 24 Q. Who did Schultz work with in Portland?
25 A. He worked with Shadow.

Dane Matthew Williams - Direct (by Mr. Wetle)

1512.

1 Q. And did he work with anybody in this room?
2 A. Yes.
3 Q. Who was that?
4 A. John Grange.
5 Q. Also known as Chewy?
6 A. Yes.
7 Q. And is John Grange in the courtroom today?
8 A. Yes, he is.
9 Q. And where is he?
10 A. He's sitting over at defense table.
11 Q. What would happen to the marijuana you took to Schultz's?
12 A. It'd be distributed and sold.
13 Q. And did you ever see it divided up there at that resi-
14 dence?
15 A. Yes.
16 Q. And who would get some of that?
17 A. Usually Rob or Shadow.
18 Q. And what's Rob's family name?
19 A. Pappa Bear.
20 Q. When did you first meet Chewy?
21 A. The first time I met Chewy was February of 2000.
22 Q. And where was that?
23 A. That was at Rob's apartment.
24 Q. And how did you find out who Chewy was?
25 A. I believe he left and I asked Rob who he was at the time.

Dane Matthew Williams - Direct (by Mr. Wetle)

1513.

1 Q. And what'd he say?
2 A. He said he's one of my kids.
3 Q. What did you learn about Chewy?
4 A. In the future I learned Chewy worked for Rob, and basical-
5 ly took care of things for Rob, as far as people ripping
6 the Family off and debts owed and things of that nature.
7 Q. What was the Portland Family hierarchy, starting with,
8 say, if you went with Cunningham?
9 A. I'd say it go Cunningham, Grange, Shadow and Rob. And as
10 far as I know, Nick was above them.
11 Q. Do you know how far the Family stretched in the west side,
12 on the west coast?
13 A. Yeah, from Seattle, Portland, to San Francisco.
14 Q. And why did you think-- Why did you know San Francisco?
15 A. I was told at times that that's where Nick got the
16 majority of his LSD from.
17 Q. Did you have a party for members of the Portland Family at
18 your place?
19 A. Yes, I did.
20 Q. And when was that?
21 A. That was the April, 2000, barter fair.
22 Q. So do you know any specific date that was?
23 A. I believe it was the 7th, 8th and 9th of April, 2000.
24 Q. How many people came to that party?
25 A. I would say anywhere from 25 to 30 people.

Dane Matthew Williams - Direct (by Mr. Wetle)

1514.

1 Q. And where were they from?
2 A. Mostly Portland.
3 Q. And who were the main Portland people that came?
4 A. Shadow, Rob, Chewy, Gabe. Many others.
5 Q. And at that party, what did you learn about the LSD
6 distribution in Portland and Seattle?
7 A. That basically Nick was the man as far as distributing LSD
8 to the Family in that area.
9 Q. And what was Schultz's role?
10 A. Schultz's role, he ran Portland.
11 Q. For LSD?
12 A. Yes.
13 Q. Where was the base for the Family?
14 A. Base for the Family, I was told, was in San Francisco.
15 Q. After the party, say April 9th, and toward the end of
16 April, did you receive any phone calls from Rob Schultz?
17 A. Yes, I did.
18 Q. And where was that?
19 A. That was at my mom's house.
20 Q. And what did he have to say?
21 A. He told me that Nick had been busted for a large amount of
22 LSD, and that he wasn't to be trusted, that he had rolled
23 over on Family members, and that I was to stay away from
24 him, and he was not to be trusted. Also to tell Jeff
25 Cunningham the same.

Dane Matthew Williams - Direct (by Mr. Wetle)

1515.

- 1 Q. Did he say who he was working with? Who Nick Kaiser was
2 suspected of being-- of working with?
3 A. No, he didn't.
4 Q. Which agency? Which law enforcement agency?
5 A. He said the feds.
6 Q. Did you tell Jeff Cunningham about that call?
7 A. Yes, I did.
8 Q. And how did Cunningham respond?
9 A. He didn't believe it. He didn't believe there was any way
10 Nick was an informant.
11 Q. When was the next time that you talked with Rob Schultz
12 about Nick Kaiser?
13 A. The next time was, I believe, a week after that. Actual-
14 ly, it was a week after that. I had went to Portland on
15 a train with a delivery. He had picked me up from the
16 train station.
17 Q. Do you remember what month that was in?
18 A. That was in late April of 2000.
19 Q. And why were you going to Portland?
20 A. I was going to Portland to sell pot.
21 Q. To who?
22 A. To Rob.
23 Q. Who picked you up at the train station?
24 A. Rob did.
25 Q. And where did you go?

Dane Matthew Williams - Direct (by Mr. Wetle)

1516.

1 A. To his apartment.

2 Q. What did he say about Nick Kaiser-- What did Rob Schultz
3 say about Nick Kaiser at that time?

4 A. Said Nick was rolling over on Family, that he's going to
5 be taken care of by the Family, that he wouldn't be
6 breathing any more and he's dead.

7 Q. Did he mention anything about you doing anything?

8 A. No. He asked me to stay out of it. Said it's Family
9 business.

10 Q. Had anything happened to Kaiser at that time?

11 A. Not that I knew of, no.

12 Q. So the phrase he was dead, was just a-- It wasn't taken
13 literally, was it?

14 A. No. I've-- Like I've said before, I've heard-- you
15 know, been in the industry for a little while. A lot of
16 people make a lot of, you know, accusations and threats
17 that never get carried out, so a lot of times it's not
18 believable.

19 Q. What did you do after you made your delivery and learned
20 about Kaiser?

21 A. Well, I made my delivery, learned about Kaiser, and I
22 believe it was about a week later I headed back up North.

23 Q. Back to Stevens County?

24 A. Yes.

25 Q. So just backing up a minute into the-- this is the spring

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1517.

1 now, what we were just talking about. I want to back you
2 up to the winter of '99-2000. Who was living with you up
3 at the Hamlet Creek Road?
4 A. Jeff.
5 Q. And why was he living with you?
6 A. They-- Over at Crown Creek they didn't have no power, no
7 wood, no food, no entertainment. He decided to stay with
8 me 'cause I had power, entertainment.
9 Q. Okay, were there other people there?
10 A. No.
11 Q. At that time?
12 A. No.
13 Q. Do you remember a Josh?
14 A. Yes, at the Crown Creek cabin?
15 Q. Yes.
16 A. Yes. Josh and Stephanie were living over there.
17 Q. Okay.
18 A. That was also one of the reasons he had came back from
19 Portland. They were living there, so--
20 Q. So how long did Kaiser-- or not Kaiser, Cunningham stay
21 with you during that winter?
22 A. Right up until the snow melted.
23 Q. So coming back now to May, when you've come back from
24 Portland, who was living up at the Crown Creek cabin in
25 May of 2000?

Dane Matthew Williams - Direct (by Mr. Wetle)

1518.

- 1 A. Chewy and Jeff, off and on.
- 2 Q. What do you mean, off and on?
- 3 A. Chewy would stay over at my place quite a bit.
- 4 Q. And why?
- 5 A. I believe him and Jeff get irritated at each other. Like
- 6 I said, there's no power, there's hardly any food over
- 7 there or anything like that, so--
- 8 Q. What amenities did you have at your place?
- 9 A. Play Station, TV, VCR. The only entertainment to really
- 10 have, being out that far, so--
- 11 Q. So then we move to the first week of June, and what
- 12 happened up in this area the first week of June?
- 13 A. First week of June, Chewy's dad came up to visit him.
- 14 Q. Okay, where'd he stay that night?
- 15 A. The first night he stayed over at my house.
- 16 Q. And then where'd he go?
- 17 A. He went over to the Crown Creek cabin.
- 18 Q. Did you have any firearm at the Crown Creek cabin?
- 19 A. Yes, I did.
- 20 Q. And when was that?
- 21 A. That was right before his dad came up in June.
- 22 Q. And why was it over there?
- 23 A. They asked to borrow it. They didn't have any guns.
- 24 Q. Who are they?
- 25 A. Jeff and Chewy.

