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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
) WILLIAM KRAMER

- - -
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 WILLIAM KRAMER)

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

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

2

- - -

3

WILLIAM KRAMER

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. Tell us your name, please, and spell your

11

last name for the record.

12

A. William Kramer, K-r-a-m-e-r.

13

Q. Mr. Kramer, how old are you?

14

A. Twenty-four, ma'am.

15

Q. I'm going to ask you to keep your voice up

16

so we can hear you. Okay?

17

A. Yes, ma'am.

18

Q. Mr. Kramer, I'm going to ask you about

19

some people involved in this case, and

20

tell us how you know them. Okay?

21

A. Yes, ma'am.

22

Q. Steven Spade, how do you know him?

23

A. He's a friend of mine I was going to

24

school with, ma'am.

25

Q. Where were you going to school?

- 1 A. TDDS.
- 2 Q. What is that?
- 3 A. Truck driving/diesel mechanic school.
- 4 Q. Where is it located?
- 5 A. In Diamond, Ohio.
- 6 Q. I'm going to try to put that a little
7 closer to you. I'm having some trouble
8 hearing you. You might have to talk a
9 little bit more into it, but not too
10 close.
- 11 So you and Steve went to the truck
12 driving school together?
- 13 A. Yes, ma'am.
- 14 Q. And when did you start there?
- 15 A. Like March of last year.
- 16 Q. And you met Steve through the school?
- 17 A. Yes, ma'am.
- 18 Q. Didn't know him prior to that?
- 19 A. No, ma'am.
- 20 Q. And you became friends?
- 21 A. Yes, ma'am -- not last year, the year
22 before last.
- 23 Q. Year before last, 2004?
- 24 A. Yes, ma'am.
- 25 Q. All right. Lisa Penix, how did you know

- 1 Lisa Penix?
- 2 A. I met her through Steven.
- 3 Q. And you knew that Lisa was Steve's cousin,
4 correct?
- 5 A. Yes, ma'am.
- 6 Q. Where did you meet Lisa, if you can
7 remember?
- 8 A. At somebody's house with Rafferty.
- 9 Q. So you met Rafferty at the same time?
- 10 A. Yes, ma'am.
- 11 Q. And what was your understanding of the
12 relationship between Lisa and Rafferty?
- 13 A. It was my understanding that they were
14 going steady together.
- 15 Q. Derek Shutt, did you know him?
- 16 A. I met him the night before July 4th -- or
17 January 4th, February -- I'm sorry.
- 18 Q. February 4th?
- 19 A. Yes.
- 20 Q. You met him the night before?
- 21 A. Yes, ma'am.
- 22 Q. And Jason Keenan?
- 23 A. I met him that night.
- 24 Q. The night that this happened?
- 25 A. Yes, ma'am.

- 1 Q. Your friendship with Steve, what kinds of
2 things would you do together other than go
3 to school?
- 4 A. We'd hang out after school. We'd go out
5 and just hang out like, drive around, get
6 drunk sometimes, some other things.
- 7 Q. And what were the other things?
- 8 A. We would use methamphetamines and smoke
9 some weed and stuff like that.
- 10 Q. So you would do drugs with him?
- 11 A. Yes, ma'am.
- 12 Q. And Lisa Penix, how often would you see
13 Lisa along with Steve?
- 14 A. I -- that was the only time I saw her
15 until the night before all this happened.
- 16 Q. And was there a time that -- I'm going to
17 say Steve wanted you and Lisa to hook up,
18 be together, date?
- 19 A. I had asked him about it and he said he'd
20 see what he could do. Yes.
- 21 Q. So you expressed some interest in Lisa?
- 22 A. Yes, ma'am.
- 23 Q. I'm going to ask you about a time before
24 this all occurred. Was there a time that
25 you were with Steve and Shane Rafferty at

- 1 Flashdance?
- 2 A. Yes, ma'am.
- 3 Q. And when was that?
- 4 A. I can't remember if it was the night
5 before all this happened or the night
6 before that.
- 7 Q. All right. And what was going on? What
8 were you three doing?
- 9 A. Drinking and just hang out.
- 10 Q. And that was at Flashdance. And Lori
11 Zielinski, do you know that name also?
- 12 A. Yes, ma'am.
- 13 Q. And how do you know her?
- 14 A. I met her that night at Flashdance.
- 15 Q. And she was working there?
- 16 A. Yes, ma'am.
- 17 Q. While you were in the car with Steve and
18 Shane Rafferty, was Derek Shutt there
19 also?
- 20 A. No, he was not. He was at the house.
- 21 Q. So it was just the three of you?
- 22 A. Yes, ma'am.
- 23 Q. Was there something that occurred between
24 Steve and Shane Rafferty?
- 25 A. Yes, ma'am.

- 1 Q. What was that?
- 2 A. Shane put the gun to the back of Steve's
3 head and looked at Steve and was, like,
4 it's all about trust, isn't it, Steve?
5 And Steve said, yeah, it's all about
6 trust. And they both started laughing and
7 stuff like that.
- 8 Q. And how is everyone seated in the car?
- 9 A. I was driving. Steve was in the passenger
10 seat and Rafferty was behind him.
- 11 Q. And how did it come up? What -- did
12 Rafferty just pull a gun out?
- 13 A. Pretty much, ma'am.
- 14 Q. All right. And Steve wasn't bothered by
15 that?
- 16 A. No, ma'am.
- 17 Q. And when you talked about trust, did he
18 say anything else about that?
- 19 A. No, ma'am, not that I can remember.
- 20 Q. Just that it was a matter of trust?
- 21 A. Yes, ma'am.
- 22 Q. And Steve didn't seem disturbed by it?
- 23 A. No. I had actually grabbed a hold of the
24 gun to try to push it away from his head
25 and Steve told me to let go of it.

- 1 Q. All right. The next day, or couple days
2 later, you're talking to Steve?
- 3 A. Yes, ma'am.
- 4 Q. And did you have school that day? Do you
5 know?
- 6 A. That was a Friday. Yes.
- 7 Q. We're talking about February 4th?
- 8 A. Yes, ma'am.
- 9 Q. Did you have school that day?
- 10 A. Yes, ma'am.
- 11 Q. And did you see Steve earlier in the day?
- 12 A. Yeah. We were at school together.
- 13 Q. What hours did you generally go to school?
- 14 A. Between -- I believe it was 7 and 1:00.
15 7:00 a.m. to 1:00 p.m.?
- 16 A. Yes, ma'am.
- 17 Q. And where were you living at the time?
- 18 A. I was in the school dormitory.
- 19 Q. And your house, did you also have family
20 that lived in the area?
- 21 A. Yeah -- well, it was in South Akron, known
22 as Portage Lakes.
- 23 Q. And did you ever go there also? I mean,
24 you lived at the dorm, but did you
25 frequent your house?

