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IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

STATE OF OHIO,)	CASE NO. CR 2005-09-3204E
)	
Plaintiff,)	
)	
vs.)	
)	JUDGE ELINORE STORMER
LISA R. PENIX,)	
)	
Defendant.)	TESTIMONY OF
)	DEREK SHUTT

- - -
APPEARANCES

BECKY DOHERTY, Assistant County Prosecutor
BRIAN LOPRINZI, Assistant County Prosecutor
On behalf of the State of Ohio

WILLIAM WHITAKER, Attorney at Law
JEFFREY JAMES, Attorney at Law
On behalf of the Defendant

- - -
BE IT REMEMBERED that upon the hearing of
the above-entitled matter in the Court of Common
Pleas, Summit County, Ohio, before the HONORABLE
ELINORE STORMER, Judge Presiding, and a jury duly
impaneled and sworn, commencing on February 13,
2006, the following proceedings were had, being a
Transcript of Proceedings.
(TESTIMONY OF DEREK SHUTT)

BARBARA J. DAY, RPR
Official Court Reporter
Summit County Courthouse
209 South High Street
Akron, Ohio 44308

1 *****BEGINNING OF EXCERPT*****

2 - - -

3 DEREK SHUTT

4 A Witness herein, having been first duly
5 sworn as provided by law, was examined and
6 testified as follows:

7 - - -

8 DIRECT EXAMINATION

9 BY MS. DOHERTY:

10 Q. Can you tell us your name and spell your
11 last name for the record, please.

12 A. Derek Shutt, S-h-u-t-t.

13 THE COURT: All right. I'm
14 going to pull that kind of straight over
15 to you maybe, or just sit up straight,
16 something. Okay.

17 Q. And how old are you, Mr. Shutt?

18 A. I'm 43.

19 Q. Are you from this area generally, from
20 Akron?

21 A. Yes.

22 Q. Did you grow up here?

23 A. No.

24 Q. Where did you grow up?

25 A. New York, Pennsylvania.

- 1 Q. How did you end up here?
- 2 A. Job.
- 3 Q. How long ago?
- 4 A. Late '80s.
- 5 Q. All right. What kind of jobs did you do?
- 6 What did you do for a living?
- 7 A. Truck driver.
- 8 Q. All right. And at some point, did you
- 9 meet Jason Keenan?
- 10 A. Yes, I did.
- 11 Q. How did you meet Jason?
- 12 A. I met him at a bar.
- 13 Q. At a bar?
- 14 A. Yes.
- 15 Q. And how did you get to know him?
- 16 A. I'd just see him. One day we started
- 17 talking. Run into him every so often,
- 18 just kept talking to him.
- 19 Q. And how long ago was that?
- 20 A. Ten years.
- 21 Q. I'm going to ask you about Shane Rafferty.
- 22 How is it that you know him?
- 23 A. I know him through his grandfather.
- 24 Q. What's his grandfather's name?
- 25 A. Patrick Rafferty.

- 1 Q. Patrick Rafferty. And how did you know
2 Shane through Patrick Rafferty?
- 3 A. Because Mr. Rafferty always tried to get
4 me to drive for him and I always had a
5 job. I always told him no, I've already
6 got a job. And Shane started taking over
7 the trucks for him and then Shane started
8 bugging me about driving for him.
- 9 Q. And did you start?
- 10 A. Yeah, eventually.
- 11 Q. All right. At some point -- well, let me
12 ask you about this. Do you know Lisa
13 Penix?
- 14 A. Yes, I do.
- 15 Q. How do you know Lisa?
- 16 A. From Flashdance.
- 17 Q. And what do you know about Lisa and
18 Shane's relationship with each other?
- 19 A. Well, as they say, they're friends with
20 benefits.
- 21 Q. Friends with benefits?
- 22 A. Yeah.
- 23 Q. All right. And at some point, they lived
24 with you, correct?
- 25 A. Yes.

- 1 Q. And where was that?
- 2 A. 447 East Voris.
- 3 Q. Is that in the City of Akron, Summit
- 4 County?
- 5 A. Yes, it is.
- 6 Q. And they both lived there with you,
- 7 correct?
- 8 A. Correct.
- 9 Q. And did they share the same bedroom?
- 10 A. They slept in the same room but they each
- 11 had their own separate one.
- 12 Q. But they slept in the same bed?
- 13 A. Yes.
- 14 Q. How many bedrooms were in that house?
- 15 A. Seven.
- 16 Q. And approximately when, if you know, did
- 17 Derek and Lisa move in with you?
- 18 A. You mean Shane?
- 19 Q. I'm sorry. You're Derek. Shane and Lisa.
- 20 A. It was either towards the end of 2004, the
- 21 first part of 2005, not exactly sure when.
- 22 Q. So December or January?
- 23 A. Yeah, around there.
- 24 Q. Steven Spade, did you know him?
- 25 A. I -- twice, I've seen him.

- 1 Q. And I'm talking about prior to February
2 4th, 2005, you'd seen him twice?
- 3 A. Once.
- 4 Q. Once?
- 5 A. Yes.
- 6 Q. And where did that take place?
- 7 A. Over on Voris.
- 8 Q. At your house?
- 9 A. Yes.
- 10 Q. And what was Steve's connection to
11 somebody who lived at your house that you
12 know?
- 13 A. Lisa's cousin.
- 14 Q. So he would come over to see Lisa?
- 15 A. He came over once. Didn't call. She
16 wiggled out on him, told him, don't ever
17 come over without calling.
- 18 Q. Who was with him at that time? Do you
19 know?
- 20 A. Yeah, his friend William Kramer.
- 21 Q. Up until that time, did you know William
22 Kramer?
- 23 A. No, I didn't.
- 24 Q. So you met him at that time too?
- 25 A. Yes, I did.

- 1 Q. All right. Lori Zielinski, do you know
2 who she is?
- 3 A. Yes, I do.
- 4 Q. How do you know her?
- 5 A. I know her from down at Flashdance.
- 6 Q. What was her relationship with Shane, if
7 you know?
- 8 A. They were friends, and then they would --
9 I don't know if they dated at that time
10 but then -- they were -- Shane was always
11 around her like that.
- 12 Q. All right. Lori and Lisa, do you know
13 anything about an issue that they would
14 have had over Shane?
- 15 A. They were friends at one time and then
16 Shane popped up and then they kind of fell
17 out.
- 18 Q. Because of Shane?
- 19 A. Yes.
- 20 Q. All right. And do you know anything about
21 Steven Spade being interested in Lori at
22 all?
- 23 A. From what I understood, yeah.
- 24 Q. All right. And do you know how Steven
25 would have gotten Lori's phone number, if

1 he had it?

2 A. He got it from Lisa.

3 Q. He got it from Lisa?

4 A. Uh-huh.

5 Q. Okay. Was there ever a time that you know

6 of that Rafferty -- and this is into

7 February, that Rafferty was upset with

8 Steve because of his interest in Lori?

9 A. I know he was upset because Lisa gave

10 Spade Lori's phone number and he had been

11 trying to get a hold of her, from what I

12 understood.

13 Q. And so he wasn't happy about that?

14 A. No, not at all.

15 Q. Because he wanted Lori for himself?

16 A. I guess.

17 Q. All right. The night that this happened,

18 February 4th -- well, first of all, let me

19 ask you this: Jason Keenan, how is it

20 that he ended up at your residence at that

21 night?

22 A. A couple days earlier, I called him and

23 told him I needed some more tattoo ink, if

24 he had some, to bring it over, which he

25 did.