Dane Matthew Williams - Direct (by Mr. Wetle)

1519.

1 Q. What was the rifle?

2 A. It was a .22 caliber rifle.

3 Q. And when did you take it back?

4 A. I took it back after Chewy got his rifle.

5 Q. And what did you do with it?

6 A. Put it up in the closet with my other guns.

7 Q. And when-- After the homicides and you left for Portland
8 on June 12th, where was the gun?

9 A. It was in my closet still.

10 Q. What happened to some of your items in your cabin after
11 you left?

12 A. Well, I got a phone call once I got settled in Vancouver,
13 and my mother told me that several things were missing as
14 far as the TV, VCR. All my firewood was stolen. And the
15 only gun she recovered was my shotgun.

16 Q. Did you give Jeff Cunningham any marijuana to sell at the
17 June 9th, 10th, 11th summer barter fair?

18 A. Yes.

19 Q. And what did you give him?

20 A. I gave him, I would say, a little over a quarter pound.
21 Quarter pound and two ounces.

22 Q. And do you recall when, about, you might have given that
23 to him?

24 A. I believe Friday before he went up to the barter fair.

25 Q. And did you have occasion to talk to Rob Schultz on

Dane Matthew Williams - Direct (by Mr. Wetle)

1520.

1 Saturday, June 10th?

2 A. Yes.

3 Q. And what was the nature of that?

4 A. He had left a message for me. I called him back. He told
5 me Nick was up at the barter fair, and that I was not to
6 do anything, and that he wanted me to-- he wanted to
7 speak with Chewy.

8 Q. So remember when this call took place?

9 A. Yes.

10 Q. On Saturday, June 10th?

11 A. It was around 7:30, 8:00 o'clock.

12 Q. And do you remember when the message was left?

13 A. I-- I'm not sure. Sometimes I wouldn't check my messages
14 for a couple days or go down that way, so possibility it
15 could have been a day before, two days later. I usually
16 went down there every day, so it's a good possibility it
17 could have been the day before.

18 Q. Who was with you when you called him back on Saturday?

19 A. Chewy.

20 Q. And what is your mom's telephone number?

21 A. 509-732-4590.

22 Q. Do you know why Chewy was there?

23 A. He'd picked me up at my cabin, asked if I wanted to go to
24 the barter fair, and I wanted to go out there to retrieve
25 some money.

Dane Matthew Williams - Direct (by Mr. Wetle)

1521.

- 1 Q. What was the phone at your-- at your mom's cabin, how is
2 that used?
- 3 A. It's the only phone that was in the area.
- 4 Q. No phone at the Crown Creek cabin?
- 5 A. No.
- 6 Q. How about your-- your cabin?
- 7 A. No, there's no phone lines that run up there.
- 8 Q. So if you don't call from your mom's phone, where do you
9 call from?
- 10 A. Drive to-- You have to drive to town.
- 11 Q. And town is?
- 12 A. Northport.
- 13 Q. So what was Chewy doing for you the weekend of the barter
14 fair?
- 15 A. He was originally supposed to sell some pot for me, but
16 that didn't end up happening.
- 17 Q. What happened?
- 18 A. I ended up giving it to Jeff.
- 19 Q. So after Rob Schultz got through talking to you, what did
20 he want to do?
- 21 A. He asked to speak to Chewy.
- 22 Q. And what happened then?
- 23 A. I'm not sure. I walked off. Usually when I was over
24 there, I'd go outside and play with the dogs.
- 25 Q. So you don't know what that conversation was about?

Dane Matthew Williams - Direct (by Mr. Wetle)

1522.

1 A. No, I have no idea.

2 Q. Did Chewy say anything to you about that call?

3 A. No, other than, you know, Nick was out in the barter fair,
4 what he already knew.

5 Q. Say anything about him coming to Portland?

6 A. Yeah.

7 Q. What was that?

8 A. Well, he-- Nick asked, I believe, Jeff if he could come
9 to Portland. And I believe he asked Rob if that was okay,
10 and Rob said no, not at all.

11 Q. So at some point Rob Schultz was not going to meet with
12 Kaiser?

13 A. No.

14 MR. SIMEONE: Your Honor, I'm going to object to that
15 as speculation. I don't know how he could know when it
16 was that he would have asked Rob, or what it was that was
17 said there. He has made no testimony, given no testimony,
18 to the effect that he knows the contents of that conversa-
19 tion.

20 THE COURT: Overruled. He's quoting what Mr. Grange
21 told him. Is that correct?

22 MR. WETLE: That's correct.

23 A. Correct.

24 MR. WETLE: Yes, your Honor.

25 THE COURT: After the phone call? Is that what I was

Dane Matthew Williams - Direct (by Mr. Wetle)

1523.

1 understanding?

2 A. Yes.

3 Q. What happened after the phone call?

4 A. After the phone call we left for the barter fair.

5 Q. And what were you going to do at the barter fair?

6 A. I was going to just go out there and collect my money from
7 Jeff and go home.

8 Q. So what were you looking to get?

9 A. I was looking to get \$1700, roughly.

10 Q. Less or more or--

11 A. Just right in there. Sixteen to \$1700.

12 Q. And what did that include? That money included what?

13 A. That included the little over a quarter pound that I gave
14 him, and a couple hundred dollars that he had to make up
15 for another deal when we were back in Portland earlier.
16 The month before.

17 Q. Was this-- How many times had you been to the barter fair
18 before this?

19 A. None.

20 Q. And what did you do when you got to the barter fair?

21 A. I got to the barter fair?

22 Q. Yeah. What did you and Chewy do?

23 A. Walked over towards Nick's Bronco. Chewy knew where it
24 was. And I stood outside the Bronco while Chewy asked
25 Jeff to get out, come talk to me.

Dane Matthew Williams - Direct (by Mr. Wetle)

1524.

1 Q. What happened?

2 A. Jeff came over and talked to me. I asked him for my
3 money. He handed it to me, said it was \$1700. I counted
4 it and it was a little over eight. He counted again, came
5 up with \$1700, and I told him that wasn't the case, so I
6 took that money, rolled it in a rubber band, stuck it in
7 my pocket. Took whatever left he had on him, as far as
8 marijuana goes.

9 Q. Okay, what was the true count, as far as you were con-
10 cerned?

11 A. The true count was seventeen hundred, as far as I was
12 concerned.

13 Q. I know, but what you counted that you got from Jeff
14 Cunningham?

15 A. It was a little over \$800. I know it was more than eight
16 hundred.

17 Q. Over eight hundred?

18 A. Yes.

19 Q. And what did you do with the money?

20 A. I rolled it up in a rubber band, stuck it in my pocket.

21 Q. After you got your money, what happened?

22 A. After I got my money Chewy asked Jeff to go over and tell
23 Nick to leave, that he shouldn't be here.

24 Q. Did he say anything about Schultz to Cunningham when he
25 was telling him to go over and see Kaiser?

Dane Matthew Williams - Direct (by Mr. Wetle)

1525.

1 A. Yes, he told him that no one in the Portland Family wanted
2 to talk to him, that he shouldn't go by there.

3 THE COURT: I'm sorry, I misunderstood. Did you say
4 that they should go by there or that they shouldn't go by?

5 A. They shouldn't.

6 THE COURT: Shouldn't?

7 A. Yeah.

8 THE COURT: Okay.

9 Q. Now, do you know, after that conversation, whether
10 Cunningham actually talked to Kaiser or not?

11 A. I'm not sure. I didn't witness it.

12 Q. Some time later, when Cunningham came back, what did he
13 say about the situation?

14 A. He said he asked Nick to leave. Nick said he wasn't going
15 to go anywhere, that he didn't do anything wrong, there's
16 no reason for him to leave.

17 Q. How did-- How did Chewy react to that?

18 A. He seemed kind of agitated, surprised.

19 Q. Was Chewy thinking about doing anything when he-- when he
20 found Nick was going to leave?

21 A. Yeah, there was some conversation about going over there
22 and pulling him out of his vehicle. That sort of thing.