- 1 A. Oh, yeah, a lot.
- 2 Q. All right. And that's where your family
3 lived?
- 4 A. Yes.
- 5 Q. You see Steve at school that Friday
6 morning. Do you talk to Steve about what
7 you're going to do later that night?
- 8 A. Yeah.
- 9 Q. And what is the -- what is the discussion,
10 without telling us -- just tell us what
11 Steve asked you.
- 12 A. He asked me if I would drop him off at his
13 friend Ryan's house, so I did.
- 14 Q. All right. And what time was that,
15 approximately?
- 16 A. Right after school. It was about 2:30,
17 3:00, because I usually would stay after
18 school and do things to my car.
- 19 Q. And then did there come a time when you
20 came back and picked up Steve?
- 21 A. Yes.
- 22 Q. And why did you go back to pick him up?
- 23 A. Because he called me and asked me if I
24 wanted to go to a party.
- 25 Q. All right. And so you didn't stay at

- 1 Ryan's with him. You dropped him off?
- 2 A. Dropped him off and went to my mother's
- 3 house, was getting ready. I was going to
- 4 go over to my brother's house.
- 5 Q. And the phone number where Steve would
- 6 have contacted you, what would that have
- 7 been?
- 8 A. 882-4660.
- 9 Q. So Steve contacts you, sees if you want to
- 10 go to this party with him. Do you know
- 11 what the purpose of the party was?
- 12 A. He just said that we were going to go get
- 13 messed up.
- 14 Q. Go get messed up?
- 15 A. Yeah.
- 16 Q. All right. And did you know who was going
- 17 to be part of this party?
- 18 A. Yes, ma'am.
- 19 MR. WHITAKER: Objection, Your
- 20 Honor.
- 21 THE COURT: I'm sorry.
- 22 MR. WHITAKER: Objection to
- 23 that.
- 24 THE COURT: Overruled.
- 25 Q. Do you know who was going to be at this

- 1 party?
- 2 A. Yes, ma'am.
- 3 Q. Who?
- 4 A. Shane, Lisa, Derek and some various
5 people.
- 6 Q. Additional people that you didn't know?
- 7 A. Yes, ma'am.
- 8 Q. All right. And did you know where the
9 party was going to take place?
- 10 A. He didn't tell me. I didn't find out
11 until -- it was in Cleveland until we had
12 actually got over to the house.
- 13 Q. All right. You found out at some point
14 you were supposed to go to Cleveland?
- 15 A. Yes.
- 16 Q. All right. And you had been to that Voris
17 address before that day, correct?
- 18 A. Yes, ma'am.
- 19 Q. And did you know who lived there?
- 20 A. Yes, ma'am.
- 21 Q. Who lived there?
- 22 A. Derek, Lisa and Shane.
- 23 Q. Did you go directly back to Ryan's to pick
24 Steve up or did you go to Voris first?
- 25 A. I went to -- well, I went to Ryan's and I

- 1 honked the horn and waited for about five
2 minutes, waited for Steve. He never came
3 outside so I went over to the Voris
4 address to give him a call and he had
5 actually called already and said that he'd
6 be outside waiting, so I went back and
7 picked him up.
- 8 Q. How long were you at the Voris address
9 before Steve called you to come back?
- 10 A. He had already called by the time I got
11 there so I left right away.
- 12 Q. But you actually went in?
- 13 A. Yes, I went in. I didn't even take my
14 coat off or nothing.
- 15 Q. Who was there when you went in at that
16 point?
- 17 A. Lisa, Shane and Derek.
- 18 Q. And then you went back and got Steve and
19 brought him back over to Voris?
- 20 A. Yes, ma'am.
- 21 Q. About how far away was Ryan's house from
22 that address on Voris?
- 23 A. Five or six blocks, if that.
- 24 Q. So not very far?
- 25 A. No, ma'am.

- 1 Q. And any idea what time you and Steve
2 arrived at Voris?
- 3 A. I'd say between 5 and 6:30. I can't
4 really remember, but I think that's what
5 it was.
- 6 Q. Was it dark?
- 7 A. It was getting there.
- 8 Q. When you arrived then at Voris, what is
9 going on? What is everybody talking
10 about?
- 11 A. The party and how we're going to get drunk
12 and messed up and do some drugs and stuff.
- 13 Q. And who specifically is talking about
14 that?
- 15 A. Lisa, Shane -- Lisa and Shane, and Derek
16 was going to stay at the house. He wasn't
17 going to go with us.
- 18 Q. So the plan was that you, Steve, Lisa and
19 Shane were going to go to this party?
- 20 A. Yeah. A limo was supposed to pick us up
21 and take us to Cleveland.
- 22 Q. A limo?
- 23 A. Yes, ma'am.
- 24 Q. And you were told that by them?
- 25 A. Yes, ma'am.

- 1 Q. At some point, do you leave with Shane?
- 2 A. Yes, ma'am.
- 3 Q. And prior to that, does anybody else leave
- 4 the house?
- 5 A. No, ma'am.
- 6 Q. Nobody else leaves. Why do you and Shane
- 7 leave?
- 8 A. We went to go pick up beer.
- 9 Q. Tell us about what happened while you and
- 10 Shane went to pick up the beer.
- 11 A. Shane -- this was the first trip to go
- 12 pick up beer. We went on two, actually.
- 13 The first trip he asked me -- we was
- 14 talking about the party up in Cleveland
- 15 and he said that there were going to be
- 16 some people that were mad at Steve. He
- 17 didn't say why or anything or who they
- 18 were. He just said that he might get into
- 19 trouble and asked what I would do to help.
- 20 Q. What did you tell him?
- 21 A. I told him I'd do what I could short of
- 22 losing my life.
- 23 Q. And did Shane tell you who these people
- 24 were?
- 25 A. No. He dropped it right then.

- 1 Q. And did you get beer? Where did you go?
- 2 A. Went to the BP on --
- 3 Q. And then back to Voris?
- 4 A. Yes, ma'am.
- 5 Q. What happened when you got back to Voris?
- 6 A. We continued drinking. And Lisa Penix and
- 7 I went upstairs and were talking and she
- 8 said that she had heard that I want to
- 9 have sex with her.
- 10 Q. All right. And was that the case? Were
- 11 you interested in Lisa at that time?
- 12 A. Yes, ma'am. Shane Rafferty also had
- 13 said -- I had talked to him about hooking
- 14 me up with Lisa and he said he would see
- 15 what he could do. He was trying to hook
- 16 me up as well.
- 17 Q. So when Lisa asked you to go upstairs, you
- 18 went along?
- 19 A. Of course.
- 20 Q. And what happened when you and Lisa were
- 21 upstairs?
- 22 A. We were sitting there talking, and she
- 23 told me that she heard that I said --
- 24 heard -- excuse my language -- heard that
- 25 I wanted to fuck her. And I said, well,

- 1 yeah, you know. And she was like, all
2 right. And we were sitting there and
3 talking. And that's when Rafferty came
4 upstairs and said -- told her that
5 Keenan -- Jason Keenan had showed up. And
6 she said, when Keenan and I get back,
7 we'll have sex. And I was like, all
8 right. So we both went downstairs and she
9 left.
- 10 Q. All right. When you went downstairs --
11 did you stay up there or downstairs?
- 12 A. I went downstairs.
- 13 Q. And what happened then?
- 14 A. Rafferty and I went again to go pick up
15 more beer.
- 16 Q. Tell us about the conversation that you
17 and Rafferty had the second time you went
18 to go get beer.
- 19 A. When we had gotten back from the house, he
20 told me that he was very upset with Steve.
21 He said that he was mad because Steve was
22 talking to his girl and said something
23 about some meth. I don't exactly remember
24 what he said, but he said that he had
25 planned to kill him.

- 1 Q. And where are you when Shane Rafferty
2 tells you this?
- 3 A. We were in the car.
- 4 Q. And when he's talking about a girl, who is
5 he talking about? Do you know?
- 6 A. Lori Zielinski.
- 7 Q. Were you aware of any interest that Steve
8 would have had in Lori?
- 9 A. Yes.
- 10 Q. And how did you know that?
- 11 A. Because Steve told me that he had gotten
12 her phone number.
- 13 Q. And how did he get her phone number?
- 14 A. He said -- he said he got it from her, but
15 I'd also heard something about Lisa had
16 given it to him, something like that.
- 17 Q. But he had her phone number?
- 18 A. Yes, ma'am.
- 19 Q. All right. And Shane Rafferty tells you
20 this and he tells you that he's planning
21 to kill Steve because of the Lori issue
22 and something about meth?
- 23 A. Yes, ma'am.
- 24 Q. And what do you do? What do you think?
- 25 A. I just thought that he was drunk and

- 1 blowing off steam. You don't hear people
2 killing people all the time over girls.
- 3 Q. When you got back to the house at Voris,
4 who was there?
- 5 A. Lisa, and Keenan had arrived. It was
6 them, Derek, me, Shane and Steve.
- 7 Q. And you had said, I think before, that you
8 hadn't met Keenan before that?
- 9 A. No.
- 10 Q. So this is the first time that you'd met
11 him?
- 12 A. Yes, ma'am.
- 13 Q. Was everybody continuing to drink?
- 14 A. Yes, ma'am.
- 15 Q. What happened after that?
- 16 A. Shane got everybody to go into the
17 basement to go do some meth, and that's
18 when he began to tape up Steve.
- 19 Q. At some point, do you talk to Shane
20 Rafferty about what is going to happen to
21 Steve? Do you ever talk to him in the
22 house?
- 23 A. Yes. He had pulled me and Jason Keenan
24 into the kitchen and told us that he was
25 going to do this and if we didn't

1 cooperate, that he would kill us as well.