- 1 Q. And did you tell him to specifically come
2 that night, or did you tell him --
- 3 A. No.
- 4 Q. Did you just tell him to come over?
- 5 A. I told him I was running out and I needed
6 it as soon as I could get it.
- 7 Q. Tell me about this tattoo thing. You
8 actually give people tattoos?
- 9 A. Yeah.
- 10 Q. And you know how to do it?
- 11 A. Yeah.
- 12 Q. You were trained in some way to do it?
- 13 A. No.
- 14 Q. You just figured it out?
- 15 A. I learned how to in the penitentiary and
16 then just kept on doing it.
- 17 Q. Okay. So Jason isn't planning on being
18 there that night, but he does bring over
19 some ink?
- 20 A. Yes.
- 21 Q. What about everybody else, how do they end
22 up over there?
- 23 A. Well, Lisa had called Steven about going
24 up to Cleveland in a limo, a meth party or
25 crank party or whatever, supposed to go up

1 to Cleveland and do a bunch of drugs.
2 Q. You said a meth party or crank party.
3 A. Yeah.
4 Q. And what is crank?
5 A. A drug.
6 Q. And meth?
7 A. Same thing, a drug.
8 Q. And had either Lisa or Shane talked to you
9 about this party at all?
10 A. No. I don't do drugs.
11 Q. And what about a limo?
12 A. Shane had gone up doing it before. He
13 told me about it, and that was about it.
14 Q. So Steve is contacted by Lisa about coming
15 to this?
16 A. Uh-huh.
17 Q. And when does that take place? Do you
18 know?
19 A. Earlier that day, I guess.
20 Q. All right. That evening, then, who comes
21 over? Who do you remember arriving first?
22 Or let me ask you this: Are Lisa and
23 Shane there already?
24 A. Yes. They're at the house. William
25 Kramer came over and told that Steven had

1 called him up and invited him to this
2 party.

3 Q. And was Steve with him at that point?

4 A. No, he wasn't. Kramer went over to pick
5 him up and couldn't find him so he came
6 over to the house. Steven had called, and
7 then Kramer went back over to pick him up
8 and brought him over to the house.

9 Q. And once they got there, had Jason already
10 arrived or did he not come yet?

11 A. Yeah. He'd already showed up.

12 Q. What's everybody doing throughout that
13 evening? What is going on?

14 A. Well, Lisa, Shane, Kramer and Steven were
15 going pretty good on the beer and made a
16 couple runs to the store to get 12 packs.

17 Q. Who did?

18 A. Kramer and Rafferty. I stayed at the
19 house. Jason stayed at the house. Lisa
20 was at the house. And then sometime
21 during I don't know when Lisa and Keenan
22 went somewhere and came back like a half
23 hour, 45 minutes later, and that's it.
24 And Keenan and I was in the house, talking
25 to Keenan all night.

- 1 Q. Any drugs being done by anybody there at
2 that point?
- 3 A. No.
- 4 Q. No?
- 5 A. No.
- 6 Q. Just the drinking?
- 7 A. Just the drinking.
- 8 Q. All right. When did you find out that
9 something was going to happen to Steve?
- 10 A. Rafferty had made a statement, he says,
11 I'm going to kill him. I'm going to kill
12 him. By this time, he'd been drinking
13 over a 12 pack. I just figured it was the
14 rambling of a drunk.
- 15 Q. And he said that to you where?
- 16 A. In the living room.
- 17 Q. And did you think that that's actually
18 what he was going to do?
- 19 A. He was drinking. I worked around drunks.
20 They always spout off. Empty threats,
21 basically is what it is.
- 22 Q. So after everybody is drinking upstairs,
23 then what happens?
- 24 A. Rafferty asked Steven, he says, do you
25 want to go downstairs and do some crank.

1 Steve said yeah. So Lisa, Rafferty,
2 Steven and Kramer all went down to the
3 basement. Keenan and I are still upstairs
4 talking about tattoos and stuff. Rafferty
5 comes back up and says, Derek, have you
6 got any duct tape? I said, yeah, there's
7 some on top of the refrigerator. So he
8 goes out to the kitchen, goes back
9 downstairs.

10 Started talking. We looked at each
11 other. I said, what do you need duct tape
12 for meth? So we both go downstairs.

13 Q. You and Keenan?

14 A. Yes.

15 Q. And tell us what is going on downstairs,
16 where everybody is.

17 A. Everybody is back in the office. Keenan
18 and I are outside of the office looking
19 in. Steven is sitting in the chair.
20 Rafferty is duct taping him.

21 Q. Where is he duct taping him? What part of
22 his body?

23 A. His hands and his feet.

24 Q. And who else is in that room?

25 A. Lisa is in the room and Kramer is in the

1 room.

2 Q. And where is Steve, if you know? What is
3 going on with him? I mean, sitting there
4 allowing himself to get duct taped?

5 A. Yeah, letting Rafferty duct tape him, and
6 he's -- Rafferty says to him, it's all a
7 matter of trust, Steve. It's all a matter
8 of trust. And Steve's, yeah, it's all a
9 matter of trust.

10 And then after he duct taped him,
11 he sucker punched him.

12 Q. Did Kramer have anything -- Rafferty have
13 anything on his hands when he did that?

14 A. Not to the best of my knowledge.

15 Q. Okay. So he sucker punched Steve?

16 A. I mean, he ended up hit like three or four
17 times. Kramer got in a couple licks,
18 told him, go ahead, get some. I guess
19 Steven was messing around with his
20 girlfriend or something. And then they
21 knocked -- the chair fell over. Steven
22 looked up at Lisa and says, Lisa, help me.
23 Lisa just stood there and looked at him.

24 Q. All right. Once the chair was knocked
25 over and Steve was on the floor, what

— Got angry about
slugfest but
did nothing
about punch

1 happened after that?

2 A. Rafferty grabbed him and started dragging
3 him out of the office. His cell phone
4 fell out of his pocket. Rafferty stopped
5 and left him there and picked up the cell
6 phone, went through the menu, found that
7 outgoing call, found Lori's phone number
8 twice, and he wiggled out.

9 Q. What did he -- when you say he wiggled out,
10 what did he do? What did he say?

11 A. He started ranting and raving, hollering
12 at Steven.

13 Q. About Lori?

14 A. Yeah, about him trying to call Lori. He
15 knows he's after Lori himself. So he
16 dragged him down over to the bathroom.

17 Q. And where was Kramer at this point?

18 A. He was right behind him.

19 Q. And what about Lisa?

20 A. Lisa, after they left the office, she
21 stayed down around by the stairs.

22 Q. Okay. And I'm going to show you, just so
23 you can make it clear where everybody was,
24 State's Exhibit 100. Do you recognize
25 this layout?

- 1 A. Yes.
- 2 Q. What is it?
- 3 A. It's the basement of the house.
- 4 Q. All right. And when you talk about that
- 5 office area, point to the -- that area and
- 6 show the jury where it is.
- 7 A. Right here (indicating).
- 8 Q. Okay. And the doorway for that office
- 9 area would be here (indicating)?
- 10 A. Yes.
- 11 Q. And then is there kind of an area back in
- 12 there?
- 13 A. Yeah, like a closet.
- 14 Q. A closet?
- 15 A. Uh-huh.
- 16 Q. All right. And then a hallway that you're
- 17 talking about is this leading over to the
- 18 stairs?
- 19 A. That's the hallway.
- 20 Q. And show us where the bathroom is.
- 21 A. There's the commode. Down here is the
- 22 sink and the shower (indicating).
- 23 Q. And they're kind of in two separate rooms?
- 24 A. Yes.
- 25 Q. And little tiny hallway in between?

- 1 A. (Nods head.)
- 2 Q. So where Shane takes Steven down the
- 3 hall -- you said he's dragging him?
- 4 A. Yes. Yeah.
- 5 Q. And where does he take him to?
- 6 A. Takes him over here where the commode is.
- 7 Q. And where does the cell phone thing
- 8 happen?
- 9 A. Right about here (indicating).
- 10 Q. In the hallway?
- 11 A. Yeah.
- 12 Q. And he's expressing that he's really upset
- 13 about this?
- 14 A. He isn't articulating anything. He is
- 15 ranting and raving like a lunatic.
- 16 Q. About Lori?
- 17 A. Uh-huh, him calling Lori.
- 18 Q. So once Steven is in that small bathroom,
- 19 you said Kramer is right behind Shane?
- 20 A. Uh-huh.
- 21 Q. And Lisa is over by the steps?
- 22 A. Where Keenan is.
- 23 Q. Where Keenan is?
- 24 A. And -- I mean, the three of us are over in
- 25 the general area of the steps.