23 Q. And pulling him out of his vehicle and doing what?

24 A. Beating him up.

25 Q. Then what happened?

Dane Matthew Williams - Direct (by Mr. Wetle)

1526.

- 1 A. Then after that I basically wanted to go home, so he took
2 me back to my cabin.
- 3 Q. Who-- Do you recall who went back to the Crown Creek
4 area?
- 5 A. Yes. Me, Chewy and Jeff.
- 6 Q. What happened Sunday morning?
- 7 A. Sunday morning I got up, Chewy and Jeff came over that
8 morning. I believe it was a little after 9:00.
- 9 Q. And why did they come over there?
- 10 A. They came over and asked if I wanted to go with them.
- 11 Q. Where?
- 12 A. To the barter fair.
- 13 Q. And what did you do?
- 14 A. I stayed home.
- 15 Q. And why?
- 16 A. Because I was going out later with Janell.
- 17 Q. And Janell is who?
- 18 A. A friend of my mom's.
- 19 Q. Do you know her last name?
- 20 A. Clarke, I believed.
- 21 Q. Janell Clarke? So when did Janell arrive?
- 22 A. Janell arrived around noon.
- 23 Q. And where did you go?
- 24 A. I went out to the barter fair.
- 25 Q. With her?

Dane Matthew Williams - Direct (by Mr. Wetle)

1527.

1 A. Yes.

2 Q. And what happened when you got there?

3 A. When I pulled up to the barter fair, Chewy was walking out
4 of the gate, or was outside of the gate, and when I got
5 there I forgot my wallet, forgot pot I was going to sell,
6 and not prepared to go into the barter fair so I was going
7 to go home.

8 Q. And when you met Chewy what happened?

9 A. He said, Let's go.

10 Q. What did you do?

11 A. I went with him. Said I needed a ride home anyway.

12 Q. And what vehicle did you use to get back to the Crown
13 Creek area?

14 A. In Chewy's Bronco.

15 Q. Do you recall about what time you left the barter fair
16 with Chewy?

17 A. Around 1:00 o'clock, a little after.

18 Q. What did Chewy say to you on the way to the Crown Creek
19 cabin?

20 A. He said it was going down, that I'm gonna threaten them.
21 There was just some discussion about guns. He thought
22 that two guns would be better, that I should go by my
23 cabin and get mine, which I declined.

24 Q. Was there a deal supposed to be made?

25 A. Yeah, they spoke Sunday morning when they came over, that

Dane Matthew Williams - Direct (by Mr. Wetle)

1528.

1 Nick, the previous night, wanted some mushrooms, so they
2 were going to go out there and see if he was still there.
3 Q. See if the mushroom source was there?
4 A. No, see if Nick was still there.
5 Q. Oh, at the barter fair?
6 A. Yes.
7 Q. 'Cause nobody knew whether he'd stayed or not?
8 A. No.
9 Q. But then you found out he was still there?
10 A. Yes.
11 Q. And so now you're driving back to the Crown Creek cabin.
12 How was Chewy going to scare them?
13 A. With guns.
14 Q. And why was he going to scare them?
15 A. Because Nick was an-- Everybody believed Nick was a nark,
16 that he was snitching off Family members.
17 Q. And so you knew this in the car going back?
18 A. Yes.
19 Q. What else did Chewy say as you were getting closer to the
20 cabin?
21 A. He said that he hopes Nick comes out by himself, but he
22 felt sorry for anyone else that comes out.
23 Q. Did he talk about two people or one person coming?
24 A. He really didn't specify. Said he just felt sorry for
25 whoever else comes out.

Dane Matthew Williams - Direct (by Mr. Wetle)

1529.

1 Q. Did he tell you whether or not he had ever threatened
2 people for the Family before?

3 A. Yeah, the talk was made.

4 MR. SIMEONE: Your Honor, I'm going to object.
5 Leading.

6 THE COURT: Sustained.

7 Q. Was the subject-- Can you tell whether or not the subject
8 of Kaiser coming around was discussed?

9 A. Yes.

10 Q. And what was that?

11 A. As far as that day?

12 Q. Uh-huh. On the way back.

13 A. Just basically of threatening him, and he discussed after
14 that that he had done it for the Family before. As far as
15 I knew, threatened people.

16 Q. Can you tell whether or not there was any discussion about
17 visits?

18 A. Visits as far as?

19 Q. Family. Visiting Family.

20 A. Yeah. He was going to make sure that Nick didn't visit
21 anybody or come around any more. That is the Portland
22 Family and our neck of the woods out there.

23 Q. Was there any discussion about whether or not he was
24 wanted? Going to be wanted, or being wanted?

25 A. Being wanted?

1 Q. Yeah, whether or not Nick was wanted by the Family?
2 A. Yes.
3 Q. What did Chewy ask you to do on the way to the cabin?
4 A. He wanted to stop by my house and get my gun.
5 Q. And how did you respond to that?
6 A. I said no.
7 Q. You said-- Pardon?
8 A. I said no.
9 Q. What did Mr. Grange say about being an enforcer?
10 A. He said he collected debts for the Family. Jeff had spoke
11 earlier about him being a part of the wrecking crew in
12 Portland. People that ripped off the Family, owed money.
13 Various things like that.
14 Q. Who did Chewy say he was threatening Nick for?
15 A. The Family.
16 Q. Besides saying no to the request to get your gun, did you
17 respond in any other way?
18 A. Yeah, I told him it ain't my business, this is Family
19 business, I'm not getting into it like that.
20 Q. So when you got back to the Crown Creek cabin, where did
21 Chewy park the car?
22 A. On the south side of the cabin.
23 Q. I'd ask you to--
24 MR. WETLE: I'd ask the Bailiff if he could take the
25 easel and bring it out here so we can diagram the scene.

Dane Matthew Williams - Direct (by Mr. Wetle)

1531.

1 Maybe a little closer, Mr. Bailiff, so the microphones can
2 pick up the conversation. Thank you.

3 EASEL IS MOVED

4 COURT INQUIRES IF JURORS CAN ALL SEE IT

5 Q. Can you draw the cabin and the A-frame, and leave room for
6 the driveway and the creek and the road and the general
7 scene?

8 A. The cabin. That'd be the A-frame. This is where the rig
9 was parked.

10 Q. Where's the garden?

11 A. The garden is directly down here.

12 Q. You want to put _____? And where is the creek?

13 A. The creek is below it.

14 Q. _____

15 A. What's that?

16 Q. Make waves for the creek. And the Crown Creek Road?

17 A. Crown Creek Road is-- runs along outside.

18 Q. The driveway up to the cabin?

19 A. Runs from the cabin down around--

20 COURT INQUIRES IF CLERK IS PICKING UP THE TESTIMONY

21 COURT DIRECTS WITNESS TO MOVE TO SIDE OF EASEL

22 Q. Could you put an arrow showing which direction the car was
23 parked beside the cabin? Just an arrow so we know which
24 way it's facing.

25 A. Okay. That's where the front of the vehicle is facing.

Dane Matthew Williams - Direct (by Mr. Wetle)

1532.

1 Q. And is there a water stanchion?
2 A. Yeah, there is.
3 Q. And could you put--
4 A. As far as the pipe _____?
5 Q. Yeah.
6 A. It's right here.
7 Q. Could you-- Let's see, what do you want to mark that? A
8 triangle. And where was the fire pit?
9 A. Fire pit was right here.
10 Q. And where are the stairs leading down from the main floor
11 of the cabin?
12 A. _____ the cabin.
13 Q. And where is the path that goes down to the creek from the
14 cabin?
15 A. Straight down the _____.
16 Q. And could you draw it all the way to the creek? Are there
17 any obstructions across that path down by the creek?
18 A. Yeah, I believe there's a tree that's fell over the path.
19 Q. Where is that?
20 A. It'd be right-- right before the creek.
21 Q. Can you draw that obstruction? Oh, you did. Can you
22 label that tree, or log or-- Okay.
23 MR. WETLE: I'd ask that the-- You can retake the
24 stand, Mr. Williams. I'd ask that that be marked as the
25 next exhibit.