2 Q. All right. And did he tell you who else
3 was involved in whatever was going to
4 happen to Steve?

5 A. No. No.

6 Q. All right. Told you that that's what was
7 going to happen, that you had to
8 participate?

9 A. Yes, ma'am.

10 Q. All right. What happened after that?

11 A. We all went -- we all went downstairs and
12 that's when Shane began to tape him up and
13 that's when he asked Steve, again, it's
14 all about trust, isn't it? And Steve was
15 like, yeah. And Rafferty gave this sort
16 of fake laugh and punched him in the jaw.

17 Q. And when you say everybody went back
18 downstairs, where exactly was everyone
19 situated?

20 A. Steve was sitting in the middle of the
21 room. Lisa and I were sitting on this
22 like coffee table thing. Derek was
23 standing in the doorway. Shane was in
24 there, standing next to Steve -- well,
25 taping him up. And Keenan was sitting on

- 1 the steps.
- 2 Q. How is it that Steve is taped up? What is
- 3 used?
- 4 A. Duct tape and a clear tape.
- 5 Q. Like a clearer tape?
- 6 A. Yes, ma'am.
- 7 Q. And how is he physically taped, his hands
- 8 together?
- 9 A. Yes, ma'am, behind his back, behind the
- 10 chair, actually to the chair, and his
- 11 ankles taped together and his mouth taped
- 12 shut.
- 13 Q. Once that was done, once he was taped up
- 14 and you said Shane Rafferty hit him, what
- 15 happened after that?
- 16 A. That's when Shane proceeded to drag Steve
- 17 down the hallway.
- 18 Q. In that office area, how many times did
- 19 you see Steven get hit?
- 20 A. One time.
- 21 Q. One time?
- 22 A. Yes, ma'am.
- 23 Q. Was he hit by anybody else in that room?
- 24 A. No, ma'am.
- 25 Q. Did Lisa remain in that office while Steve

- 1 was being hit?
- 2 A. Yes.
- 3 Q. And you said Shane was dragging him down
- 4 the hall?
- 5 A. Yes, ma'am.
- 6 Q. What happened while he was taking him down
- 7 the hall?
- 8 A. He was kicking and punching him.
- 9 Q. Did Steve have a cell phone?
- 10 A. Yes, ma'am.
- 11 Q. Did anything happen with that cell phone?
- 12 A. He received a phone call.
- 13 Q. And what happened?
- 14 A. That's when Rafferty -- well, he had
- 15 already been drug into the bathtub and put
- 16 into the toilet. That's when -- that's
- 17 when -- well, before the phone call came
- 18 in, he had already got into the toilet,
- 19 and Shane had already put him over the
- 20 toilet and that's when the phone rang.
- 21 And he saw who it was and got very upset
- 22 and started --
- 23 Q. Who was it?
- 24 A. It was Lori Zielinski. That's when Shane
- 25 got very upset and began beating him.

- 1 Q. Were you of -- did you have any discussion
2 with Lisa about what was going on?
- 3 A. Yes.
- 4 Q. Where did that take place?
- 5 A. In the office.
- 6 Q. And tell us about that.
- 7 A. She said that she couldn't do -- do what
8 she was supposed to do, that she wanted me
9 to do it.
- 10 Q. What was it that she was supposed to do?
- 11 A. It was never -- she -- nobody ever told
12 me, but -- after everything was all done,
13 the next day, I heard that she was
14 actually the one that was supposed to kill
15 Steve.
- 16 Q. All right. So when she says to you in the
17 office that she couldn't do it, that you
18 would have to do it, did you know then
19 what she was referring to?
- 20 A. No.
- 21 Q. When you're in that office with Lisa and
22 you have that discussion with her, where
23 was Steven and Shane Rafferty?
- 24 A. They -- they had Steve -- Steve was being
25 dragged down to the bathtub.

- 1 Q. Once Steven is in the bathroom, where is
2 Shane Rafferty? Where are you?
- 3 A. It was Shane Rafferty was standing towards
4 the wall. I was standing where the door
5 was, blocking the hallway.
- 6 Q. All right. This is State's Exhibit 100.
7 Can you look at the layout and see if you
8 recognize it?
- 9 A. Yes, ma'am.
- 10 Q. Do you?
- 11 A. Yes, ma'am.
- 12 Q. And show us where you -- where -- what the
13 area is you're talking about. First of
14 all, where is the office area?
- 15 A. Right -- (indicating).
- 16 Q. And the area that you're talking about
17 that Steven was dragged to?
- 18 A. Right here (indicating).
- 19 Q. And you're going to have to keep your
20 voice up.
- 21 And there are two sides of that
22 bathroom, correct?
- 23 A. Yes, ma'am.
- 24 Q. And what side was Steven taken to, the
25 part with the toilet?

- 1 A. Yes, ma'am.
- 2 Q. And you were in there with Shane Rafferty?
- 3 A. Yes, ma'am.
- 4 Q. And Steven was there?
- 5 A. Yes, ma'am.
- 6 Q. And tell us what Shane Rafferty was
7 continuing to do.
- 8 A. He's continuing to beat Steven.
- 9 Q. And how is he doing that?
- 10 A. His feet, his hands. He was punching him
11 and kicking him, kneeing him, anything he
12 can do.
- 13 Q. And do you hit Steven at all?
- 14 A. Yes, ma'am.
- 15 Q. Where?
- 16 A. In his back.
- 17 Q. Does Derek Shutt come into that room at
18 any time?
- 19 A. Yes. He was actually in the bathroom
20 while Steven was being beaten by Shane.
- 21 Q. In the longer part of the bathroom?
- 22 A. Yes, back by the showers.
- 23 Q. Where was Jason Keenan and Lisa?
- 24 A. I was not aware of their -- the last time
25 I saw Jason and Lisa, they were at the end

- 1 of the hallway by the steps.
- 2 Q. As far as anything else that Shane or you
- 3 are doing to Steve, as far as the toilet,
- 4 was his head actually in the toilet?
- 5 A. Yes, ma'am.
- 6 Q. And how did that happen?
- 7 A. Shane was pushing it in there trying to
- 8 drown him.
- 9 Q. And are you helping Shane at all do that?
- 10 A. No, ma'am.
- 11 Q. But you did hit Steve?
- 12 A. Yes, ma'am.
- 13 Q. What happened after that?
- 14 A. Shane choked Steve with his necklace. And
- 15 the tape that was around his mouth had
- 16 slipped down until Shane -- Steve passed
- 17 out, and that's when Shane got the gun
- 18 from Derek and shot him in the back of the
- 19 head.
- 20 Q. And where did that take place?
- 21 A. In the bathroom.
- 22 Q. What happened after Shane shot Steven in
- 23 the back of the head?
- 24 A. Shane took a knife from Derek and was
- 25 continuously throwing it to the back of

- 1 Steve's head.
- 2 Q. And did he do anything else with that
3 knife?
- 4 A. No. He slit Steve's neck on the side to
5 make sure that he was dead.
- 6 Q. And did he do anything about all the
7 blood?
- 8 A. No, ma'am.
- 9 Q. All right. And when he did that, after
10 you saw him do that, was that in that
11 bathroom near the toilet?
- 12 A. Yes, ma'am.
- 13 Q. What happened after that?
- 14 A. We all went back upstairs and continued to
15 drink.
- 16 Q. And when you say "we all", who all went
17 back upstairs?
- 18 A. Me, Lisa, Derek, Shane and Keenan.
- 19 Q. And is that what you did, you continued to
20 drink?
- 21 A. Yes, ma'am.
- 22 Q. And where did that take place?
- 23 A. In the living room.
- 24 Q. At some point, Jason Keenan leaves,
25 correct?