1 Q. All right. When Kramer and Shane Rafferty
2 have Steven in that small bathroom, what
3 are they doing to him?

4 A. They had his head in the toilet and
5 punching him and sitting on him and trying
6 to drown him.

7 Q. Then what happens?

8 A. Rafferty flushed the toilet. It didn't
9 fill back up. And then Rafferty looked
10 and he says, somebody hand me a gun. I
11 only have one glove on.

12 So I hand him a gun and he shoots
13 Steven in the head.

14 Q. And where did he shoot him, what part of
15 the head?

16 A. Up towards the back (indicating).

17 Q. And where are you standing when that
18 happens?

19 A. I'm up near where the door used to be.

20 Q. All right. What happens with that door --
21 you mean a door blocking off those
22 bathrooms?

23 A. No. It was where the commode was. There
24 was a door that would close. If it was
25 open, it would block the entranceway to

- 1 where we were.
- 2 Q. And what happened to that door?
- 3 A. In the process of dragging Steven down
- 4 there and fighting him, it got broke.
- 5 Q. And it broke to the point that you could
- 6 see in -- into that area?
- 7 A. Yes. Yes.
- 8 Q. So you hand Shane Rafferty the gun and he
- 9 shoots Steven in the back of the head?
- 10 A. Uh-huh.
- 11 Q. And then what happens?
- 12 A. Everything kind of slows down right then.
- 13 Lisa, she's rather upset. She goes, don't
- 14 tell me this is just about Lori.
- 15 Q. And she was standing there when Shane had
- 16 been upset about Lori's number being in
- 17 Steve's phone?
- 18 A. Uh-huh.
- 19 Q. After Steven is shot, does Shane Rafferty
- 20 do anything else to Steve?
- 21 A. Yeah. He asked me if I had my knife on
- 22 me. I said yes, so I give it to him. I
- 23 gave it to him. He opened it up, cut his
- 24 throat so the blood would drain in the
- 25 toilet so it wouldn't make a mess.

- 1 Q. And is that what he did?
- 2 A. Yeah.
- 3 Q. And what did he do with the knife
- 4 afterwards?
- 5 A. Handed it back to me. I washed it off,
- 6 put it back in my pocket.
- 7 Q. What did everybody else do after that?
- 8 A. To the best of my recollection, Rafferty
- 9 went out to his car and got a hacksaw.
- 10 Q. Let me ask you this: Did -- was Jason
- 11 still down there at this point?
- 12 A. After the shot was fired, everyone went
- 13 back upstairs where he got the hacksaw.
- 14 Keenan told me, look, I've got to go get
- 15 my lady. I said, go, take off. He left.
- 16 Rafferty was rather upset.
- 17 Q. Why?
- 18 A. Because he left.
- 19 Q. He was upset that Jason left?
- 20 A. Yes. I told him, don't worry about it. I
- 21 told him to leave.
- 22 Q. All right.
- 23 A. And then everybody is -- Rafferty and
- 24 Kramer joking around, laughing, drinking
- 25 down beer. And after a while, Rafferty

1 got the trash bags and took the plastic
2 off from the windows to wrap the body
3 up --
4 Q. Let me back up. You said Rafferty goes
5 out and gets a hacksaw?
6 A. Uh-huh.
7 Q. Where did he get it from? Do you know?
8 A. Out of his trunk, his tools.
9 Q. When he comes back in, do all of you go
10 back downstairs?
11 A. Yes.
12 Q. And at this point, it's just the four of
13 you?
14 A. Yes.
15 Q. You, Kramer, Rafferty and Lisa Penix?
16 A. Yes.
17 Q. And what happens when you all go back
18 downstairs?
19 A. Back down there, and Lisa stayed over by
20 the steps. Kramer, Rafferty and I went
21 over by the bathroom. Rafferty handed
22 Kramer a saw and told him, start cutting.
23 Kramer went over, said, I can't do this.
24 Rafferty hands me the saw. I have
25 arthritis, so I couldn't do it.

- 1 Q. Did you try?
- 2 A. I tried.
- 3 Q. Okay.
- 4 A. And I said, I can't do it, so I handed him
5 the saw and he finished it.
- 6 Q. Who finished it?
- 7 A. Rafferty.
- 8 Q. And he finished actually cutting Steven
9 Spade's head off?
- 10 A. Yes.
- 11 Q. And where does that take place?
- 12 A. In the toilet.
- 13 Q. What happened after that?
- 14 A. He put his head in the bag and picked it
15 up over toward Lisa and said, Lisa, your
16 cousin wants to tell you something. Lisa
17 freaked out a little bit.
- 18 Q. She freaked out a little bit?
- 19 A. Yeah.
- 20 Q. How then was Steven's body placed in
21 plastic?
- 22 A. It was -- there was a dovetail trash bag
23 that was put over it and it was wrapped up
24 in plastic and duct taped.
- 25 Q. And who retrieved those things? Who went

- 1 upstairs and got them?
- 2 A. Rafferty must have.
- 3 Q. And who participated in putting his body
- 4 in that plastic and bagging up the head?
- 5 A. Rafferty, Kramer and myself.
- 6 Q. And did Lisa help at all?
- 7 A. No.
- 8 Q. Did she -- was she still down there?
- 9 A. She was down there.
- 10 Q. Once that was done, what did the four of
- 11 you do?
- 12 A. Took the body upstairs, put it in the car
- 13 and head out of state.
- 14 Q. Specifically, where did you put it?
- 15 A. In the trunk of Rafferty's car.
- 16 Q. What kind car was it?
- 17 A. A red General Motors. I can't think of
- 18 what it is right now. Lumina.
- 19 Q. What about the hacksaw and the knife, do
- 20 you know?
- 21 A. They all ended up in the plastic too.
- 22 Q. The clothing that either all of you had on
- 23 or at least Lisa, Shane and Kramer, what
- 24 happened to that?
- 25 A. Kramer changed his clothes at the house.

- 1 Rafferty gave him something to put on.
2 Lisa changed. Rafferty didn't change. I
3 didn't change. And we all went out and
4 got in the car.
- 5 Q. Who was driving?
- 6 A. At this time, Kramer was.
- 7 Q. And where were you sitting?
- 8 A. Front passenger. Lisa and Shane were in
9 the back.
- 10 Q. And where did you go? Did you stop
11 anywhere?
- 12 A. Yeah. Well, we stopped over at BP, got
13 cigarettes; stopped at McDonald's, got
14 something to eat; went back to the house
15 to get the gas can and left.
- 16 Q. Where was the gas can at?
- 17 A. Back porch.
- 18 Q. So you got the gas can and then what?
- 19 A. And then headed down to West Virginia.
- 20 Q. And was that the plan, to go to West
21 Virginia?
- 22 A. Yes.
- 23 Q. Who had come up with that idea?
- 24 A. I'm not sure, 100 percent sure.
- 25 Q. And the purpose of cutting off Steven

- 1 Spade's head, do you know what that is?
- 2 A. So it would be harder to identify it.
- 3 Q. When you're heading down towards West
- 4 Virginia, does Kramer drive the entire
- 5 way?
- 6 A. No. He drove maybe about halfway, and
- 7 then he was too drunk. He says, I'm
- 8 seeing double everything. So he pulled
- 9 over and then I drove the rest of the way.
- 10 Q. And you drove the rest of the way?
- 11 A. Yes.
- 12 Q. Did you stop anywhere on the way either
- 13 into West Virginia or right before?
- 14 A. We stopped at BP.
- 15 Q. And do you know where that BP was located?
- 16 A. Mineral Springs.
- 17 Q. Had you been there before?
- 18 A. Yes.
- 19 Q. You were familiar with it?
- 20 A. Uh-huh.
- 21 Q. About what time of night was this?
- 22 A. About four in the morning.
- 23 Q. What happens when you get to BP?
- 24 A. Pull up to the gas pump. Kramer and
- 25 Rafferty got out. One went in the store;