Dane Matthew Williams - Direct (by Mr. Wetle)

1533.

1 THE CLERK: Plaintiff's 114.
2 THE COURT: One-fifteen?
3 THE CLERK: One-fourteen.
4 MR. WETLE: Your Honor, we'd offer Plaintiff's 114.
5 MR. SIMEONE: No objection.
6 THE COURT: All right, 114 is admitted.
7 Q. Why was the car parked in that location, Mr. Williams?
8 A. It was to be hid out of the way.
9 Q. Pardon?
10 A. It was to be hid out of the way of sight.
11 Q. Did you expect someone to be coming?
12 A. Yes.
13 Q. And who was that?
14 A. Nick.
15 Q. And how did you know that?
16 A. Chewy told me on the drive back that they're coming.
17 Q. And do you know who they were?
18 A. At the time, I thought Jeff and Nick.
19 Q. And what did Chewy say he was going to do, now that you're
20 back at the cabin? When you get back there?
21 A. He's going to find some place to hide out.
22 Q. And do you know where that place was going to be?
23 A. I didn't really have an idea. I kind of thought it was
24 going to be under the cabin.
25 Q. Where is, or was, Chewy's .22 rifle normally kept?

Dane Matthew Williams - Direct (by Mr. Wetle)

1534.

- 1 A. Usually up near the rooms. When they left, it was usually
2 hidden in the sheetrock. That's where most of the guns
3 that Jeff had before were hidden. Or, you know, right
4 inside the doorways to the rooms, leaned up against the
5 wall.
- 6 Q. So the holes in the sheetrock are what? When you say
7 holes in the sheetrock, is that between the studs?
- 8 A. Yeah.
- 9 Q. You got a hole in the sheetrock and you put the gun where?
- 10 A. Just right between the studs.
- 11 Q. Between the studs, kind of behind the broken sheetrock?
- 12 A. Yes.
- 13 Q. And when would the guns be stored there?
- 14 A. What's that?
- 15 Q. When would the guns be stored there?
- 16 A. Usually when they left.
- 17 Q. So if they left the cabin?
- 18 A. Uh-huh. Be hidden.
- 19 Q. And if they were there, where were the guns usually
20 placed?
- 21 A. Leaned up against the doorways.
- 22 Q. And were there holes in the-- if you recall, in Chewy's
23 bedroom?
- 24 A. Yes.
- 25 Q. And would the gun-- Where would the gun normally be

1 found in the house?

2 A. I would say in the sheetrock holes. I can't really
3 specify where, 'cause there were so many holes in the
4 sheetrock that it could have been put anywhere.

5 Q. So you both get out of the car, and where did you go?

6 A. I went down towards the creek with the dogs to watch out
7 for cars.

8 Q. So you walked down past the garden?

9 A. Yes, I did.

10 Q. To the-- Past the creek?

11 A. Yes.

12 Q. To the road?

13 A. Yes.

14 Q. And the purpose was?

15 A. To watch out for vehicles coming up.

16 Q. Did anyone stop and talk to you?

17 A. Yes.

18 Q. What happened there?

19 A. A Toyota pickup stopped when I was out in the road with
20 the dogs. There was a gentleman there and his kid, and
21 asked if I was okay, if I needed anything. And I said no,
22 I'm just walking the dogs.

23 Q. So then what did you do?

24 A. I kinda got spooked. Got a little scared and took off.

25 Q. And took off to where?

Dane Matthew Williams - Direct (by Mr. Wetle)

1536.

1 A. My cabin.
2 Q. And how did you get there?
3 A. I ran there.
4 Q. And how long did that take, do you think?
5 A. A little over 15 minutes.
6 Q. Who was there?
7 A. My brother.
8 Q. And who was left back at the Crown Creek cabin?
9 A. Just Chewy.
10 Q. What did you do at your cabin?
11 A. I went up and grabbed my gun and loaded it. I kinda had
12 some thoughts going through my mind of what was said the
13 month before by Rob, and kinda confused and wasn't sure
14 what was going to happen.
15 Q. What did you decide to do then?
16 A. I decided he was just going to threaten them. There's no
17 need to bring a firearm over. So I ended up running back,
18 thinking that whatever happened already transpired.
19 Q. Why did you go back?
20 A. I went back because I was kinda-- had a lot of thoughts
21 going through my mind. I wasn't sure if he was going to
22 shoot 'em, I wasn't sure if he was going to threaten 'em.
23 Like I was saying, there's a lot of people that make a lot
24 of threats, and I been around a long time to see a lot of
25 it in the drug industry, and a lot of them are false

Dane Matthew Williams - Direct (by Mr. Wetle)

1537.

1 threats. Nothing ever goes through with it. It's all,
2 you know, basically b.s. So that's why I went back. I
3 figured he wasn't going to do anything other than just
4 threaten them.

5 Q. So how did you get back?

6 A. I ran back.

7 Q. And what path did you take, or how did you get there?

8 A. I went down my road, start on the Hamlet Road. As soon as
9 you get to the Hamlet Road by Jack Lael's property, it
10 goes straight up an old horse trail, across his field,
11 into my parents' driveway.

12 Q. Okay, and then did you go up the Crown Creek Road?

13 A. Yes, I went up a little ways, and I cut across on an old
14 driveway that Jack Lael-- or, excuse me, that Lou Ash
15 used to have, that owned the cabin.

16 Q. Okay. Could you show where that path brings you into the
17 cabin? You'll need to mark that with a green marker. So
18 when you're coming back to the cabin--

19 A. It's quite a ways over. _____. Down this way. It
20 would be about this--

21 Q. Wait--

22 A. Up here, I guess, on _____,

23 MR. WETLE: Let the record reflect that Mr. Williams is
24 showing off the diagram to the left, because of the scale.

25 Q. Where did that path end up coming into the cabin area?

Dane Matthew Williams - Direct (by Mr. Wetle)

1538.

1 A. The path would take you up, across, and would cut up
2 through here.

3 Q. Okay, could you just draw the line that you came up
4 through?

5 A. Yeah.

6 Q. Okay, you can retake the stand. Thank you.

7 MR. WETLE: Let the record reflect-- I think the
8 record should reflect it's in green.

9 THE COURT: Yes. I think it does.

10 Q. And about how long did it take you to get back?

11 A. About the same amount of time. A little over 15 minutes.

12 Q. What time do you think you got back to the Crown Creek
13 cabin, about? What time of day was it?

14 A. Oh, it was just-- Just after noon. Probably about 2:00.

15 Q. So you got to--

16 A. A little before.

17 Q. You got--

18 MR. SIMEONE: What was the answer? I'm sorry, I missed
19 that.

20 A. It was probably about 1:30 or 2:00 o'clock, if I got back
21 at 1:00, a little after 1:00.

22 Q. From your cabin?

23 A. From the barter fair. I was out at the barter fair at
24 noon. It takes about an hour to get back--

25 Q. Okay.

Dane Matthew Williams - Direct (by Mr. Wetle)

1539.

1 A. --to Crown Creek. To run back and over is a little over
2 half an hour.

3 Q. Let me-- Let's see. You went to the barter fair around
4 noon, is that correct?

5 A. Uh-huh. Correct.

6 Q. And so you were with Janell. What time did you get to the
7 barter fair?

8 A. Oh, we got to the barter fair about 1:00. Sorry. I'm
9 confused.

10 Q. And you left the barter fair and came back to the cabin.

11 A. It was about 2:00. So it was getting closer to 3:00
12 o'clock when I got back to the Crown Creek cabin after I
13 was at my cabin.

14 Q. So as you're coming up the path to the Crown Creek cabin,
15 what was the first thing that you saw?

16 A. I saw Nick and Josh.

17 Q. And where were they?

18 A. Would you like me to diagram it?

19 Q. Please. Probably in red.

20 A. This is Nick, this is Josh.

21 THE COURT: Why don't you put an N and a J.

22 A. Okay.

23 Q. Okay, thank you. You can retake the stand. Did you know
24 Nick Kaiser?

25 A. Yes, I did.

Dane Matthew Williams - Direct (by Mr. Wetle)

1540.