- 1 A. Yes, ma'am.
- 2 Q. What happens after that?
- 3 A. We all went back downstairs. That's
- 4 when --
- 5 Q. Let me ask you this: When you're upstairs
- 6 sitting in that living room area and
- 7 everyone is continuing to drink, is anyone
- 8 talking about what happened downstairs?
- 9 A. Yes. Rafferty, he was bragging and
- 10 laughing about it.
- 11 Q. And what is everyone else doing?
- 12 A. Sitting around drinking.
- 13 Q. After Keenan leaves, what happens then?
- 14 A. That's when everybody went back
- 15 downstairs, and Rafferty and Derek Shutt
- 16 sent me out to -- with Derek to get the --
- 17 that's when Rafferty sent me and Derek
- 18 Shutt outside to get the saw out of his
- 19 car.
- 20 Q. And where was the saw?
- 21 A. In his trunk.
- 22 Q. Whose idea was it to get the saw?
- 23 A. Rafferty.
- 24 Q. And what was the purpose of getting the
- 25 saw?

- 1 A. To cut off Steve's head.
- 2 Q. Why?
- 3 A. Because Rafferty didn't want the bullet to
4 get traced back to the gun.
- 5 Q. Once you and Derek go out and get the saw,
6 what happens?
- 7 A. Rafferty begins to saw his head off.
- 8 Q. And where is this happening at?
- 9 A. In the bathroom.
- 10 Q. When you all went upstairs after Steve was
11 initially shot, where was Steve's body at?
- 12 A. Still in the bathroom.
- 13 Q. Still in the bathroom?
- 14 A. Yes, ma'am.
- 15 Q. In the bigger part of the bathroom or the
16 smaller part?
- 17 A. Over still by the toilet, ma'am.
- 18 Q. So the rest of his body would have been
19 out in between those two bathroom areas in
20 that little hall?
- 21 A. Yes, ma'am.
- 22 Q. Who takes part in using that saw on
23 Steve's head?
- 24 A. Me, Derek and Shane.
- 25 Q. And is Lisa down there?

- 1 A. Yes, ma'am.
- 2 Q. Where is she at?
- 3 A. In the back by the showers.
- 4 Q. And what is she doing?
- 5 A. Just standing there.
- 6 Q. After that was done, what happened to
- 7 Steve's body? What did you all do?
- 8 A. Lisa went upstairs and got some plastic
- 9 trash bags, big black trash bags, and
- 10 brought them back down and we proceeded to
- 11 wrap it up with plastic and duct tape it
- 12 shut.
- 13 Q. And who all participated in doing that?
- 14 A. Me, Shane, Derek and Lisa.
- 15 Q. And what was done to Steven's head at that
- 16 point?
- 17 A. It was put in a piece of plastic as well.
- 18 Q. And do you recall who did that?
- 19 A. Yes, ma'am.
- 20 Q. Who?
- 21 A. Shane Rafferty.
- 22 Q. Was there anything that Shane did with
- 23 Steven's head after it was wrapped up in
- 24 plastic?
- 25 A. Yes, ma'am.

- 1 Q. Before it was --
- 2 A. Before it was wrapped up in plastic.
- 3 Q. Before it was wrapped up in plastic?
- 4 A. Yes, ma'am.
- 5 Q. What did he do?
- 6 A. He picked it up and was making jokes about
7 it and making it talk, things like that.
- 8 Q. And what was the reaction of Lisa at that
9 point?
- 10 A. She was standing at the back of the
11 showers and she -- that's when I believe
12 that everything started to sink in because
13 she started getting scared.
- 14 Q. Everything started to sink in?
- 15 A. Yes, ma'am.
- 16 Q. And all four of you are helping him wrap
17 up Steve's body in this plastic?
- 18 A. Yes, ma'am.
- 19 Q. Once that is done, what do you all do?
- 20 A. Carried it upstairs and put it in the
21 trunk, headed towards West Virginia.
- 22 Q. Did any of you change clothes at the house
23 before you left?
- 24 A. Yes, ma'am.
- 25 Q. Who did?

- 1 A. I believe me, Shane and Lisa.
- 2 Q. Changed clothing?
- 3 A. Yes, ma'am.
- 4 Q. And where did you get clothes from?
- 5 A. Lisa provided them for me.
- 6 Q. Gave you clothes to put on?
- 7 A. Yes, ma'am.
- 8 Q. And then what was done with the clothing
- 9 that you had taken off?
- 10 A. It was placed in the trash bags and put in
- 11 the car.
- 12 Q. And what about the hacksaw that was used?
- 13 A. I don't -- I don't remember what happened
- 14 with the hacksaw.
- 15 Q. Whose car was Steve's body loaded into?
- 16 A. Shane's.
- 17 Q. What kind of car was it? Do you recall?
- 18 A. I believe it was a Lumina.
- 19 Q. A Lumina?
- 20 A. Yes, ma'am.
- 21 Q. What color?
- 22 A. Maroon.
- 23 Q. Any idea what time this was happening once
- 24 this was all done?
- 25 A. It was early, early in the morning, like

- 1 two, one, two.
- 2 Q. Around two?
- 3 A. One, 2:00, something like that.
- 4 Q. Who's driving the car when you leave?
- 5 A. I was driving before -- well, until we got
- 6 to Canton. That's when I said I couldn't
- 7 drive no more.
- 8 Q. So you were driving. Where was everyone
- 9 else seated?
- 10 A. Derek was sitting in the passenger seat.
- 11 Lisa and Shane were sitting in the back.
- 12 Q. Did you stop anywhere before you headed
- 13 south?
- 14 A. Yes. We stopped at McDonald's.
- 15 Q. And where else?
- 16 A. At the gas station, BP.
- 17 Q. To get gas?
- 18 A. Yes, ma'am.
- 19 Q. In the vehicle?
- 20 A. Yes, ma'am.
- 21 Q. You started driving south. Was there talk
- 22 about where you were going?
- 23 A. Just West Virginia, ma'am.
- 24 Q. But that was discussed, that you were
- 25 going to go to West Virginia?

- 1 A. Yes, ma'am.
- 2 Q. At what point did you stop driving? Do
3 you know?
- 4 A. It was about Canton, ma'am.
- 5 Q. And who took over?
- 6 A. Derek.
- 7 Q. Where did you go from there?
- 8 A. Down to West Virginia.
- 9 Q. All right. And did you stop anywhere
10 prior to where ultimately you stopped with
11 Steve's body?
- 12 A. Yes.
- 13 Q. Where did you stop?
- 14 A. BP.
- 15 Q. What for?
- 16 A. Get gasoline.
- 17 Q. And did you actually get out of the car?
- 18 A. Yes, ma'am.
- 19 Q. Where did you go?
- 20 A. Inside.
- 21 Q. Inside the BP?
- 22 A. Yes, ma'am.
- 23 Q. Who else went inside?
- 24 A. Rafferty.
- 25 Q. What about Lisa and Derek?