- 1 the other one started pumping gas. I
2 bought \$1.50, \$1.75. The gas can, that's
3 all it will hold. Came out, and that's
4 when we left.
- 5 Q. With you still driving?
- 6 A. Uh-huh.
- 7 Q. Let me ask you this: The money that was
8 used at the BP initially, at McDonald's
9 and the gas station, where did that come
10 from?
- 11 A. Steven's pocket.
- 12 Q. Who took that money out of Steven's
13 pocket?
- 14 A. I think it was Rafferty.
- 15 Q. What about Steven's ID, was that taken
16 out?
- 17 A. That was taken out of his pocket. I don't
18 know where it was.
- 19 Q. How was it that you end up at Butchers
20 Bend off of Route 14?
- 21 A. It wasn't a very populated area.
- 22 Q. Was it still dark out?
- 23 A. It was starting to get light.
- 24 Q. If the plan was to dispose of the body
25 separately, what happened? Why wasn't

- 1 that done?
- 2 A. There was talk about throwing it in the
3 river, and you couldn't stop on the
4 bridge. There was construction and all
5 that. And never stopped until we got
6 down.
- 7 Q. But that had been something that was
8 discussed?
- 9 A. Yeah. It was set a little bit but not a
10 whole lot.
- 11 Q. When you ended up down in that area that
12 was real -- very rural, the street was
13 called Butchers Bend?
- 14 A. I found out later, yeah.
- 15 Q. Okay. You didn't know that at the time?
- 16 A. No.
- 17 Q. And what happened when you found the area?
- 18 A. Drove all the way to the back, to the end
19 of this one dirt road, drove into a field
20 as far back as we could. Stopped, backed
21 up. Body was taken out. Gas was poured
22 on the plastic and lit on fire.
- 23 Q. Who did that, who got the body out of the
24 trunk?
- 25 A. Kramer and Rafferty.

- 1 Q. And who pours the gas on the body?
- 2 A. It was one of those two. I'm not 100
- 3 percent sure.
- 4 Q. Who set the body on fire?
- 5 A. Lisa.
- 6 Q. Did the four of you stay there very long?
- 7 A. No.
- 8 Q. What did you do?
- 9 A. Rafferty changed his clothes back there,
- 10 got in the car and took off.
- 11 Q. And what was done with the clothing that
- 12 had either been changed from up in Ohio or
- 13 down there?
- 14 A. It was put in the fire.
- 15 Q. What about the hacksaw and the knife? Do
- 16 you know?
- 17 A. I don't believe -- we couldn't find it and
- 18 then found out it was in the plastic
- 19 layer.
- 20 Q. It was in the plastic?
- 21 A. Uh-huh.
- 22 Q. So all of that was set on fire along with
- 23 Steven Spade?
- 24 A. Unknowingly, yeah.
- 25 Q. What happens after that? Where did you

- 1 go?
- 2 A. Went back to the house.
- 3 Q. Who drove?
- 4 A. I drove part of the way and then Rafferty
- 5 drove the rest.
- 6 Q. By the time you got back to the house, was
- 7 it daylight?
- 8 A. Yes.
- 9 Q. The sun had come up?
- 10 A. It was daylight.
- 11 Q. What happened and what did you all do when
- 12 you got back to Voris?
- 13 A. Got there, went downstairs, started
- 14 cleaning up.
- 15 Q. And when you say you started cleaning up,
- 16 what kind of cleanup?
- 17 A. Anything that might have had blood on, we
- 18 got rid of. Rafferty was sanding down
- 19 walls, steps. Carpeting was taken up.
- 20 Linoleum was taken out. Ceiling tiles
- 21 were taken down.
- 22 Q. And who participated in this cleanup?
- 23 A. All four of us.
- 24 Q. The items that you said that Rafferty was
- 25 actually sanding down the walls, did he

1 sand down anything else?

2 A. Steps, walls, basically that was it.

3 Q. All right. What about the toilet, how was

4 that disposed of?

5 A. That was taken out.

6 Q. That wasn't taken out?

7 A. No, that was.

8 Q. That was taken out at that time, when

9 you're involved in this cleanup?

10 A. No. It was later.

11 Q. What about the -- the flooring around the

12 toilet?

13 A. There was some -- it was poured afterwards

14 so it wasn't real thick. Rafferty had

15 broken it up with his arm and we got rid

16 of it.

17 Q. Along with the toilet?

18 A. No. The toilet -- they were separate

19 times.

20 Q. And those items were gotten rid of, they

21 were taken --

22 A. Some of them sat out in the trash, out at

23 the curb in the trash, some in the

24 dumpster. I'm not sure where the toilet

25 was thrown out.

- 1 Q. Did you go with Rafferty when that
2 happened?
- 3 A. Yes. Yes.
- 4 Q. So you and Rafferty actually left and
5 drove to these places to get rid of these
6 things?
- 7 A. Yes.
- 8 Q. Was that the same day or the weeks
9 following?
- 10 A. It was days following.
- 11 Q. All right. When -- after the area was
12 cleaned up and the blood was disposed of
13 in some way, did you all talk about what
14 had happened?
- 15 A. No. Rafferty kept saying smart remarks to
16 Lisa, and Lisa would get upset and I'd say
17 just to shut up and leave it alone.
- 18 Q. And was there a discussion of -- at any
19 point after that of what Lisa's role in
20 this was, what she was supposed to do?
- 21 A. Lisa was supposed to kill Steven to make
22 her bones for Rafferty.
- 23 Q. What does that mean?
- 24 A. You kill somebody.
- 25 Q. What do you mean, make your bones?

1 A. It's a Mafia term, when you kill somebody
2 for a family, you make your bones, you're
3 included in their little clique or
4 whatever.

5 Q. And why would that have been an issue with
6 Rafferty? What's the Mafia connection?

7 A. I have -- I'm just -- that's just
8 something I'm using for an example. But
9 Rafferty supposedly did brag before about
10 killing people for money.

11 Q. And so the plan was that Lisa was supposed
12 to kill Steve to make her bones -- is it
13 kind of a loyalty thing?

14 A. Yeah.

15 MR. WHITAKER: Objection, Your
16 Honor, so leading.

17 THE COURT: It's what?

18 MR. WHITAKER: Leading.

19 THE COURT: Well, it sort of
20 concludes. Appropriately conclusionary.
21 Move on.

22 Q. And those were your words, correct?

23 A. Yeah.

24 THE COURT: You're repeating
25 them back and having him repeat them back.

- 1 Try to avoid that.
- 2 Q. But those were your words? That's what
- 3 you -- words you used?
- 4 A. Yes.
- 5 Q. And why did that not happen? Why did Lisa
- 6 not kill Steven? Do you know?
- 7 A. Because Rafferty found the number in
- 8 Steven's cell phone.
- 9 Q. The number of Lori?
- 10 A. Yes.
- 11 Q. And that made him mad?
- 12 A. Yeah.
- 13 Q. Was there ever a discussion of Lisa doing
- 14 anything to Kramer?
- 15 A. Yeah. She was supposed to take him
- 16 upstairs, have sex with him and kill him.
- 17 Q. At some point the next day during the
- 18 cleanup, I guess, does Jason Keenan come
- 19 back over?
- 20 A. No. It was a couple days later.
- 21 Q. A couple days later?
- 22 A. Yeah.
- 23 Q. Okay. What happens when Jason comes back
- 24 over?
- 25 A. Jason comes over. I gave him a bag that

1 had the gun in it, told him to get rid of
2 it.

3 Q. And why did you do that?

4 A. I had no way to leave the house. My
5 vehicle wasn't working. Jason was the
6 vehicle for me.

7 Q. And did you do anything to the gun prior
8 to giving it to Jason to get rid of?

9 A. Just wipe it down.

10 Q. Pardon?

11 A. I wiped it down.

12 Q. And did you take it apart at all or leave
13 it intact?

14 A. I took anything that I had touched, I had
15 taken apart.

16 Q. Wiped it down, gave it to Jason?

17 A. Uh-huh.

18 Q. And did you tell Jason what to do with it?

19 A. I said, get rid of it.

20 Q. At the time that Jason came over that day,
21 was there a time that you all talked, and
22 I mean all five of you?

23 A. No.

24 Q. Did there ever come a time that you talked
25 about, with Shane, what the story would

- 1 be, what you would say if anybody looked
2 for Steve?
- 3 A. That was the day after it all happened.
4 Rafferty said we had to come up with a
5 story and stick with it.
- 6 Q. What was that story?
- 7 A. They went up to Cleveland, dropped --
8 Steven was up there. He went off with
9 someone else. Last they saw him. And
10 when they came back to the house, I was
11 doing tattoos on them.
- 12 Q. And that was agreed among you that that's
13 what you would say?
- 14 A. Yes. Yes, the four of us.
- 15 Q. All right. There was a casing from the
16 bullet that was fired that killed Steve,
17 correct?
- 18 A. Uh-huh, yes.
- 19 Q. What happened to that?
- 20 A. I got rid of it.
- 21 Q. How did you get rid of it?
- 22 A. I put it in a glove and put the glove
23 inside of a pop can, crushed the can down
24 and took it out in the trash.
- 25 Q. At your house or someplace else?