1 Q. And when had you met him?
2 A. I met him in February of 2000 on Whidbey Island.
3 Q. And where else did you meet him?
4 A. At my cabin for the April, 2000 barter fair.
5 Q. That was the party at your cabin?
6 A. Yes.
7 Q. Did you know Josh Schaefer?
8 A. No, I did not.
9 Q. Now, from talking to Chewy, you knew he was coming, but
10 did you recognize him at first when you came up there?
11 A. At first glance, no.
12 Q. Why not?
13 A. I'm pretty near-sighted, and also he had cut his hair. I
14 was told he was coming out there, but still-- there was
15 two people there, so--
16 Q. What did Nick's reaction to you being there appear to be?
17 A. He looked kind of surprised. Asked me how I was doing.
18 Q. And what was your reaction to seeing Nick and Josh there?
19 A. I was kind of surprised to see another person there.
20 Q. Okay, so people were there. Anything else?
21 A. Not really.
22 Q. There's still--
23 A. To see his haircut. Looked a lot different.
24 Q. And they're standing there at the-- around the fireplace?
25 A. Yeah.

Dane Matthew Williams - Direct (by Mr. Wetle)

1541.

1 Q. Did you think anything would have happened?
2 A. I had a bad feeling.
3 Q. Okay, did you see Chewy at that time?
4 A. No, I didn't. That's what made the feeling feel bad.
5 Q. And did you know where he was?
6 A. I had no idea. Had an idea, but I had no actual idea.
7 Q. And did you see Jeff Cunningham?
8 A. Yes, I did.
9 Q. And where was Jeff Cunningham?
10 A. Jeff was walking down the steps.
11 Q. From where?
12 A. From the cabin. Top of the cabin.
13 Q. How did Nick, Josh Schaefer and Jeff Cunningham get to the
14 Crown Creek cabin?
15 A. I believe they traveled there in Nick's Bronco.
16 Q. And where was that Bronco parked?
17 A. At the bottom, around the-- Right in front of the garden.
18 Q. Okay, could you show the jury, or diagram, maybe a brown
19 marker, where the Bronco was?
20 A. There's a yellow van parked directly in front, and they
21 were right behind it.
22 Q. Which way was the vehicle facing?
23 A. It was facing towards the road.
24 Q. Can you draw kind of an arrow at the top of the rectangle
25 there, to show which way the car's facing? Thank you.

Dane Matthew Williams - Direct (by Mr. Wetle)

1542.

1 Okay, and retake the stand, please.

2 Was that a normal place to park?

3 A. Sometimes people parked there. Normally in the winter and
4 the spring time, and people that have come up there before
5 that, you know, didn't really know Jeff, they would park
6 down there. But for most people, no, it wasn't that
7 normal of a place to park.

8 Q. Okay. What makes you think that the vehicle was parked
9 down there?

10 A. 'Cause I seen it later. And also, when I walked up that
11 path, coming in and seeing Nick and Josh, as I remember,
12 there was nothing blocking my view straight across the
13 front of the cabin to the fire. 'Cause if I was to walk
14 up there and the vehicle was up in that direction, I'd
15 have to walk around the vehicle, and I didn't have to walk
16 around anything.

17 Q. To get to the fire pit?

18 A. Exactly.

19 Q. So your recollection was there's nothing between you and
20 the fire pit, and therefore the car must have been parked
21 somewhere else?

22 A. Exactly.

23 Q. What did Jeff Cunningham do as you walked up to Nick and
24 Josh?

25 A. He came down the stairs and nodded towards me to go

1 towards the creek. He had a pan in his hand. He was
2 going to go down and get some water.

3 Q. So what did Jeff do after he got off the stairs?

4 A. He started walking towards me, talking to me, with this--
5 the pan in his hand. He kinda pointed towards the creek,
6 and we started walking down that way.

7 Q. Did you have any conversation with Nick and Josh at that
8 time?

9 A. No, I just-- Nick asked me how I was doing, and I asked
10 him how he was doing, and from there Jeff was right in
11 front of me and we started walking down to the creek. I--
12 I'm not sure if we said anything to 'em or not, we'll be
13 right back or-- I don't recall.

14 Q. Do you remember whether or not a fire was started?

15 A. Yes, there was a fire going.

16 Q. And what was the conversation between you and Jeff at that
17 time?

18 A. We were pretty confused as to what was going to happen.
19 We kinda asked each other questions back and forth, like
20 what's going on, is this going down? I mean how is this
21 going down? Kinda a lot of confusion.

22 Q. You remember what you told Jeff? Where Chewy-- Did you
23 tell Jeff where Chewy was? I mean-- Yeah, did you tell
24 Jeff where Chewy was?

25 A. Yeah, I told him I thought he was under the cabin.

1 Q. Any--

2 A. 'Cause he--

3 Q. Anything else?

4 A. No.

5 Q. He's under the cabin, and--

6 A. I think he's under the cabin. He asked where Chewy was,
7 and where's the Bronco.

8 Q. How was Jeff acting?

9 A. Really nervous.

10 Q. What did you think was going to happen?

11 A. I wasn't exactly sure. I mean the month prior to this,
12 Rob had mentioned doing away with Nick, you know. I've
13 heard a lot of people say how they were going to kill
14 someone, they're going to beat someone up, and it never
15 happened and all hearsay. The reality of him actually
16 killing them wasn't believable. I didn't think that was
17 actually going to happen. It crossed my mind several
18 times, and I was just very confused as to what exactly was
19 going to happen.

20 Q. Okay. Did you get down to the creek?

21 A. No, we didn't make it all the way to the creek.

22 Q. And how far did you get?

23 MR. WETLE: We need another color, Mr. Bailiff. Let's
24 see, do we have black? No.

25 THE BAILIFF: Yellow?

Dane Matthew Williams - Direct (by Mr. Wetle)

1545.

1 MR. WETLE: Yellow,

2 Q. So where did you and Nick-- Where did you and Jeff get
3 to?

4 A. Me and Jeff walked down, came right about-- I think it
5 was before the tree.

6 Q. Okay, can you put a circle and then a line to whoever was
7 standing where? That's just not going to show up well
8 enough. Let's get a--

9 THE BAILIFF: Blue?

10 MR. WETLE: That'd be fine.

11 A. You want a circle where we were standing?

12 Q. I want a circle where Jeff Cunningham was standing. And
13 put J.C.

14 THE COURT: And put J.C.

15 Q. And then I want a circle where you were standing.

16 A. I'd say beside _____.

17 MR. WETLE: So the record says it, Mr. Williams is
18 standing right beside him. Retake the stand, please.

19 Q. What did you and Jeff Cunningham do at the tree?

20 A. We sat and talked a little bit, and we kinda stood there
21 and waited to hear something. Waited for something to
22 happen.

23 Q. How long did you wait?

24 A. I'd say anywhere from approximately three to five minutes,
25 at the most.

Dane Matthew Williams - Direct (by Mr. Wetle)

1546.

1 Q. Then what happened?
2 A. We heard shots.
3 Q. And how many shots?
4 A. I'd say three to five right off the bat. A total of nine
5 shots, 'cause I believe that's what the gun held. And
6 after the three to five shots, we heard the rest of them
7 slowly.
8 Q. When you say slowly, what do you mean?
9 A. Well, the first were rapped right off, and the rest were
10 bang, bang, bang, bang.
11 Q. Slower pace?
12 A. Yes.
13 Q. Then what did you do?
14 A. Started running towards the top of the hill.
15 Q. Was Jeff Cunningham impaired in any way?
16 A. Yes. He had broke his ankle, I believe a month prior.
17 Q. So how did he move?
18 A. Kinda just-- I guess kinda stumbling.
19 Q. So what did Jeff do?
20 A. Jeff took off towards the top of the hill.
21 Q. And what did you do?
22 A. I followed behind him.
23 Q. And when you got to the top of the hill-- Well, first
24 I'll ask, can you see the cabin from that area by the
25 creek?