- 1 A. I can't remember, ma'am.
- 2 Q. You don't know if they went inside or not?
- 3 A. No, ma'am. They didn't go inside.
- 4 Q. Do you know who actually got the gas?
- 5 A. I believe it was Derek, ma'am.
- 6 Q. And what was it placed into?
- 7 A. The gas can.
- 8 Q. And where did the gas can come from?
- 9 A. It was in the back seat.
- 10 Q. Was that something that was taken
- 11 specifically for this purpose?
- 12 A. Yes, ma'am.
- 13 Q. Where did it originally come from?
- 14 A. Rafferty's car, ma'am.
- 15 Q. You and Rafferty both go into BP. What do
- 16 you do when you come back out and
- 17 everyone's back in the car?
- 18 A. We got back in the car and went to West
- 19 Virginia.
- 20 Q. Did anyone have a specific place in mind
- 21 to go to or was Shutt just driving?
- 22 A. Shutt was just driving.
- 23 Q. Where did you end up stopping? Describe
- 24 the area.
- 25 A. A wooded area with a couple houses with a

- 1 field.
- 2 Q. And what happened when you got to that
3 area?
- 4 A. We got out of the car, got the body out of
5 the trunk. Then Rafferty and I began to
6 pour gas on it. Rafferty poured first and
7 then me.
- 8 Q. Rafferty poured the gasoline and then you
9 did?
- 10 A. Yes, ma'am.
- 11 Q. And then what happened?
- 12 A. Lisa lit the body on fire.
- 13 Q. And how did she do that?
- 14 A. With a piece of McDonald's bag.
- 15 Q. How long did the four of you stay there at
16 the scene after Steven's body was lit on
17 fire by Lisa?
- 18 A. As soon as it caught, we left.
- 19 Q. Who was driving?
- 20 A. Derek was.
- 21 Q. And where was everybody else seated?
- 22 A. Rafferty was in the front, front passenger
23 seat. Lisa and I were in back.
- 24 Q. Did you go straight back to Akron then?
- 25 A. Yes, ma'am.

- 1 Q. Any discussion on the way back?
- 2 A. No, ma'am, not really.
- 3 Q. When you got back to Voris -- well, let me
4 ask you this: Any idea what time it was
5 that you finally left that area after this
6 happened, after Steve's body was set on
7 fire?
- 8 A. The sun was coming up. That's all I
9 remember.
- 10 Q. So it was getting light out?
- 11 A. Yes, ma'am.
- 12 Q. You all four go back to the Voris address?
- 13 A. Yes, ma'am.
- 14 Q. What happens there?
- 15 A. That's when everybody proceeded to clean
16 up.
- 17 Q. What kind of cleanup was done among the
18 four of you?
- 19 A. Steps were sanded -- well, they were
20 scrubbed down by Lisa with ammonia and
21 bleach. The bathroom walls and floor were
22 cleaned up with ammonia and bleach, and
23 the carpet and linoleum in the hall was
24 cut up and rolled up and taken outside,
25 ma'am.

- 1 Q. Who participated in doing all that?
- 2 A. Me, Shane, Derek and Lisa.
- 3 Q. When you all arrived back at Voris, did
- 4 you have any conversation or contact with
- 5 Lisa directly?
- 6 A. Meaning?
- 7 Q. Did she say anything to you?
- 8 A. Yes, ma'am. She pulled me into the little
- 9 stove area, gave me a kiss and told me
- 10 "welcome to the family".
- 11 Q. And you had said that earlier before this,
- 12 before Steve was shot, when you and Lisa
- 13 were still in that office area when Shane
- 14 was taking him down the hall, that Lisa
- 15 had said to you that she couldn't do it,
- 16 that you had to?
- 17 A. Yes, ma'am.
- 18 Q. Did she talk to you at all about loyalty
- 19 to Shane?
- 20 A. That was all the next day stuff, ma'am.
- 21 Q. That was all the next day?
- 22 A. Yes, ma'am.
- 23 Q. So she kisses you when you get back, tells
- 24 you welcome to the family and gives you a
- 25 hug?

- 1 A. Yes, ma'am.
- 2 Q. And did you know what that meant?
- 3 A. No, ma'am.
- 4 Q. What did you think?
- 5 A. I thought it was some type of initiation
6 or something, ma'am.
- 7 Q. What conversation did you and Lisa have
8 then about being loyal to Shane?
- 9 A. It wasn't conversation directly between me
10 and her. But the reason that she had
11 supposedly --
- 12 MR. WHITAKER: Objection, Your
13 Honor.
- 14 THE COURT: Overruled.
- 15 Q. Go ahead.
- 16 A. She had supposedly invited everybody over
17 and was taking part in this to prove her
18 loyalty to Shane because she wanted to be
19 with him. She was in love with him.
- 20 Q. The cleanup that is happening down in the
21 basement, there's actually sanding,
22 sanding of the walls going on?
- 23 A. Yes, ma'am.
- 24 Q. Where did that sander come from? Do you
25 know?

- 1 A. I'm not sure.
- 2 Q. Approximately how long did this take place
3 that you're cleaning up this area?
- 4 A. All day.
- 5 Q. The toilet that was in that little
6 bathroom --
- 7 A. Yes, ma'am.
- 8 Q. -- where Steven was ultimately killed,
9 what happened with that? Do you know?
- 10 A. No, ma'am.
- 11 Q. Did you see Shane or anybody do anything
12 with that toilet?
- 13 A. No, ma'am.
- 14 Q. Was there any talk that day among the four
15 of you about what had happened?
- 16 A. Yes, ma'am.
- 17 Q. All right. And what was discussed?
- 18 A. They were laughing and joking because Lisa
19 was supposed to have sex with me and kill
20 me, and just Shane was passing around
21 threats making sure nobody would say
22 anything.
- 23 Q. All right. And you said that they were
24 laughing and joking because Lisa was
25 supposed to have killed you?

- 1 A. Yes, ma'am.
- 2 Q. What does that mean? Who said something
3 about that?
- 4 A. Shane did.
- 5 Q. And was Lisa present when he said that?
- 6 A. Yes, ma'am.
- 7 Q. Did she agree --
- 8 A. Yes, ma'am.
- 9 Q. -- that that had been the plan?
- 10 A. Yes, ma'am.
- 11 MR. WHITAKER: Objection to the
12 leading questions.
- 13 THE COURT: Overruled.
- 14 Q. Why was that going to happen?
- 15 A. Because I was there with Shane and Shane
16 didn't want me to be a liability, ma'am.
17 I mean, with Steve. I apologize.
- 18 Q. You were there with Steve?
- 19 A. Yes.
- 20 Q. Steve actually invited you to go over
21 there, correct?
- 22 A. Yes, ma'am.
- 23 Q. You didn't talk to any of those other
24 people earlier?
- 25 A. No, ma'am.

- 1 Q. So when Shane Rafferty is talking to you
2 and Lisa about what had been the plan for
3 you, it involved taking you upstairs,
4 having sex with you and killing you?
- 5 A. Yes, ma'am.
- 6 Q. And Lisa agreed that that had been the
7 plan?
- 8 A. Yes, ma'am.
- 9 Q. Why didn't they do it?
- 10 A. I don't know.
- 11 Q. Did they talk to you about why they
12 didn't?
- 13 A. They told me that they didn't want to feel
14 guilty for killing me.
- 15 Q. And you hadn't had any previous problem
16 with Shane Rafferty. Is that correct?
- 17 A. No, ma'am.
- 18 Q. At some point, Jason Keenan comes over,
19 correct?
- 20 A. Yes, ma'am.
- 21 Q. Do you recall what day that was, if it was
22 the day that you came back from West
23 Virginia or the next day?
- 24 A. I can't remember which day it was.
- 25 Q. Did you stay at that house then?

- 1 A. Yes, ma'am.
- 2 Q. For how long?
- 3 A. About two weeks, ma'am.
- 4 Q. And who stayed there during that time?
- 5 A. Lisa, Shane, me and Derek.
- 6 Q. So at some point after that, Jason Keenan
7 comes back over?
- 8 A. Yes, ma'am.
- 9 Q. What happens at that time when Jason comes
10 back?
- 11 A. I believe that Shane gave him the gun and
12 told him to get rid of it.
- 13 Q. Did you see anybody give him a gun?
- 14 A. No, ma'am.
- 15 Q. You just knew that that happened?
- 16 A. Yes, ma'am.
- 17 Q. But you don't know who gave it to him?
- 18 A. Right.
- 19 Q. While Jason was there, was it discussed
20 among the five of you what the story was
21 going to be?
- 22 A. Yes, ma'am.
- 23 Q. What was that?
- 24 A. Steve had gone to Cleveland and that was
25 the last we saw.