- 1 A. Someplace else.
- 2 Q. Were any tattoos -- I don't know what the
3 word is, given, done, by you on anyone in
4 the days following Steven's murder?
- 5 A. Yeah.
- 6 Q. Yes?
- 7 A. Yes.
- 8 Q. And how was that done and who?
- 9 A. I gave Lisa one on the lower back. I gave
10 Kramer one, two -- four of them, and
11 Rafferty got three or four of them.
- 12 Q. And what was the significance of -- was
13 there any significance of the tattoo that
14 Lisa got?
- 15 A. No.
- 16 Q. Was there a thing called a black widow
17 tattoo?
- 18 A. She wanted it but she didn't get it
19 because she didn't kill anybody.
- 20 Q. And that's what you have to do to get that
21 black widow tattoo?
- 22 A. I mean, I'll put a tattoo on anybody, as
23 long as they're old enough.
- 24 Q. Why didn't you put that black widow --
- 25 A. No. Everybody else said no. She didn't

- 1 kill him so she don't get it.
- 2 Q. At some point, Lisa and Shane move out.
- 3 Is that correct?
- 4 A. That's correct.
- 5 Q. Do you know where they move to?
- 6 A. It -- actually, it was back into her old
- 7 apartment that she used to have.
- 8 Q. All right. And as far as you knew, at
- 9 that point they moved in together?
- 10 A. Yes.
- 11 Q. And was Lisa working anywhere at that
- 12 time?
- 13 A. She had a job working at a restaurant.
- 14 Q. And were there times when Lisa would go
- 15 places alone, be at the house alone?
- 16 A. I was always at the house, but, I mean,
- 17 she would go to work. She would go to her
- 18 mother's.
- 19 Q. And that was prior to her and Shane moving
- 20 out?
- 21 A. Yeah.
- 22 Q. Once they moved out, did you still stay in
- 23 contact with either Lisa or Shane?
- 24 A. I talked to them every now and then.
- 25 Q. Did there come a time you knew that Shane

- 1 was seeing Lori as a girlfriend, or
2 actually dating her?
- 3 A. Yeah. That was after Lisa had left state.
- 4 Q. All right. And who did Lisa leave the
5 state with?
- 6 A. Shane's father, I guess, gave her a ride
7 down to Kentucky, is what I heard.
- 8 Q. All right. Okay. And you didn't know
9 anything more than that?
- 10 A. No, that was it.
- 11 Q. But you knew that Shane was seeing Lori?
- 12 A. Lori.
- 13 Q. Mr. Shutt, at some point, after you
14 returned from West Virginia and the four
15 of you were there at the house, do you see
16 any contact or interaction between Lisa
17 and William Kramer?
- 18 A. Rafferty tried to get them so they were
19 going out, but Lisa didn't like him.
- 20 Q. Okay. But, I mean, after you guys came
21 back from West Virginia, did you see Lisa
22 hug Kramer or Kramer hug Lisa?
- 23 A. Yeah, at the house at one time after we
24 got back.
- 25 Q. All right. And could you hear what was

- 1 said?
- 2 A. Not really.
- 3 Q. All right. Something was said, you just
- 4 couldn't hear it?
- 5 A. Yeah. I wasn't really paying attention to
- 6 what they were doing.
- 7 Q. Between them?
- 8 A. Yeah.
- 9 Q. And where did that take place, if you
- 10 remember?
- 11 A. In the living room.
- 12 Q. All right. Mr. Shutt, you have -- you
- 13 were charged originally with aggravated
- 14 murder, kidnaping, tampering with evidence
- 15 and a death penalty specification on that,
- 16 correct?
- 17 A. Correct.
- 18 Q. And you have actually pled guilty to all
- 19 of those charges, I think, except for the
- 20 tampering, and have already been
- 21 sentenced, correct?
- 22 A. Right.
- 23 Q. And what is your sentence?
- 24 A. Twenty-five to life.
- 25 Q. Twenty-five to life?

1 A. Yes.

2 Q. And you had prior convictions as well,
3 correct?

4 A. Correct.

5 Q. What were those for?

6 A. Criminal possession of stolen property
7 second degree in New York, aggravated
8 burglary in Ohio.

9 Q. All right. And did you actually serve any
10 time for those?

11 A. Yes, I did.

12 Q. All right. And in regards to this
13 homicide of Steven Spade, who was
14 involved? Who was involved in the things
15 that took place that night?

16 A. Everybody was involved in one degree or
17 another. I mean, Steven wouldn't have
18 been there if Lisa hadn't called him up.

19 MR. WHITAKER: Objection, Your
20 Honor.

21 THE COURT: Overruled.

22 Q. And Keenan?

23 A. Keenan was just there because I asked him
24 to bring me over some ink a couple days
25 earlier. He was there merely as a fluke.

1 Q. And Kramer?

2 A. Kramer was there because Steven called him
3 up.

4 Q. And what about you?

5 A. I lived there. That was my house. I
6 didn't really go a whole lot of places.

7 Q. And you've pled guilty, and as part of
8 that plea, you agreed to cooperate and
9 testify against any of the co-defendants
10 that remain, correct?

11 A. Correct.

12 MS. DOHERTY: Judge, there is a
13 video of the BP. We just need to get that
14 video or the TV pulled in out of the jury
15 room. We couldn't do it before because of
16 the jury being there. Do you want to do
17 it now?

18 THE COURT: Is Mr. Shutt
19 going to testify about the video?

20 MS. DOHERTY: Yeah. He's seen
21 and he was there. He's on it.

22 THE COURT: Yeah. Let's go
23 ahead. Can you just bring it in, and
24 everybody stay where you are. And stand
25 up, if you like.

1 My goal, again, Ladies and
2 Gentlemen, is to try to finish the direct
3 testimony of Mr. Shutt. Originally, I
4 thought we'd finish both direct and cross,
5 but it doesn't look like that is going to
6 happen.

7 Is that going to be a problem for
8 anybody? I know there's a 4:30 issue.

9 A JUROR: That's not an
10 issue.

11 THE COURT: I just want to
12 make sure that the jurors did not have a
13 problem. There's one that previously
14 indicated that 4:30 was a problem.

15 MS. DOHERTY: For the record,
16 I'm putting in State's Exhibit 103.

17 MR. LOPRINZI: Can you see that?

18 BY MS. DOHERTY:

19 Q. Mr. Shutt, you indicated you stopped at
20 the BP?

21 A. Yes.

22 THE COURT: I'm sorry. Can
23 you see this?

24 Q. You stopped at the BP in West Virginia?

25 A. That's true.

1 Q. And have you viewed this videotape before?
2 A. Yes, I have.
3 MS. DOHERTY: Go ahead.
4 - - -
5 (Whereupon, the videotape, State's
6 Exhibit 103, was played for the jury.)
7 - - -
8 Q. Mr. Shutt, do you see the vehicle that the
9 four of you went to West Virginia in?
10 A. The one to the left.
11 Q. Right there (indicating)?
12 A. Correct.
13 Q. Pulled up next to the pumps?
14 A. Yes.
15 Q. And I think you indicated that Kramer and
16 Rafferty both got out and went inside?
17 A. True.
18 Q. Did you ever get out of the vehicle?
19 A. No.
20 Q. All right.
21 A. Lisa or I never got out.
22 Q. Lisa or you never got out?
23 A. No.
24 Q. Approximately what time of morning is
25 this?