Dane Matthew Williams - Direct (by Mr. Wetle)

1547.

- 1 A. Only the roof.
- 2 Q. Of the cabin?
- 3 A. (No audible response)
- 4 Q. What happened when you got up to the cabin area? What did
5 you see?
- 6 A. Got up to the top of the hill, and Chewy was standing in
7 the middle of the path with the .22 in his hand.
- 8 Q. Could you take a marker, take a red marker, and put a
9 circle where Chewy was standing? And put J.G. And please
10 retake the stand. So what-- Do you know what-- which
11 gun he was holding in his hand?
- 12 A. Yes, his new .22.
- 13 Q. What did he say?
- 14 A. He said: Jeff, come on.
- 15 Q. And what did he do with the rifle?
- 16 A. He waved the rifle in back of him, to signal Jeff, let's
17 go.
- 18 Q. How long would you say it took you and Jeff to get up to
19 where you could see Chewy?
- 20 A. At the most, 30 seconds.
- 21 Q. And what was Chewy doing when you came up?
- 22 A. He was standing in the path.
- 23 Q. Which way was he facing?
- 24 A. Facing down the hill.
- 25 Q. Like he was expecting you to come?

Dane Matthew Williams - Direct (by Mr. Wetle)

1548.

1 A. Yes.

2 Q. So where did you go at that time?

3 A. I ran up, I glanced over to the right where the bodies
4 were, seen Josh Schaefer, and turned around and took off
5 in shock, said I was going to go look out on the road.

6 Q. Okay, could you draw a dotted green line as to where you
7 went?

8 A. Where I went?

9 Q. Uh-huh. You came up, you--

10 A. I glanced over.

11 Q. You got up to the-- I don't know where you started from.
12 And wherever you started from, where did you go? And draw
13 a dotted green line.

14 And what did you do when you got down to-- Did you get
15 to the creek?

16 A. Yes, I did.

17 Q. And what did you do when you got to the creek?

18 A. I just sat there in shock. I was going to take off and go
19 home. I kinda thought about what was going to happen. If
20 he was going to just come and take us out, or take me out
21 because I was a witness, so I decided to go back up and
22 see what was going on. _____ involve myself a
23 little more.

24 Q. Do you recall where the bodies were when you first looked
25 at them?

Dane Matthew Williams - Direct (by Mr. Wetle)

1549.

- 1 A. The only body I saw was Josh's. He was laying towards the
2 fire, with his head back.
- 3 Q. Okay, could you draw like a stick figure for head and feet
4 in green? And did you recall seeing Nick Kaiser?
- 5 A. No, I don't recall. I just glanced _____.
- 6 Q. So now you're down at the creek, and you decide to go back
7 up. And what happened when you got back? What happened
8 when you got back up the--
- 9 A. When I got back up, the bodies were being drug up out of
10 the way, behind the fire pit.
- 11 Q. Okay, let's take a red marker and do a dotted line where
12 the-- Do you know which body was being drug?
- 13 A. Yes.
- 14 Q. Okay, let's use red for Nick Kaiser. Where was Nick
15 Kaiser drug? Do a dotted line.
- 16 A. He was drug-- When I got there, in sight, he was being
17 drug up this way.
- 18 Q. And about how far was he drug up that hill?
- 19 A. Approximately 20 feet.
- 20 Q. Okay, you want to put a 20, with a mark for a foot. Put
21 Nick and-- And who-- Who drug him up there?
- 22 A. Chewy.
- 23 Q. And do you remember how he drug him?
- 24 A. By his feet.
- 25 Q. What was happening to Josh?

Dane Matthew Williams - Direct (by Mr. Wetle)

1550.

- 1 A. Josh was being drug up by _____.
- 2 Q. By who?
- 3 A. Jeff.
- 4 Q. And how was he being drug?
- 5 A. By one foot.
- 6 Q. Okay, can we take a-- Well, use the same thing. Use the
7 red marker and put Josh and how far he went up that side
8 hill. And then put J.S. for Josh Schaefer. What did you
9 do as they were dragging the bodies up the hill?
- 10 A. I ran up and attempted to grab one of Josh's feet.
- 11 Q. And what happened?
- 12 A. I dropped it.
- 13 Q. And then what happened? Well, I'd ask, if you grabbed his
14 foot, were you able to make any observations as to Josh
15 Schaefer?
- 16 A. Yes, when I grabbed his foot I looked down. He had a
17 bullet hole in his forehead, one around the cheek area.
18 _____.
- 19 Q. And did you-- After seeing that, what did you do?
- 20 A. I took off.
- 21 Q. And in green let's put where did you-- and a dotted line,
22 let's put a one on the green dotted line for the first
23 time down. Put a one and a circle. And then where did
24 you go the second time?
- 25 A. It's all kind of blurry, but I believe I _____ around this

1 area, right in here.

2 Q. And what did-- All right, you can retake the stand,
3 please.

4 MR. WETLE: Let the record reflect that Mr. Williams
5 drew an oval showing an area in green.

6 Q. How long did you stay down there?

7 A. Approximately three minutes.

8 Q. Why didn't you go home at that point?

9 A. I was in complete shock. I didn't-- I didn't know what
10 to do at that point.

11 Q. Were you being included in the activities?

12 A. No, I wasn't. That's what kept making me go back up. I
13 was-- I would leave to go home, and think of basically my
14 brother being at home, and me not being involved and being
15 a Family member, and the thought just kept crossing my
16 mind, what if they're going to take me out also.

17 Q. So what did you then decide to do?

18 A. I went back up, involved myself more.

19 Q. So when you got back up, where was Nick's car?

20 A. When I got back up to the top, Nick's car was parked
21 directly in front of the cabin.

22 Q. Okay, can you diagram in brown where Nick's car was when
23 you came back to the cabin? And with a little arrow
24 showing which way it's facing. What did you do?

25 A. Well, when I got up to the top of the hill, I seen Chewy--

Dane Matthew Williams - Direct (by Mr. Wetle)

1552.

1 Chewy with a _____ blanket wrapped around the body, over
2 his shoulder, bringing it down the hillside. This area.
3 Q. Okay, so he's carrying a body, and where did the body go?
4 A. I don't remember seeing. He walked towards the Bronco.
5 I was looking for something else at the time.
6 Q. How-- So do you recall whether or not he placed the body
7 in the car?
8 A. Yes, he did.
9 Q. Did you see him do it?
10 A. No, I didn't.
11 Q. What were you doing at the time?
12 A. I was under the steps of the cabin looking for a pick or
13 a shovel.
14 Q. So you'd be pretty close to the vehicle?
15 A. Yes.
16 Q. What did Chewy say to do with the bodies?
17 A. He said bury 'em.
18 Q. Did he say what he'd done with them?
19 A. He said: I killed 'em, you guys bury 'em.
20 Q. What did you find that you were looking for?
21 A. I found a shovel.
22 Q. Okay, you can retake the stand. And where did you find
23 that shovel?
24 A. Under the house, or under the steps. Excuse me.
25 Q. And did Jeff get any instrument?

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1 A. Yes, he grabbed a pick.
2 Q. And what did you do with those items?
3 A. Threw them in the back of the rig.
4 Q. Then what did you do?
5 A. Jeff jumped in the driver's seat, started the Bronco.
6 Q. Well, let me-- Let me just ask one thing. Was there any
7 discussion at that point about what was going to happen to
8 the vehicle?
9 A. No.
10 Q. And then what did you do next?
11 A. I jumped in the passenger seat, and we backed down the
12 driveway, turned around and headed out.
13 Q. Oh, boy, I hate to have you-- Can you do a dotted brown
14 line showing where the vehicle went? What is that
15 squiggly for?
16 A. This is the turn-around, the clearing: _____ around the
17 corner. Turn around _____.
18 Q. So you back up into that?
19 A. Yes.
20 Q. And then what?
21 A. Back up into it, turn around, _____.
22 Q. Okay. I will ask is that level ground there, that turn-
23 around area?
24 A. Not really. It's on a hillside.
25 Q. So if you were backing up, you'd have to back up the hill

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1 or down a hill?