- 1 Q. And who was present and who was
2 participating in that conversation about
3 what was going to be said if anybody
4 looked for Steve?
- 5 A. Me, Shane, Lisa and Derek.
- 6 Q. And was that agreed that that's what would
7 be said?
- 8 A. Yes, ma'am.
- 9 Q. Did any of you -- after Steven was killed
10 and you got back from West Virginia, did
11 any of you get tattoos at the house?
- 12 A. Yes, ma'am.
- 13 Q. Who did?
- 14 A. Me and Lisa.
- 15 Q. What kind of a tattoo did you get?
- 16 A. I got a tribal on my back.
- 17 Q. What kind of a tattoo did Lisa get?
- 18 A. A rose with some vines or flowers or
19 something, a flower with some vines on her
20 lower back.
- 21 Q. Who actually gave you those tattoos while
22 at Voris?
- 23 A. Derek did.
- 24 Q. And when in relation to when you got back
25 from West Virginia did that happen?

- 1 A. I can't remember if it was the next day or
2 the day after that, ma'am.
- 3 Q. Shane and Derek -- or actually Shane had
4 said something to you prior to this
5 happening and to Jason Keenan about
6 killing Steve, correct?
- 7 A. Yes, ma'am.
- 8 Q. And once you were told that, what were
9 Derek and Shane then doing? Do you know
10 what I'm asking you?
- 11 A. No, ma'am.
- 12 Q. Were they paying more attention to you?
13 Were they talking to you more, anything
14 like that?
- 15 A. Yes, ma'am.
- 16 Q. What were they doing?
- 17 A. They were paying attention to me a little
18 bit more, staying in the room with me and
19 not leaving me alone.
- 20 Q. And what about Lisa, were they doing the
21 same thing to her?
- 22 A. Not really. It didn't seem like they were
23 acting any different towards her.
- 24 Q. You indicated that the tattoos were done a
25 day or so afterwards, correct?

- 1 A. Yes, ma'am.
- 2 Q. But everybody stayed in that house. Did
3 Jason stay as well or did he leave?
- 4 A. No. Jason left.
- 5 Q. Does Jason participate in that at all, in
6 the tattooing?
- 7 A. He dropped off some ink that night and
8 that was it.
- 9 Q. All right. What did you do then once you
10 left the house after the couple weeks that
11 you stayed there?
- 12 A. Proceeded to check in, usually every day
13 or every other day.
- 14 Q. And did you go back to school?
- 15 A. Yes, ma'am.
- 16 Q. How long did you stay in school after
17 that?
- 18 A. About maybe a week, if that.
- 19 Q. But you kept in contact? You kept in
20 contact with -- who at that house?
- 21 A. Shane and Lisa and Derek.
- 22 Q. All right. While you were staying in that
23 house, what was the relationship between
24 Shane and Lisa?
- 25 A. They slept together every night.

- 1 Q. And did they continue to have a
2 relationship, be boyfriend and girlfriend,
3 I guess?
- 4 A. They weren't boyfriend and girlfriend, but
5 they acted like it.
- 6 Q. I guess I mean affectionate, anything like
7 that?
- 8 A. Yes, ma'am.
- 9 Q. And Lori Zielinski, did you see her during
10 that period at all?
- 11 A. No. I had only seen her once, once or
12 twice. I can't remember.
- 13 Q. Okay. Were there times, at least while
14 you were staying there, that any of you
15 would have been alone at the house?
- 16 A. Yes.
- 17 Q. I mean, did you ever leave?
- 18 A. Yes, ma'am.
- 19 Q. Did everybody else leave at certain times?
- 20 A. Yeah. Shane and I would go to like the
21 gas station and go hang out together. We
22 went to my mom's house to get money one
23 night.
- 24 Q. Okay. What about Lisa, would she be able
25 to leave?

- 1 A. Yeah.
- 2 Q. What about Derek, would he leave?
- 3 A. Yeah.
- 4 Q. Okay. Mr. Kramer, do you see Lisa Penix
5 in the courtroom today?
- 6 A. Yes, ma'am.
- 7 Q. And could you point out where she's
8 sitting?
- 9 A. There (indicating).
- 10 Q. Second chair?
- 11 A. Yes, ma'am.
- 12 MR. WHITAKER: Let the record
13 reflect he's identified Lisa.
- 14 THE COURT: So noted.
- 15 Q. Mr. Kramer, you were charged with
16 aggravated murder, with kidnaping, with
17 tampering with evidence, and you also had
18 a specification on your aggravated murder
19 charge that would allow for a different
20 sentence, for a possible death penalty
21 sentence, correct?
- 22 A. Yes, ma'am.
- 23 Q. All right. And when you were arrested,
24 you gave a statement to the police. Is
25 that right?

- 1 A. Yes, ma'am.
- 2 Q. And ultimately, you pled guilty. Do you
3 know what you pled guilty to?
- 4 A. Yes, ma'am.
- 5 Q. What was it?
- 6 A. Aggravated murder, kidnaping and gun spec.
- 7 Q. Did you also plead guilty to the
8 specification for the death penalty?
- 9 A. No, ma'am. I don't think so -- I'm not
10 sure.
- 11 Q. Well, in terms of you pled guilty to that,
12 but you didn't receive the death penalty,
13 correct?
- 14 A. I pled guilty to 25 -- 26 years to life,
15 ma'am.
- 16 Q. Right. And you pled knowing that you were
17 going to get a life sentence and you would
18 be eligible for parole in 26 years?
- 19 A. Yes, ma'am.
- 20 Q. And that would be the first time that you
21 were eligible?
- 22 A. Yes, ma'am.
- 23 Q. And you also agreed to testify truthfully
24 against any remaining co-defendants,
25 correct?

1 A. Yes, ma'am.

2 Q. And is that why you're here today, to
3 testify truthfully?

4 A. Yes, ma'am.

5 Q. Steve Spade had been your friend, correct?

6 A. Yes, ma'am.

7 Q. And the five of you -- and I'm referring
8 to Mr. Keenan as well -- were responsible
9 for what happened to Steve. Is that
10 correct?

11 A. Yes, ma'am.

12 Q. And you took responsibility for that?

13 A. Yes, ma'am.

14 MS. DOHERTY: If I could have
15 just a minute, Judge.

16 I don't have anything further,
17 Judge.

18 THE COURT: At this time,
19 Ladies and Gentlemen, we're going to take
20 just a ten-minute break.

21 Please rise for the jury.

22 - - -

23 (Whereupon, a recess was taken.)

24 - - -

25 THE COURT: The jury has

1 asked that you try to speak up.

2 Ladies and Gentlemen, if you don't
3 hear him, let us know. I try to look, but
4 sometimes I don't know that you can't
5 hear.

6 Go ahead.

7 - - -

8 CROSS-EXAMINATION

9 BY MR. WHITAKER:

10 Q. Mr. Kramer --

11 A. Yes, sir.

12 Q. -- I heard you say Lisa lit the fire?

13 A. Yes, sir.

14 Q. You gave a statement to the police on
15 September 2nd, 2005, didn't you?

16 A. Yes, sir.

17 Q. And in that statement, they said to you
18 very specifically, "who lit the fire?"
19 And you said, "I don't remember."