- 1 A. About 5, 5:30, little bit before it starts
2 to get light.
- 3 Q. All right.
- 4 THE COURT: Can you see and
5 hear, everybody?
- 6 Q. Are you driving the car at this point?
- 7 A. Yes, I am.
- 8 Q. And did you actually see both William
9 Kramer and Shane Rafferty go inside?
- 10 A. Yes.
- 11 Q. All right. Again, this is showing the
12 three cameras together, correct?
- 13 A. Correct.
- 14 Q. And this is the vehicle that you're in?
- 15 A. Yes. Correct.
- 16 Q. All right. Once you leave that BP
17 station, you went directly to where you
18 disposed of Steven Spade's body, correct?
- 19 A. Correct.
- 20 Q. Mr. Shutt, do you see Lisa Penix in the
21 courtroom?
- 22 A. Yes, I do.
- 23 Q. And where is she sitting?
- 24 A. Right over here (indicating).
- 25 MR. WHITAKER: Let the record

1 reflect that he has identified Lisa Penix.

2 THE COURT: So noted.

3 Q. And, Mr. Shutt, you've pled guilty and are
4 serving a life sentence currently,
5 correct?

6 A. Correct.

7 MS. DOHERTY: I don't have
8 anything further, Judge.

9 THE COURT: Well, I guess I'm
10 going to look at the jury now and ask do
11 you want to proceed to the
12 cross-examination, or do you want to stop
13 for the day? Some are nodding proceed.
14 All those who wish to proceed, all those
15 people who are saying they wish to proceed
16 to cross-examination -- Mr. Whitaker?

17 MR. WHITAKER: Your Honor, could
18 I have a say in it? Could I have a say in
19 that, because it's going to be a while and
20 I prefer to do it all straight through, so
21 I'd rather do it in the morning.

22 THE COURT: He's testified
23 for far less than Mr. Kramer, so I would
24 think you could probably do it.

25 - - -

1 CROSS-EXAMINATION

2 BY MR. WHITAKER:

3 Q. Lisa never did anything to Steven Spade
4 that night, did she?

5 A. No.

6 Q. And when everybody went downstairs because
7 Shane said everybody go downstairs and
8 they were back in the office, when Shane
9 and Kramer started hitting Steven, she
10 left the room and came down the hall
11 towards you, didn't she?

12 A. No. Because we were right outside the
13 door. She didn't leave the room.

14 Q. Didn't you say in one of your statements
15 that she came down -- that Lisa walked
16 back over towards the steps shaking her
17 head?

18 Let me show you. This would be the
19 statement of September 1st, 2005.

20 THE COURT: Page?

21 MR. WHITAKER: Page 39, starting
22 on Page -- the bottom of Page 38.

23 Q. Okay. There's a desk and shit in there.

24 That's your statement, right?

25 A. Correct.

1 Q. Okay. And then they went in there and
2 they were hollering and yelling back and
3 forth.

4 Any idea who was hollering?

5 The three of them. Three out of
6 the four.

7 That meant everybody but Lisa,
8 right?

9 A. Lisa wasn't hollering at him, no.

10 Q. That just meant Kramer and Shane?

11 A. Yeah.

12 Q. And then at that point, you say Lisa then
13 walked back towards the steps, which is
14 where you were, right?

15 A. Yeah.

16 Q. Shaking her head?

17 A. As they dragged him down the hallway, Lisa
18 walked back down by the steps.

19 Q. But this is when you said they were in
20 there and they start hollering, that's
21 when you say, at least in this statement,
22 that's when she walked out, shaking her
23 head.

24 She was upset, wasn't she?

25 A. From what Rafferty said, it wasn't like

1 what was happening, to her, was all
2 because of Lisa -- because of Lori.

3 THE COURT: You need to
4 listen to the question and answer his
5 question.

6 Q. My question is she was upset, isn't that
7 correct? When she came out shaking her
8 head, that's what you meant there, she was
9 shaking her head about what was going on
10 in there.

11 A. Because she thought it was about Lori, not
12 about whatever else Rafferty told her.

13 Q. Was she shaking her head and did she
14 appear to be upset?

15 A. She was shaking her head. She wasn't that
16 upset right then, and she wasn't crying.

17 Q. She was crying when they put him in the
18 toilet, wasn't she?

19 A. She cried when Rafferty shot him in the
20 head.

21 Q. And she cried when Shane taunted her when
22 he held up the head, didn't she?

23 A. Yeah.

24 Q. In fact, as you said, she not only cried,
25 she freaked out and tried to jump out of

- 1 the way, didn't she?
- 2 A. Yeah. She was very upset when he did
- 3 that.
- 4 Q. All right. Let's talk about your role a
- 5 little bit. In fact, you went down when
- 6 everybody else went down, didn't you?
- 7 A. No. I went down after.
- 8 Q. So you're saying that you did not force --
- 9 you did not go down at the same time and
- 10 you did not force Jason Keenan to go down?
- 11 A. No, I didn't.
- 12 Q. Did you or did you not show Jason Keenan
- 13 your gun and make him go down the stairs
- 14 by showing him your gun?
- 15 A. No, I did not.
- 16 Q. But it's your testimony, in fact, then,
- 17 that you didn't have anything to do with
- 18 it. You just -- you were upstairs not
- 19 doing anything and then just casually
- 20 walked downstairs, right?
- 21 A. I went down after he asked me about the
- 22 duct tape.
- 23 Q. And you just happened to have a gun on
- 24 you?
- 25 A. It's called -- I've always had that gun in

- 1 that pocket, my coat.
- 2 Q. And so you just happened to have a gun on
- 3 you when you went down the stairs, and you
- 4 never showed the gun to Jason Keenan,
- 5 right?
- 6 A. No.
- 7 Q. And you're saying you didn't even go down
- 8 until later?
- 9 A. Not until Rafferty asked me about the duct
- 10 tape.
- 11 Q. Were you blocking the door, keeping people
- 12 from getting out?
- 13 A. Blocking what door?
- 14 Q. Blocking the door to the stairs, the
- 15 doorway to the stairs?
- 16 A. There's no doorway to the stairs. It's
- 17 wide open.
- 18 Q. Well, there's a narrow hall that goes down
- 19 the stairs, and at the bottom of the
- 20 stairs there's just a narrow opening going
- 21 up with walls on both sides, right?
- 22 A. Yes. I wasn't block -- you could get
- 23 around me. I mean, I wasn't sitting there
- 24 stopping anyone from going anywhere.
- 25 Q. You weren't blocking in anybody? It's

- 1 your testimony you weren't blocking a
2 single soul?
- 3 A. Yes, it is.
- 4 Q. Earlier in the day, earlier that evening,
5 Kramer and Steven got in a fight, didn't
6 they?
- 7 A. They were goofing around; that's all. I
8 told them to take Romper Room outside.
- 9 Q. Did you say that they were getting angry
10 with each other, getting in a fight?
- 11 A. No. They weren't getting into a serious
12 fight. They were goofing around, slapping
13 each other.
- 14 Q. The first time that you knew Kramer was
15 going to be there was when he showed up,
16 isn't that correct?
- 17 A. Correct.
- 18 Q. And it appeared to be the first time that
19 Shane knew that he was going to be there
20 as well?
- 21 A. Correct.
- 22 Q. And he left to get Steven and came right
23 back, isn't that correct?
- 24 A. That's correct.
- 25 Q. And you were there the whole time?

1 A. Correct.

2 Q. And you didn't see Shane giving Lisa any
3 instructions or huddling with Lisa or
4 telling Lisa to do this or that during
5 that short period where he went to get
6 Steven, did you?

7 A. No. I didn't pay any attention to them.

8 Q. You agree that you went in the holding
9 cell -- you were in the holding cell alone
10 with Kramer and Shane and Jason since
11 you've been in jail, isn't that correct?