2 A. Back up a hill slightly.

3 Q. How were you sitting in the-- Well, who's driving?

4 A. Jeff.

5 Q. Where are you?

6 A. I'm in the passenger seat.

7 Q. And how were you sitting?

8 A. Leaned up towards the dash. My elbow's on the dash.

9 Q. And why was that?

10 A. Nick's body was forward, against the back of my seat, and

11 I couldn't set the seat all the way down.

12 Q. So in your mind, do you remember how the bodies were

13 positioned in the back of the rig?

14 A. Yes.

15 Q. And how was that?

16 A. Nick's head was against the passenger seat, and Josh's

17 head was towards the tailgate.

18 Q. So Josh's head's down at the tailgate?

19 A. Uh-huh.

20 Q. Nick's head is up at the-- by the pass-

21 A. Yes.

22 Q. Propped up against the passenger seat?

23 A. (No audible response)

24 Q. Where did you go?

25 A. We headed out the driveway, took a left on the logging

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1 road, headed up the logging road, and took another left on
2 an old skidder trail.

3 Q. And then where did you go?

4 A. Headed up the skidder trail a ways, came to a clearing
5 over on the road, and parked there.

6 Q. And why did you park there?

7 A. We were going to bury the bodies there.

8 Q. So what did you do?

9 A. Jumped out, jumped over the hillside, and started digging.

10 Q. And how many holes were you digging?

11 A. Two.

12 Q. Each-- Describe what happened.

13 A. I was closest to the hillside, digging a hole, kinda
14 frantically. And Jeff was beside me, pretty upset,
15 digging also.

16 Q. So you were digging two holes?

17 A. Yes.

18 Q. Not one hole?

19 A. No.

20 Q. Where was-- What was Jeff's demeanor at this time?

21 A. He was-- He was pretty upset. He was borderline crying.

22 Q. And what was your demeanor?

23 A. I just wanted to get it over with. Wanted to actually get
24 out of there.

25 Q. So you were rushing?

1 A. Yes.

2 Q. Could you describe the grave sites?

3 A. Yes. The grave site I was digging at was-- The Bronco
4 was parked on the hill, came over the hillside, the grave
5 site I was digging at was closest to the hill, and Jeff's
6 was a few feet over' from me.

7 Q. How long did you dig?

8 A. Not very long. Probably about five minutes.

9 Q. And then what did you do?

10 A. I ran up to the vehicle. I was thinking about pulling the
11 bodies out. As I opened the door and looked down at them,
12 I shut the door, jumped over the hillside, and said let's
13 go. This is-- This isn't our business, let's just get
14 rid of this truck.

15 Q. So you went back down and got Jeff?

16 A. Yeah.

17 Q. And then where did you go?

18 A. He started the truck, headed back up towards the top of
19 the hill. We made it to the top of the mounting-- excuse
20 me, the mountain, and it was a log area. We went and
21 parked the truck between two trees.

22 Q. And then what did you do next?

23 A. I jumped out of the vehicle. I was ready to head out of
24 there.

25 Q. And what did Jeff do?

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- 1 A. Jeff popped the driver's side seat up, grabbed a new
2 garden hose out of the back.
- 3 Q. And what was the condition of that hose?
- 4 A. It was brand new.
- 5 Q. And what did Jeff do with the hose?
- 6 A. He unwound it and stuck it in the gas tank to start to
7 syphon. Trying to, anyway.
- 8 Q. How long was that hose?
- 9 A. About 40 feet. Somewhere in there.
- 10 Q. What happened?
- 11 A. Well, you can't syphon out of a 40 foot hose, so he
12 stopped doing that, grabbed the shovel and tried cutting
13 the hose at a shorter length.
- 14 Q. After he tried to cut it, what did you do?
- 15 A. He couldn't do it, so I grabbed the shovel frantically and
16 tried to cut it myself.
- 17 Q. Were either of you successful?
- 18 A. No.
- 19 Q. And what did Jeff-- What did Jeff do to the gas tank?
- 20 A. He grabbed a paper sack, stuck it in the gas tank, and
21 tried to light it.
- 22 Q. What happened?
- 23 A. Nothing.
- 24 Q. And what were you doing?
- 25 A. I was on my way, walking out of there, yelling at him to

1 tell him let's go.

2 Q. Then what did Jeff do?

3 A. Jeff at that point, he ended up taking off.

4 Q. At this time was it daylight or dark?

5 A. It was daylight.

6 Q. Describe whether or not anything was taken from the
7 vehicle?

8 A. Yes. Jeff had a vodka bottle. Excuse me, a rum bottle.
9 Sorry. He grabbed a pipe, which I didn't see him grab at
10 the time. Later, on the walk down the hill, he pulled it
11 out, and a few bucks.

12 Q. What happened to the rum?

13 A. He was drinking the rum.

14 Q. When?

15 A. When we were walking down the hill.

16 Q. Where did that bottle end up?

17 A. It was with us on the way back to Portland the next day.

18 Q. What was the story with the marijuana-- the marijuana
19 pipe?

20 A. He pulled out as we were walking down the hill, and I
21 asked him where he got it, and he said off of one of them.

22 Q. What kind of pipe was it?

23 A. A Sherlock Holmes style pipe. Glass.

24 Q. So just for any jurors that might not know what the
25 Sherlock Holmes pipe is, can you just describe it?

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1 A. Yeah, it kinda comes out to a mouthpiece, rims down, comes
2 around and goes up to a bowl.

3 Q. And what happened then with the glass pipe?

4 A. He pulled it out and started smoking it. I asked him
5 where he got it. He said off of one of the bodies. And
6 I basically started yelling at him, told him that was just
7 sick and wrong, get rid of it.

8 Q. So what did he do?

9 A. I didn't pay attention to what he did with the pipe.
10 Later, when we got down to the bottom of the hill, he
11 pulled it out again and I proceeded to yell at him again
12 to get rid of it. And he threw it towards the creek.

13 Q. Where were you when that happened?

14 A. Walking up the driveway.

15 Q. The driveway going up to the cabin?

16 A. Yes.

17 Q. So as you walked up to the Crown Creek cabin, what did you
18 see?

19 A. Chewy standing over the fire.

20 Q. And what was that fire doing?

21 A. Smoldering.

22 Q. What did Chewy say?

23 A. He seemed surprised to see us back so quick. Asked what
24 we were doing, if we buried the bodies.

25 Q. What'd you say?

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1 A. Said no. Said I ain't burying them.

2 Q. Did you say anything else to him?

3 A. I told him I wasn't going to bury the bodies. It-- You
4 know, this is-- this is your business, and that basically
5 you killed 'em, this is Family business, and I ain't
6 burying 'em.

7 Q. Then what did Chewy say?

8 A. Chewy told Jeff to bury 'em.

9 Q. Did you tell-- What did you tell Chewy you and Jeff
10 tried to do?

11 A. Said we tried to syphon gas out of the vehicle to cause an
12 explosion, that it didn't work.

13 Q. And then what did you suggest to him be done?

14 A. Said let's just burn the vehicle and get it over with.

15 Q. So what did Chewy do?

16 A. Chewy grabbed a five-gallon gas tank from under the house,
17 threw it in his rig. We got in, and--

18 Q. Now where--

19 MR. WETLE PAUSES FOR NOON SIREN

20 THE COURT: Go ahead, Mr. Wetle, for a few more
21 minutes.

22 MR. WETLE: Thank you, your Honor.

23 Q. So where was the-- Chewy's vehicle?

24 A. On the south side of the cabin.

25 Q. So what did you do?

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1 A. He grabbed the gas tank, threw it in there, jumped in the
2 passenger seat and jumped in the driver's seat, and I
3 jump-started it in reverse.
4 Q. He jumped in the passenger seat?
5 A. I mean-- Excuse me, the driver's seat. I jumped in the
6 passenger seat.
7 Q. All right, and you jump-started it?
8 A. Yeah.
9 Q. Why?
10 A. Because the starter was out.
11 Q. So what did you have to do to start it?
12 A. Roll it back in reverse.
13 Q. So where the vehicle's parked is-- Can you describe the
14 terrain?
15 A. It's a hillside.
16 Q. And did it start?
17 A. Yeah.
18 Q. And where was Jeff at this time?
19 A. I believe he's walking down the driveway.
20 Q. And anybody say anything to him?
21 A. Yeah, I yelled for him.
22 Q. And then what did you do?
23 A. Picked him up.
24 Q. And where did everybody sit then?
25 A. I jumped in the back, Jeff jumped in the passenger seat,

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1 Chewy was driving.