20 A. Yes, sir.

21 Q. And then they said, do you know what it
22 was with, a lighter or match?

23 I don't remember.

24 Isn't that correct?

25 A. Yes, sir.

- 1 Q. And then, just to make a point, you said,
2 to pinpoint detail, I don't -- I smoke
3 pot. I don't remember shit from last
4 week, didn't you?
- 5 A. Yes, sir.
- 6 Q. All right. And now today and in your
7 second statement you say Lisa lit the
8 fire?
- 9 A. Yes, sir.
- 10 Q. All right. Let's talk about what happened
11 between that first statement and your
12 statement here and your statement -- your
13 second statement.
- 14 You gave a second statement to the
15 police after you agreed to waive a jury
16 and you were trying to work out a deal,
17 isn't that correct?
- 18 A. Yes.
- 19 Q. But before you actually came to court and
20 were sentenced?
- 21 A. Yes, sir.
- 22 Q. All right. And in between that time and
23 when you gave your first statement, you
24 learned, number one, that Lisa was the one
25 that went to the police and told what

- 1 happened?
- 2 A. Actually, sir. I knew that the day that I
3 got arrested.
- 4 Q. Okay. You also then traveled to and from
5 the court with Shane, Shutt and Keenan,
6 isn't that correct?
- 7 A. Yes, sir.
- 8 Q. And you were left alone in holding cells
9 with Shane, Shutt and Keenan?
- 10 A. Yes, sir.
- 11 Q. And you talked about the case with Shane,
12 Shutt and Keenan?
- 13 A. Yes, sir.
- 14 Q. And one of the things that was talked
15 about was that Lisa is a snitching bitch,
16 isn't that correct?
- 17 A. No, sir.
- 18 Q. Everybody was happy about that?
- 19 A. No, sir. None of those words never came
20 out of my mouth.
- 21 Q. I didn't say your mouth. I said they came
22 out of other people's mouths when you were
23 in that room. That's how she was referred
24 to, wasn't she?
- 25 A. Actually, sir, the way it was referred to,

1 I felt that everybody had snitched because
2 everybody had given statements, not just
3 Lisa -- this is not anything to get at
4 Lisa.

5 Q. I'm not asking you what you thought. I'm
6 asking you wasn't the term used when you
7 were in those meetings about that
8 snitching bitch?

9 A. Yes, sir.

10 Q. And there was also some discussion about
11 her getting hers too, wasn't there?

12 A. Yes, sir.

13 Q. Couple other things you did not mention in
14 that first statement as well. You never
15 said anything about Lisa coming to you and
16 saying, oh, I was supposed to do it. Will
17 you do it for me, did you?

18 A. No, sir.

19 Q. That's kind of a pretty big detail, don't
20 you think?

21 A. Well, sir, it was actually --

22 Q. My question is when you --

23 THE COURT: You have to let
24 him answer the question.

25 A. I was under the influence when I was being

- 1 questioned, sir.
- 2 Q. You didn't tell them that, did you?
- 3 A. Actually, sir, I did.
- 4 Q. Your first statement was taped, wasn't it?
- 5 A. Yes, sir.
- 6 Q. We're going to give you a chance to take a
7 look at this at the next -- when you leave
8 the room here, your first statement. If
9 you can find it in there, let me know.
- 10 A. Sir, there are things that were said
11 between me and the detectives when the
12 tapes weren't recording.
- 13 Q. So you're acknowledging that it wasn't
14 part of your tape recorded statement?
- 15 A. Yes, sir.
- 16 Q. All right. You also didn't say anything
17 about Lisa giving you a hug at any time
18 for any reason, did you?
- 19 A. No, sir.
- 20 Q. And you didn't say anything about Lisa
21 putting her arms around you and saying,
22 welcome to the family?
- 23 A. No, sir. Those were things that I had
24 remembered over the course of seven months
25 when I haven't had any alcohol or any pot

1 or any meth to mess up my mind. I've been
2 thinking with a clear mind for the last
3 half year.

4 Q. You've been thinking about it and talking
5 about it with your co-defendants in
6 that --

7 A. No, sir. That was a one-time thing.

8 Q. I thought you said it happened several
9 times in your statement. Let's see.

10 MS. DOHERTY: Judge, I would
11 ask him to clarify what he's talking
12 about.

13 THE COURT: It gets very
14 confusing to me, frankly. I don't know
15 about times and sequences like you all do.
16 And I'm sure they don't know about the
17 times and sequences. So if you could
18 refer specifically to whatever times
19 you're talking about, I would appreciate
20 that.

21 Q. All right. On Page 76 on the statement
22 that you gave on December 21st, 2005, you
23 said, on several occasions, Derek, me,
24 Jason and Shane have been in the same room
25 together, been transported together,

1 chained together?

2 A. Well, it was my mistake, sir. I -- I was
3 around Rafferty one time.

4 Q. Well, I want to make sure, though, that --
5 this is right after your name, where it
6 says "Kramer", right?

7 A. Yes.

8 Q. Derek, on several -- on several occasions,
9 Derek, me, Jason and Shane have all been
10 in the same room -- room together and been
11 transported together?

12 A. It was more me, Derek and Jason. There
13 was lots of times where Shane wasn't
14 around. I was around him one time.

15 Q. But the other times you were together and
16 also in the rooms together, alone in
17 holding rooms alone, right?

18 A. Yes.

19 Q. All right. Another thing that you never
20 said is that somebody told you that they
21 didn't kill you because you didn't want to
22 feel -- they didn't want to feel guilty.
23 Is that correct?

24 A. They actually -- the way it was put was
25 Shane didn't want to kill me because he

1 didn't want to have my blood on his hands,
2 is how it was told to me.

3 Q. By Shane?

4 A. Shane and Lisa -- well, Shane was supposed
5 to do it, but then Lisa said she would
6 because Shane didn't want to and I hadn't
7 done anything wrong to him.

8 Q. Let's talk about between your time in the
9 participation of this murder and the time
10 you were arrested. You were bragging to
11 all kinds of people about killing Steven
12 Spade, weren't you?

13 A. Actually, sir, no.

14 Q. Isn't it a fact that you told Josh Fancher
15 that you had killed Steven and had
16 actually been the one that shot him?

17 A. Actually, sir, that's not what I told.

18 Q. Isn't it also a fact that you told him the
19 reason you killed Steven was because of a
20 drug deal?

21 A. Yes, sir, but I didn't tell him I killed
22 him. I told him I had taken part in it.
23 I didn't say I actually did it.

24 Q. And you --

25 THE COURT: Josh Fancher was

1 between February and September?

2 MR. WHITAKER: That's correct.

3 THE COURT: Okay.

4 Q. In fact, you talked to him several times
5 about it, isn't that correct?

6 A. No, sir. I had told him one time, and
7 that was at my house. And what I had told
8 him was that I had taken part in killing
9 Steve because if I didn't, they would have
10 killed me.

11 Q. You also told him that it was over a black
12 book that --

13 A. No, sir. I never said nothing about no
14 black book.

15 Q. And you never told that to Josh Fancher?

16 A. No, sir.

17 Q. And you never said anything -- you also
18 told a Josh Fancher what happened when you
19 cut Steven's head off, didn't you?

20 A. Yes.

21 Q. And you told him -- and you described it
22 for him and said you got kind of a rush
23 out of it, didn't you?

24 A. No, sir.

25 Q. You also told Amy Townsend?

1 A. Actually, I never told Amy anything. And
2 if you read her statement it's -- no
3 consistency in it whatsoever.

4 Q. But you are aware that Amy does say that
5 you did tell her that you killed Steven
6 Spade?

7 A. Yes, I'm aware of that, that she says
8 that.

9 Q. And you did have a conversation with her
10 about killing Steven Spade, didn't you?

11 A. No, sir.

12 Q. Never one time?

13 A. No, sir.

14 Q. Did you -- and you never told her you did
15 it because you were jealous because Steven
16 was flirting with her --

17 A. She never -- she never --

18 THE COURT: You've got to let
19 him finish the question. Go ahead.

20 Q. And didn't you tell her that one of the
21 reasons you did it is because you were
22 jealous of Steve for flirting with her?

23 A. Steve never met her, sir. I didn't meet
24 her until March, April, after all this had
25 taken place.

- 1 Q. I'm just asking did you tell her that?
- 2 A. No, sir.
- 3 Q. As a matter of fact, when you were
- 4 upstairs after participating in this
- 5 murder, you were laughing and joking and
- 6 talking about it and drinking beer,
- 7 weren't you?
- 8 A. I was drinking beer, yes.
- 9 Q. And you were laughing and joking?
- 10 A. I was -- I was talking about it. I wasn't
- 11 laughing and joking around about it.
- 12 Q. So if Jason Keenan, if he came in and said
- 13 that, that would be incorrect?
- 14 A. Yes, sir.
- 15 Q. And, in fact, you punched Steven many more
- 16 times than once, didn't you?
- 17 A. Yes.
- 18 Q. And you did it in the back in the office?
- 19 A. No. No, sir.
- 20 Q. And then you started punching him when he
- 21 got into the bathroom as well?
- 22 A. That was when I had started.
- 23 Q. And it was just you and Shane. Am I
- 24 correct?
- 25 A. Yes, sir.