12 A. Once.

13 Q. Only one time, you say?

14 A. Yeah.

15 Q. What about with just Kramer -- yourself,
16 Kramer and Keenan?

17 A. Been there a couple times.

18 Q. And you know that that's against the order
19 of the Court?

20 MS. DOHERTY: Your Honor, I
21 object. It's not his fault.

22 THE COURT: Do you know if
23 that's against the orders of the Court?

24 THE WITNESS: All I knew is
25 somebody said there was a separation. I

1 didn't know a separation from who --

2 THE COURT: Okay.

3 Q. And some of the conversations that were
4 had when the three of you or four of you
5 were together was about that bitch that
6 turned you in, isn't that correct?

7 A. We talked about everybody.

8 Q. Right. When you were talking specifically
9 about Lisa, it was that bitch that turned
10 you in, isn't that correct?

11 A. We didn't sit down and have any one
12 conversation just about Lisa. We talked
13 about everybody's statement, everybody who
14 said anything.

15 Q. Well, part of the conversation at some of
16 the time was that Lisa was the bitch that
17 turned you in, isn't that correct?

18 MS. DOHERTY: Your Honor, I
19 object. He's answered it three times.

20 THE COURT: He has. And
21 that's the last time you're asking the
22 question. Next question, please.

23 Q. Did you or -- did you say that or -- was
24 that said or not? That's all I'm asking.
25 Not every day, but was that said?

1 THE COURT: Ever, that you
2 remember?
3 A. Yeah. We said that Lisa is the one.
4 She's the one that made -- turned
5 everybody in.
6 Q. And, in fact, when you were in your pod
7 one time, you were telling other people in
8 the cell that Lisa was the bitch that
9 turned you in, weren't you?
10 A. It was in the newspaper. Everybody knew
11 it.
12 Q. Mr. Shutt, my question to you is did you
13 say on your pod to other people that were
14 in that pod that Lisa is the bitch that
15 turned us in?
16 A. Yeah, after everybody started asking me --
17 after they read the newspaper article.
18 Q. And did you say she was going to get hers?
19 A. She got hers in court. Yeah. She's going
20 to get hers, just like everybody else did.
21 Q. You said she's the bitch that turned you
22 in and she's going to get hers, isn't that
23 correct?
24 THE COURT: Did you say it?
25 A. Yes.

- 1 Q. In fact, in the days after it happened,
2 Shane taunted Lisa about what happened.
3 You -- the phrase you used was messed with
4 her about what happened, isn't that
5 correct?
- 6 A. That's correct.
- 7 Q. And to the point where you had to step in
8 and say stop it?
- 9 A. He would start and I would tell him to
10 back off, leave her alone.
- 11 Q. And, in fact, you've seen bruises on Lisa
12 from Shane put there, haven't you?
- 13 MS. DOHERTY: I object.
- 14 A. No, I haven't.
- 15 THE COURT: Overruled.
- 16 Q. You're saying you never saw any bruises
17 that Shane put on Lisa?
- 18 A. No.
- 19 Q. You ever say anything to Shane about
20 hurting Lisa?
- 21 A. I've never seen him hurt Lisa.
- 22 Q. One of the things that you just said is
23 you said everybody agreed to the story.
24 The fact of the matter is that Shane said,
25 this is what the story is going to be and

- 1 everybody better go along with it or
2 they're going to be killed, isn't that
3 correct?
- 4 A. Not in so many words.
- 5 Q. In essence?
- 6 A. He said that we need to stick to the same
7 story.
- 8 Q. Or what is going to happen?
- 9 A. He might have said -- I'm not 100 percent
10 sure. All I know is everybody agreed to
11 stick to the same story.
- 12 Q. After he said you better stick to the same
13 story or --
- 14 A. He didn't threaten everybody.
- 15 Q. Did he ever threaten you, by the way?
- 16 A. No.
- 17 Q. So you just gave him the -- did you
18 have -- you just gave him this gun. When
19 you knew he was looking for a gun to shoot
20 Steven Spade, you just gave him the gun to
21 shoot Steven Spade in your house?
- 22 A. Yeah.
- 23 Q. And then you also went in and tried to
24 help saw his head, isn't that correct?
- 25 A. Correct.

- 1 Q. Lisa never did any of that, did she?
- 2 A. No.
- 3 Q. In fact, at that point, the only thing
- 4 Lisa was doing was crying?
- 5 A. Lisa said it wasn't -- that she wasn't
- 6 going to do anything like that to Steven.
- 7 She was supposed to kill him but not take
- 8 his head off.
- 9 Q. You know, when did she say -- what did you
- 10 say? I'm sorry. Would you repeat that?
- 11 What did you say?
- 12 A. Lisa was supposed to have killed Steven,
- 13 not Rafferty.
- 14 Q. You never heard Lisa say that, did you?
- 15 A. I heard Rafferty and Lisa say -- Rafferty
- 16 and Lisa were talking about it. She
- 17 wanted to get a black widow tattoo and
- 18 Rafferty said, no, you didn't kill him.
- 19 Q. I thought you said she didn't say -- the
- 20 reason she didn't get one is she didn't
- 21 open her mouth about one?
- 22 A. No. She didn't kill anyone.
- 23 Q. Didn't you first say that she didn't say
- 24 she wanted it?
- 25 THE COURT: No. I'm not even

1 sure what that question means, to be
2 honest with you.

3 Q. All right. You gave a statement. Now
4 you're saying that you also -- one of the
5 things that Lisa said is Lisa said, oh,
6 this isn't supposed to be about Shane,
7 when that cell phone fell out of the
8 pocket. Is that right?

9 A. No, it wasn't -- don't tell me this is
10 about Lori.

11 Q. I mean, this isn't about -- okay. You
12 were asked specifically whether -- and you
13 were right next to Lisa when that
14 happened, weren't you, when that cell
15 phone fell out?

16 A. Yeah, I was by her.

17 Q. And you were asked specifically -- and
18 I'll get it here -- whether you heard Lisa
19 say anything when that cell phone fell
20 out, isn't that correct?

21 A. Lisa didn't say anything when the cell
22 phone fell out.

23 Q. Didn't Lisa say that it wasn't supposed to
24 be about Lori?

25 A. That was after he was down there. He got

1 shot and Lisa said this -- don't tell me
2 this is about Lori because it's not
3 supposed to be about her.

4 Q. So you didn't -- but when that cell phone
5 apparently or supposedly fell out, you --
6 you didn't hear Lisa say anything
7 whatsoever about Lori or anything else,
8 did you?

9 A. No. Rafferty picked it up.

10 Q. She didn't say anything, did she?

11 A. No.

12 Q. And that's what you said on that -- but
13 did she say anything --

14 MS. DOHERTY: Page, please?

15 THE COURT: What is the
16 statement date?

17 MR. WHITAKER: The statement of
18 January 3rd.

19 MR. LOPRINZI: Page, please.

20 MR. WHITAKER: 16.

21 Q. What was Lisa doing during this time?
22 Just standing over there. Ain't
23 moving too far from anywhere.

24 But had she said anything?

25 No.

1 Not to you?
2 Not that I heard.
3 She wasn't standing there talking
4 to you?
5 And you said no. Isn't that
6 correct?
7 A. Yeah.
8 Q. Isn't that correct?
9 A. Yeah.
10 Q. Okay. By the way, what you said -- when
11 you said she went up and changed, she had
12 a skirt and heels on earlier in the
13 evening, didn't she?
14 A. I don't remember what she was wearing.
15 Q. Now, the first time you gave a statement,
16 you didn't say that you handed the gun.
17 You just said it was in your pocket and
18 Shane took it out of your pocket, isn't
19 that correct?
20 A. Correct.
21 Q. In fact, you said that the second time you
22 gave a statement too, isn't it, that he
23 reached into your pocket and pulled it
24 out?
25 A. Yeah.

