

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
)	ROBERT W. RAFFERTY

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 ROBERT W. RAFFERTY)

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

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

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ROBERT W. RAFFERTY

4

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

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- - -

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DIRECT EXAMINATION

9 BY MS. DOHERTY:

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

12 A. My name is Robert W. Rafferty,
13 R-a-f-f-e-r-t-y.

14 Q. And, sir, your son just left. He's Bob
15 Junior; you're Bob Senior?

16 A. He's Robert John. I'm Robert Wayne.

17 Q. And the person who just left, that's your
18 son, correct?

19 A. That's my son.

20 Q. Okay. Tell us who Pat Rafferty is.

21 A. There's four Pat Raffertys. My father is
22 a Pat Rafferty; my brother's a Pat
23 Rafferty; his son's a Pat Rafferty; and
24 his son's a Pat Rafferty.

25 Q. All right.

- 1 A. Which Pat?
- 2 Q. The Pat I'm talking about is your brother
- 3 Pat.
- 4 A. That's Patrick John Rafferty.
- 5 Q. Okay. And he would be your son's uncle?
- 6 A. Correct.
- 7 Q. Shane Rafferty, who is that?
- 8 A. That's my nephew.
- 9 Q. And who is his father?
- 10 A. Patrick John.
- 11 Q. All right. Sir, I'm going to ask you
- 12 about a time in, I guess, around March
- 13 1st, 2005, when your son contacted you.
- 14 And you know what I'm referring to?
- 15 A. Yes.
- 16 Q. Okay. Your -- your job, what is that?
- 17 A. I drive over-the-road, long-distance
- 18 truck.
- 19 Q. Can you pull that microphone towards you
- 20 just a little bit. That's good.
- 21 Are you out of town a lot, a little
- 22 bit, what?
- 23 A. A lot.
- 24 Q. All right. And most of the week?
- 25 A. Generally, yes.

- 1 Q. And what kind of business is it? What
2 kind of trucking business is it?
- 3 A. It's freight of all kinds. They just haul
4 freight for manufacturers, to people who
5 consume their products.
- 6 Q. And what about your brother Pat, is he
7 part of that business as well?
- 8 A. He drives one of my father's trucks. I
9 drive one of my father's trucks. I don't
10 own any trucks. We are independent
11 over-the-road truck drivers. We don't
12 work for anybody really.
- 13 Q. But it's your father's trucks that --
- 14 A. They're my father's trucks, yes.
- 15 Q. Okay. When your son contacted you, where
16 were you?
- 17 A. I don't know. I was in my truck.
- 18 Q. Out of state?
- 19 A. Out of state, somewhere between here and
20 Texas probably.
- 21 Q. Okay. And what was the nature of the call
22 you received from him?
- 23 A. It was about 3:00 in the morning, I guess.
24 He woke me up. Called me on the cell
25 phone. And he said, you're not going to

1 believe this. You're not going to believe
2 it. He was scared. He was scared to
3 death. And he told me what he -- what he
4 did and I said, you're right, I don't
5 believe you. It's bull crap. I thought
6 it was bull crap. I did. I just didn't
7 want to believe it, so I didn't.

8 Q. Okay. And when your son called you and
9 wakes you up at 3:00 in the morning, did
10 you know if he talked to anybody else?
11 Did he talk to your wife, to anyone else?

12 A. Yes. He had talked to my wife when he
13 came home. He came in the house, which he
14 has the keys. He's 24. He comes and goes
15 as he pleases. My wife was sleeping and
16 he went into our room and sat down on his
17 mother's bed and turned on the light, so,
18 you know, she knew something was wrong.
19 But he had told his mother prior to
20 calling me. And I think he called his
21 sister on the way home as soon as he got
22 out of there.

23 Q. All right. So he's telling you that he's
24 afraid from what he heard, and you're
25 basically telling him it's crap?

- 1 A. Correct.
- 2 Q. Okay. And why did you think that? Why
- 3 did you tell him that?
- 4 A. Because I couldn't believe anybody would
- 5 do that.
- 6 Q. All right. When you arrived home -- did
- 7 you come home soon after that?
- 8 A. Yeah. Couple days, probably.
- 9 Q. All right. You finished doing whatever
- 10 you were doing on the road and came home?
- 11 A. Yes.
- 12 Q. And do you talk to your son about it again
- 13 in any more detail?
- 14 A. Yes.
- 15 Q. All right. And does he tell you at that
- 16 time who all was at the house?
- 17 A. Yes.
- 18 Q. All right. And how many people did he
- 19 tell you were there?
- 20 A. Three.
- 21 Q. All right. At some point, once you are
- 22 home, do you hear from or see your brother
- 23 Pat Rafferty?
- 24 A. Yes.
- 25 Q. And how does that come about and when is

1 it?