2 Q. And on the way up, what happened to the-- where Nick
3 Kaiser's car was, what happened?

4 A. We started heading out, took the left out of the driveway
5 onto the logging road. As soon as we're going to take a
6 left up to the skidder trail, I asked to get out. I said
7 I wanted to be a look-out, I didn't want to go up there.
8 And they didn't think it was a good idea.

9 Q. Why not?

10 A. Just in case cars passed, me standing out in the middle of
11 the woods for no apparent reason.

12 Q. Then what happened?

13 A. I headed up towards the hill. Right before the plateau of
14 where the Bronco was parked, I asked to get out again.
15 Said I'm not going to go through with it, I can't go any
16 more, so I jumped out of the car.

17 Q. Did they let you out of the car?

18 A. Yeah.

19 Q. Okay, and do you have any recollection of how far you were
20 from the scene then at that time?

21 A. Anywhere from-- Anywhere from 25 to 50 yards away.

22 Q. Could you see the--

23 THE COURT: I'm sorry. What scene?

24 MR. WETLE: Where the vehicle was. Where the Kaiser
25 vehicle was.

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1 THE COURT: Okay. Thank you.

2 Q. Could you see the Kaiser vehicle from where you got out?

3 A. No.

4 Q. What happened next?

5 A. Next they came driving down the hillside, after about ten

6 minutes.

7 Q. And what did you do?

8 A. I got in with them.

9 Q. And where did you go?

10 A. Headed back to the cabin. Crown Creek cabin.

11 Q. And what happened when you got back to the Crown Creek

12 cabin?

13 A. Got back to the cabin, Chewy ran upstairs. Me and Jeff

14 stood there and argued about money. I was stressed out.

15 Everyone was stressed out. And told him I wanted whatever

16 left he had of mine back.

17 Q. By whatever he had of yours back, you mean what?

18 A. Marijuana or money, and which he gave me the rest of the

19 pot he didn't sell.

20 Q. So after you go through that with Jeff Cunningham, what

21 happened next?

22 A. Chewy came down the stairs, said he got about \$400 off one

23 of the bodies, and split it up three ways.

24 Q. And what did you do with yours?

25 A. I ended up giving it to Jeff. I was-- I was tired of

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1 dealing with it, I was tired of arguing with Jeff. I just
2 gave it to him.
3 Q. Now, you'd been arguing with him over money just a few
4 minutes earlier.
5 A. Yeah.
6 Q. But you didn't take this pack of money?
7 A. No. He gave me the rest of my pot back. I didn't want to
8 argue with him no more. Told him to take the money. I'd
9 had it.
10 Q. Where did you all go next?
11 A. To Northport to the White Bird.
12 Q. And what did you do at the White Bird?
13 A. Had some drinks and dinner.
14 Q. Any activities there?
15 A. I played pool with the bartender.
16 Q. And who is the bartender?
17 A. Troy Phillips.
18 Q. You know him?
19 A. Yeah.
20 Q. Who was with you at the White Bird?
21 A. Chewy, Jeff and some other guy was sitting next to us that
22 I didn't know who he was. I'd only seen him once before.
23 Q. Who paid the bill?
24 A. I believe Chewy did. I-- I can't be exact on that. My
25 memory doesn't-- There was a lot of other things going

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1 through my head at the time. I can't be for sure.

2 Q. How long were you there?

3 A. About an hour.

4 Q. And where did you go from the White Bird?

5 A. Headed back to my cabin.

6 Q. And what happened when you got back to your cabin?

7 A. Maija was there.

8 Q. You know what Maija wanted?

9 A. To talk to Jeff.

10 Q. And so what happened there?

11 A. Ah--

12 Q. What happened with them?

13 A. Those two went outside and talked for awhile, and later
14 came back in and asked Chewy for his Bronco, which Chewy
15 basically ignored 'em for awhile, and they kept asking and
16 asking. He finally told them okay, and to be back in the
17 morning.

18 Q. What, if anything, was said about the .22 rifle used in
19 the murders?

20 A. I asked him. I'm not sure if it was on the ride back or
21 while me and him were sitting there, but I asked him
22 what'd he do with the gun, and he told me he buried it
23 back at the cabin. Dug a hole with the barrel of it, and
24 that it wouldn't be found.

25 Q. What did you and Chewy do then after Jeff and Maija left?

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- 1 A. We were just sitting there playing Play Station.
- 2 Q. So who stayed at your house?
- 3 A. Chewy.
- 4 Q. And how did you feel that night?
- 5 A. I didn't sleep very well.
- 6 Q. What happened the next morning?
- 7 A. Next morning I got up and decided I was going to go to
8 Portland, that I couldn't stand to stay around there any
9 more, just over being disgusted about what happened. And
10 we-- Chewy's rig wasn't back, so we walked over to the
11 Crown Creek cabin to find it.
- 12 Q. And what happened as you got to the Crown Creek cabin?
- 13 A. We were walking down the Crown Creek Road and we saw Maija
14 and Jeff walking, and Chewy kinda flipped out on 'em.
- 15 Q. Chewy flipped out on who?
- 16 A. Jeff.
- 17 Q. And what do you mean?
- 18 A. He started screaming at 'em about not bringing his truck
19 back.
- 20 Q. And so what did you do then?
- 21 A. I just sat there and talked with Maija.
- 22 Q. And after you talked, and Chewy and Jeff got through, then
23 what happened?
- 24 A. We walked back down to the cabin.
- 25 Q. This is to which cabin?

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1 A. Crown Creek cabin.

2 Q. So you're going back up the road, up to where the vehicle
3 was?

4 A. Yeah.

5 Q. Maybe I should put-- If it shows on there, can you put a
6 circle where you met, if it's on that diagram, where you
7 met, Jeff and Maija?

8 A. _____

9 Q. Let's use green. Put a circle down there on the Crown
10 Creek Road. So is that on the road?

11 A. Yes.

12 Q. I'm looking at that road as the blue line at the bottom of
13 the map.

14 A. _____.

15 Q. Okay. The circle with the X is one that's been marked
16 off, and the circle with the straight line is where they
17 met. So after you met, where did you go?

18 A. Walked over towards the driveway, where the driveway
19 starts. There's a ravine that dips down to the creek, and
20 the Bronco was stuck in the creek.

21 MR. WETLE: Okay, so let the record reflect that they
22 walked north along the Crown Creek Road.

23 Q. Could you put Crown Creek Road along that blue bottom
24 line? And retake the stand.

25 THE COURT: Actually, maybe this is just as logical a

1 point as any, since there's probably no logical breaking
2 point, is there?

3 MR. WETLE: I don't think so, Your Honor.

4 THE COURT: Particularly? All right, Mr. Williams, you
5 can step down for now and we'll have you back this
6 afternoon. Counsel and-- Let's see. Counsel, can you be
7 back at 1:15 so we can just get right on it?

8 MR. WETLE: One--

9 THE COURT: One-fifteen.

10 MR. WETLE: Thank you, Your Honor.

11 THE COURT: All right. Is that all right with you, Mr.
12 Simeone?

13 MR. SIMEONE: That's fine, Your Honor.

14 THE COURT: All right, 1:15 then. Ladies and gentle-
15 men, no discussion, et cetera, and we'll see you folks
16 back at 1:15.

17 COURT RECESSED FOR LUNCH
18
19
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21
22
23
24
25

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