- 1 Q. Actually, the first time, you said that
2 you don't even know where he got the gun.
3 And then the second time, you said he
4 pulled it out of your pocket, isn't that
5 correct?
- 6 A. Correct.
- 7 Q. And today, you're saying you actually
8 handed it to him when he said he wanted to
9 shoot Steven. Is that correct?
- 10 A. That's correct.
- 11 Q. In fact, after all this happened, the only
12 thing Lisa was doing was being real quiet
13 and sitting by herself when you went back
14 upstairs, isn't that correct?
- 15 A. Yes.
- 16 Q. And she still appeared to be upset and
17 crying, isn't that correct?
- 18 A. She wasn't crying. She was upset, yeah.
- 19 Q. And in your first statement, you never
20 said that somehow Lisa was supposed to
21 kill Steven, did you?
- 22 A. My first statement, no.
- 23 Q. But in the first statement, you talked
24 about everything that went on, isn't that
25 correct?

1 A. Pretty much.

2 Q. And that didn't -- and you didn't mention
3 anything at all about that? Am I correct?

4 A. Yes.

5 MR. WHITAKER: If I might have
6 just one second, Your Honor.

7 Q. You've been to prison before?

8 A. Correct.

9 Q. You understand the difference between
10 doing time on death row and doing time in
11 the regular population, don't you?

12 A. Yes.

13 Q. What's that difference?

14 A. Death row, you're in the cell 23 hours a
15 day. You don't go anywhere else. You're
16 handcuffed, shackled and escorted.

17 Q. What about in the regular population,
18 you're mixed with the regular inmates.
19 You get to go to meals. You get to have a
20 job, all of that?

21 A. Correct.

22 Q. And if I understood you correctly, you
23 said that it was Shane that got the bags,
24 garbage bags, plastic bags?

25 A. Yeah.

1 Q. And who took the plastic off the window,
2 who was that?
3 A. Shane and myself.
4 Q. Shane and yourself. And who was it that
5 got the hacksaw?
6 A. Shane did.
7 Q. You said in your second statement, if I'm
8 not correct, the whole thing that gets me
9 is Lisa acts like she's a victim and she
10 isn't. She was in it with Rafferty.
11 Didn't you say that?
12 A. Correct.
13 Q. Didn't say that in your first statement
14 though, did you?
15 A. No.
16 Q. Do you think it's a coincidence that you
17 used the exact same words as Kramer?
18 A. I have no idea what Kramer said in his
19 statement.
20 Q. So you think it's probably a coincidence
21 that the two of you used the exact same
22 words?
23 A. No.
24 MR. WHITAKER: Okay. Thank you.
25 No further questions.

1 MS. DOHERTY: Thank you, Your
2 Honor.

3 - - -

4 REDIRECT EXAMINATION

5 BY MS. DOHERTY:

6 Q. Mr. Shutt, you recall giving your first
7 statement, and that was on September 1st,
8 correct?

9 A. Correct.

10 Q. All right. And at that time -- I will let
11 you read this -- on Page 54, you were
12 asked, so you guys set the body on fire.
13 Who did that?

14 And what do you say?

15 A. Lisa did it. Kramer --

16 MR. WHITAKER: Objection. Your
17 Honor, this is beyond the scope --

18 MS. DOHERTY: He said Lisa
19 didn't have anything to do with it. I'm
20 going to go through all these.

21 THE COURT: Wait a minute. I
22 don't know what the answer is, so let me
23 see it.

24 Q. What did you say? Did you say that Lisa
25 lit the fire?

1 A. Either Shane or Kramer dumped the gas on
2 it and Lisa lit the fire.

3 MS. DOHERTY: All right. I'll
4 move on to the next one, Judge.

5 A. You indicated just now, or Attorney
6 Whitaker said to you, that when you gave
7 your first statement, you didn't indicate
8 that Lisa was part of it, that she knew
9 about it.

10 MR. WHITAKER: Your Honor, that
11 was not my question.

12 MS. DOHERTY: Absolutely.

13 THE COURT: She's
14 paraphrasing the question. It's
15 overruled.

16 Q. In your September 1st statement -- I'll
17 tell you what page I'm on. Page 72. You
18 were asked, what about Lisa?

19 And read for us, if you can, from
20 your September 1st statement when you were
21 first arrested.

22 MR. JAMES: What page are we
23 on?

24 A. Lisa was all for it. She was supposed to
25 kill him.

1 Q. All right. And you were asked, how do you
2 know that?

3 A. Because days afterwards, Shane started
4 to -- because days afterwards, Shane
5 started to get a six-pack in, and that's
6 all he would talk about.

7 Q. All right. And then read what you say
8 then after that too in that next line.

9 A. We're sitting there watching TV and all of
10 the sudden -- started to get a six-pack in
11 him and he said -- supposed to do it --

12 THE COURT: Apparently, you
13 need to hold it so he can see it.

14 A. Supposed to do it. Well, you didn't give
15 me a chance.

16 Q. Who said, well, you didn't give me a
17 chance?

18 A. Lisa.

19 Q. So they're talking about Lisa was supposed
20 to have killed him, and Lisa said, well,
21 you didn't give me the chance --

22 A. Correct.

23 Q. -- right?

24 All right. And that's in your
25 September 1st statement.

- 1 Attorney Whitaker also asked you
2 about that separation that was supposed to
3 be through the Court, that you weren't
4 allowed to be with those other people,
5 correct?
- 6 A. Correct.
- 7 Q. That's not something that you had done.
8 That's something that the Court needed to
9 enforce, correct?
- 10 A. Correct.
- 11 Q. So you didn't violate a separation?
- 12 A. No. I went where they told me to go.
- 13 Q. So you were in custody?
- 14 A. Yes.
- 15 Q. And there was one time that you were all
16 together, and then you said a couple other
17 times you were at least in the same
18 holding area?
- 19 A. Correct.
- 20 Q. The -- Attorney Whitaker asked you about a
21 time in your first statement on Page 39
22 when you said that Lisa had walked out of
23 that room shaking her head?
- 24 A. Yeah.
- 25 Q. Okay. I'm going to have you read on Page

- 1 39 where it is highlighted.
- 2 A. And Lisa walked backwards towards the
- 3 steps shaking her head.
- 4 Q. So she was walking over towards the steps
- 5 from the office?
- 6 A. Correct.
- 7 Q. And then what?
- 8 A. Then she walked back down towards that way
- 9 again.
- 10 Q. Okay. So she walked out of that room in
- 11 the office when this was happening in
- 12 there but then she went back in?
- 13 A. Correct.
- 14 Q. Mr. Shutt, Attorney Whitaker asked you
- 15 about the times that you saw Lisa crying?
- 16 A. Uh-huh.
- 17 Q. Did Lisa Penix ever say, help me, get me
- 18 out of here?
- 19 A. No.
- 20 Q. Did she ever say, stop doing that to
- 21 Steve?
- 22 A. No.
- 23 Q. Did she ever do anything like that?
- 24 A. No.
- 25 Q. Were all of you part of what happened

1 here?

2 A. Yes.

3 Q. And you told the police on that first
4 interview, did you not, that Lisa invited
5 Steve over?

6 A. Correct.

7 MS. DOHERTY: I don't have
8 anything further, Judge.

9

10 RECROSS-EXAMINATION

11 BY MR. WHITAKER:

12 Q. As you said, she came out of the room and
13 she was upset and shaking her head, right?

14 A. Yeah.

15 Q. And all you saw is she turned around,
16 still shaking her head, and just walked
17 towards the room, isn't that correct?

18 A. Correct.

19 Q. Now, you also, on this same statement on
20 September 1st, said that you did it
21 because you didn't have any choice because
22 he's already popped one body, meaning
23 Shane, right?

24 A. Yeah.

25 Q. And he could do a second one real fucking

1 easy. That meant you, huh?

2 A. Yeah.

3 Q. So he did threaten you?

4 A. No. He didn't come out and threaten me.

5 Q. Well, you certainly thought that he might
6 kill you?

7 A. Possibility.

8 Q. Well, as a matter of fact, you also said
9 that he was bragging about having killed a
10 mother and two children, didn't you?

11 A. Yeah.

12 MR. WHITAKER: One second, Your
13 Honor. Nothing further.

14 MS. DOHERTY: I don't have
15 anything, Judge.

16 THE COURT: Thank you very
17 much. If you wouldn't mind pushing that
18 TV out of the way so they can take Mr.
19 Kramer -- or Mr. Shutt, I'm sorry.

20 *****END OF EXCERPT*****

21

22

23

24

25