2 A. He brought his son --

3 Q. Shane?

4 A. -- to my house.

5 Q. And we're talking about Shane?

6 A. Yes.

7 Q. Okay.

8 A. And Shane's never been to my house. Now,
9 I've heard this story, which I chose not
10 to believe. But now he comes to my house
11 and brings his son and now I'm starting to
12 believe the story.

13 Q. All right. Where was your son and your
14 wife at that point?

15 A. My wife went upstairs, and I think my son
16 was already up there. I stayed -- I
17 answered the door and I asked him -- I
18 asked Shane what he was doing there.

19 "What are you doing here? You
20 never come to my house." My brother said,
21 I've got to keep him close to me.
22 That's -- we didn't talk about anything
23 really. And when they left, my wife,
24 naturally, and my son felt that -- they
25 didn't really know what to think but they

1 were scared. My wife is scared to death.
2 She's still scared. And she thought that
3 Pat was coming over to show Shane where we
4 lived, maybe come over and finish the job,
5 you know.

6 Q. All right. And when the two of them
7 showed up, it was just Shane and his
8 father?

9 A. Shane and his father, yes.

10 Q. All right. Later on, I guess in the
11 months that followed, did you have any
12 other contact with Pat? Did he ever come
13 back to your house or did you see him
14 anywhere else?

15 A. He brought his kids over.

16 Q. His other kids, not Shane?

17 A. Right, from his last marriage. He
18 brought -- he's got two little girls and I
19 have two granddaughters. They're the same
20 age. And we've got a pool and they had a
21 sleepover. My wife had a sleepover for
22 them, the four of them, and the kids came
23 over. And I think he dropped them off
24 once and he might have picked them up
25 once, and their mother dropped them off

1 once and picked them up.

2 And he came to my house before I
3 got the pool up and I was working outside
4 and he was by himself. And that's when he
5 said -- he just got out of his pickup
6 truck. And my wife, myself and my
7 daughter were standing there. And he
8 says, anybody find a body in West
9 Virginia?

10 Q. Did you have any idea what he was talking
11 about?

12 A. Well, my mind was turning at the time and
13 I said -- I won't tell you what I said,
14 expletive. But I got him away from my
15 wife and my daughter. I said, I don't
16 want to hear that around my house. I
17 don't want to hear it. Just stupid for
18 him to bring it up because you don't know
19 what happened, and he left shortly after
20 that, wouldn't talk about it.

21 Q. All right. After that, near the end of
22 May, I think May 25th, does there come a
23 time that you and your son do speak to the
24 police about what Bob had been told in
25 that house at Voris?

1 A. Yes.

2 Q. All right. And how does that come about?
3 What is going on that causes you guys to
4 call the police?

5 A. We have a facility on Kelly Avenue,
6 plastic recycling facility, and my son was
7 over there. He was leaving and he drove
8 around the building and he saw a broken
9 toilet, which that's what got my son
10 involved in this in the first place, was a
11 broken toilet.

12 My brother called me wanting to
13 know where he could find a broken toilet.
14 I said, I don't know. My son was doing
15 some remodeling. I noticed the bathroom
16 was empty. He might know where there's
17 one. My brother called my house. My son
18 wasn't there. He left a message with
19 Shane's phone number. My son called
20 Shane, said, I don't have a toilet. Shane
21 said, come on over and hang out, shoot the
22 breeze. We haven't seen each other in a
23 while. So my son went over.

24 To get back to the facility on
25 Kelly Avenue, my son drove around the

- 1 building, saw the broken toilet. There
2 was paneling that had been ripped out of a
3 room, a building, carpeting. There was
4 clothes, keys, muriatic acid. I mean,
5 these are things -- muriatic acid, I watch
6 TV. They use muriatic acid to clean a lot
7 of things up.
- 8 Q. So all of those items there --
- 9 A. They're piled up. Shower curtain still on
10 the rod with hooks on it, looked like it
11 had been ripped out.
- 12 Q. And that made you suspicious and made Bob
13 suspicious, obviously?
- 14 A. Scared -- brought it all back, scared the
15 hell out of him.
- 16 Q. And were the police called then?
- 17 A. He said, what should I do? I said, if you
18 want to call the police, when they get
19 here, tell them everything you know for
20 sure. You don't tell them anything you
21 don't know. And that's what we did.
- 22 Q. All right. Somebody from the Akron Police
23 Department came and spoke to both of you?
- 24 A. Yes, a sergeant came out first, uniformed
25 sergeant came out first. We took him back

1 to show him the scene and described -- my
2 son described his visit over to the house,
3 wherever it is on Voris or somewhere,
4 and --

5 Q. Did you --

6 A. Sergeant called the detective. I believe
7 he's in the courtroom. He came out on his
8 day off. He went back. He said, it looks
9 like a crime scene to me. The sergeant
10 said it looked like a crime scene to
11 him --

12 Q. But, ultimately, it was determined that it
13 wasn't, correct?

14 A. Was not. They called the Crime Scene Unit
15 out. The uniformed policeman checked with
16 one of the other tenants, and here he had
17 remodeled his bathroom and hauled it out
18 there and dumped it. It was just a
19 coincidence.

20 Q. When you and Bob spoke to the police
21 officer, you also told him about the visit
22 that you had had from Pat Rafferty when he
23 came over to your house, correct?

24 A. Probably, yes.

25 Q. Okay. And if you recall, what else did

1 Pat Rafferty -- you said he asked about if
2 anybody had found a body in West Virginia.
3 Did he say anything else specific about
4 that body?

5 A. He said they burned the body and bagged
6 the head.

7 Q. And when you say they, who did he say?

8 A. He didn't say names.

9 Q. He just said "they"?

10 A. Yeah.

11 Q. Sir, you have never met Lisa Penix in any
12 relationship to this case, correct?

13 A. No. That's correct. I've never met her.

14 Q. Other than how your son reacted and what
15 he had told you?

16 A. Yes.

17 Q. All right.

18 MS. DOHERTY: I don't have any
19 further questions, Judge.

20 MR. WHITAKER: If I might,
21 Judge, have one second, Your Honor.

22 - - -

23 CROSS-EXAMINATION

24 BY MR. WHITAKER:

25 Q. Mr. Rafferty, when you first talked to the

1 police, I was under the impression that
2 you had said that it was when Shane and
3 your brother Pat were there that he made
4 some kind of comment about a body and you
5 took Pat aside to find out --

6 A. No.

7 Q. -- what he was talking about?

8 A. No.

9 Q. You're saying that the first time that
10 happened is when Pat came back the second
11 time?

12 A. Came back later, whether it was --
13 probably the second time, third time,
14 whatever.

15 Q. And Pat told you that Shane had killed
16 somebody and burned the body and bagged
17 the head, isn't that correct?

18 A. No. He never told me Shane did it, never
19 told me Shane. He never told me a person
20 and named them. He said "they".

21 Q. And you didn't -- but at this time, you
22 had already heard from your son that Shane
23 had told him that information, isn't that
24 correct?

25 A. Correct.

- 1 Q. And so you knew he was talking about his
2 son?
- 3 A. Yeah. I assumed he was.
- 4 Q. But you never asked him if he was talking
5 about his son?
- 6 A. I didn't want to know any more about that
7 than I absolutely had to.
- 8 Q. And one of the reasons that you didn't is
9 you felt the same thing, if they killed
10 somebody -- and you didn't even see it,
11 but if they killed somebody, and
12 specifically if Shane had, you were
13 worried that he might hurt you or your
14 family, isn't that correct?
- 15 A. I wasn't worried for myself.
- 16 Q. You were worried for your family?
- 17 A. I was worried for my family.
- 18 Q. And you decided not to go to the police
19 and report this, isn't that correct?
- 20 A. Correct.
- 21 Q. And, actually, you told your son the same
22 thing, don't get involved, no need to tell
23 anybody about it, at least right now?
- 24 A. I specifically told him not to tell
25 anybody anything at that time.

1 MR. WHITAKER: Thank you.

2 Nothing further.

3 - - -

4 REDIRECT EXAMINATION

5 BY MS. DOHERTY:

6 Q. Sir, when your son -- you said you came
7 back into town and your son told you what
8 Shane told him?

9 A. Yes.

10 Q. And he told you the three people who were
11 there?

12 A. Yes.

13 Q. Did he give you their names at that time?
14 Do you know?

15 A. Yes.

16 Q. And what were their names?

17 A. My nephew, Shane; Shutt, Shuck, Little
18 Boy. I don't know him. I've never met
19 him, but I know he goes by Little Boy.

20 And Lisa.

21 Q. All right.

22 A. And there was another guy, supposedly
23 upstairs on the upper level.

24 Q. But he didn't see that other person?

25 A. No.

1 Q. All right.

2 A. Not to my knowledge.

3 Q. All right.

4 MS. DOHERTY: I don't have
5 anything further, Judge.

6 - - -

7 RECROSS-EXAMINATION

8 BY MR. WHITAKER:

9 Q. When he first told you about it, at that
10 time, he didn't know the name of Lisa,
11 isn't that correct, when he first told you
12 about it?

13 A. You know, I couldn't answer that.

14 MR. WHITAKER: Okay.

15 THE COURT: Thank you very
16 much, Mr. Rafferty.

17 THE WITNESS: You're welcome.

18 *****END OF EXCERPT*****
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