- 1 Q. All right. And Lisa was not in there, was
2 she?
- 3 A. No, sir.
- 4 Q. In fact, the next time you looked at Lisa,
5 she was crying, wasn't she?
- 6 A. Yes, sir, but that was after Shane had
7 picked up the head and was making jokes
8 about it.
- 9 Q. She was also crying when you were down
10 there and were punching him -- did you see
11 her crying when you were down there --
- 12 A. No, sir.
- 13 Q. Okay.
- 14 A. There was a door that closes off the
15 bathroom where the toilet is. If you open
16 it up, you can't see down the hallway.
- 17 Q. So you couldn't see what she was doing?
- 18 A. No. And they couldn't see what we were
19 doing.
- 20 Q. So she could have been crying, but you
21 wouldn't have seen it?
- 22 A. I wouldn't have seen it.
- 23 Q. If I understood your testimony, you're
24 saying that they didn't even expect you to
25 come there that night. Is that correct?

- 1 A. No, sir.
- 2 Q. And yet, you're telling us they have this
3 big plan to kill you. Is that correct?
- 4 A. Yes, sir, after they had learned, because
5 Steve told somebody on the phone that I
6 was coming with him.
- 7 Q. You went over -- they were surprised to
8 see you when you went over there, is what
9 you said in your statement, isn't that
10 correct, that when you went over to Voris
11 Street, that Shane and Derek were
12 surprised to see you?
- 13 A. No.
- 14 Q. That they didn't know you were coming?
- 15 A. No. They knew that I was Steve's ride.
- 16 Q. You said that you never saw -- in your
17 first statement, in your statement, you
18 said you never saw the gun until that
19 night, isn't that correct, you never saw
20 any -- in -- you never saw any gun, don't
21 know where the gun came from, and you
22 never seen the gun before ever, isn't that
23 correct?
- 24 A. No, sir. I said I didn't know where the
25 gun had come from.

1 Q. And it's your testimony that you didn't
2 say --

3 THE COURT: Page?

4 Q. That you hadn't seen --

5 MR. WHITAKER: I don't have the
6 page. And, Your Honor, I'm not going to
7 take a lot of time at it.

8 Q. You also said that night that Shane put a
9 gun to your head?

10 A. Yes, sir.

11 Q. And what did he put a gun to your head
12 for?

13 A. To make me cooperate, sir.

14 Q. You know, there was this thing about the
15 cell phone. You were asked
16 specifically -- I heard it on your direct
17 testimony. You said you heard a cell
18 phone ring. You were asked specifically
19 in your second statement, did you hear a
20 cell phone ring? And you said, no, I did
21 not. Isn't that correct?

22 A. Yes, sir. But, like I said, I've had time
23 to think about it.

24 Q. But this was your second statement, you
25 said that?

1 A. Yes, of course. I've still had time to
2 think about it.

3 Q. And that was in -- let's see. That would
4 have been December 21st, long after you
5 were in jail, long after you were off any
6 drugs?

7 A. Yes, sir.

8 Q. Isn't that correct?

9 A. Yes, sir.

10 Q. Now, one of the things that you said was
11 that, in fact, the thing you were most
12 upset -- and the way you phrased it --
13 when you went upstairs with Lisa is you
14 said, I didn't get no fucking pussy.
15 Isn't that what you said to the detectives
16 in the first statement?

17 A. Yes. But it was more of a joking thing
18 than upset, because now I'm glad I didn't.

19 Q. Let's listen to what you said.

20 MS. DOHERTY: Your Honor, I
21 object. He agreed that he said it.

22 THE COURT: Well, I'm still
23 confused about what the timing was. This
24 was the statement made in December, and
25 this occurs when they go upstairs after

1 the incident or before the incident?

2 THE WITNESS: Before the
3 incident.

4 THE COURT: Before the
5 incident. Okay.

6 MS. DOHERTY: Your Honor, he
7 indicated that he said it.

8 THE COURT: He's admitted
9 that he said it.

10 BY MR. WHITAKER:

11 Q. Who was it that you told that Steve was
12 killed because of drug involvement?

13 A. Just people in the case.

14 Q. Didn't you tell Josh or Amy or one of them
15 as well?

16 A. No, sir.

17 Q. Okay. What did you tell Josh the reason
18 was?

19 A. That -- I didn't tell him the reason. I
20 don't remember.

21 Q. Lisa was not in the car the night before
22 when that gun was pulled by Shane, was
23 she?

24 A. No, sir.

25 Q. Derek had the gun in his pocket, didn't

1 he?

2 A. Yes, sir.

3 Q. And when Shane wanted the gun, he called
4 Derek to come into the room?

5 THE COURT: Now we're talking
6 about February 4th?

7 MR. WHITAKER: Yes.

8 A. Derek was already in the room, sir.

9 Q. Already in the bathroom?

10 A. Yes, sir.

11 Q. Was he participating in the beating?

12 A. No, sir.

13 Q. But he was in there close watching it?

14 A. Yes, sir.

15 Q. Lisa was not in the room though, was she?

16 A. No, sir.

17 Q. You felt that Derek and Jason were
18 guarding the doorway so that you couldn't
19 get out. Is that correct?

20 A. Yes, sir.

21 Q. One of the other things that you said was
22 that you -- that Shane was constantly
23 reinforcing the fact that he'd kill
24 anybody that went to the police, right?

25 A. Yes.

1 Q. And he was reinforcing that when he made
2 up the story about what he was telling
3 everybody to say, isn't that correct?

4 A. Yes, sir.

5 Q. And no question he's the one that made up
6 that story?

7 A. Yes, sir.

8 Q. And he told that to everybody, if anybody
9 does -- says anything differently, he's
10 going to kill them and maybe their family
11 too?

12 A. It was phrased more towards me and Keenan,
13 sir.

14 Q. He was saying that to everybody -- he was
15 saying that out loud in that room that
16 day, isn't that correct?

17 A. Yes.

18 THE COURT: What day? What
19 day?

20 Q. The day after -- what day was it that he
21 made up the story?

22 A. The day after, February 5th.

23 Q. All right. And he also said two things,
24 he said, number one, if anybody tells
25 anything other than the story, he will --

1 quicker if we played it.

2 THE COURT: There's a
3 transcript of the tape that has been
4 delivered to counsel?

5 MS. DOHERTY: Yes, absolutely.

6 MR. WHITAKER: Yes, there is.

7 Page 66.

8 THE COURT: Do you want to
9 show it to him?

10 MR. WHITAKER: I will.

11 BY MR. WHITAKER:

12 Q. You say, yeah, I mean, no. Lisa wasn't in
13 no way a victim in this. I mean, she
14 definitely had a part in setting him up
15 and starting this whole thing.

16 And then Miss Doherty says --

17 MS. DOHERTY: Your Honor. I
18 object to what I say in the --

19 THE COURT: Is it a question
20 that is needed to be answered?

21 MS. DOHERTY: No. Judge, can
22 we approach?

23 - - -

24 (Whereupon, a side-bar discussion
25 was had between Court and Counsel off the

1 record.)

2

- - -

3

THE COURT: Just read through

4

it.

5

Q. In no way a victim of this. I mean, she

6

definitely --

7

MS. DOHERTY: Could you start

8

at the beginning, please. That is not the

9

beginning of what he said. I guess where

10

it says "Kramer".

11

Q. Right. Yes. Yes. I mean, no. Lisa

12

wasn't in no way a victim.

13

Is that right?

14

A. Yes.

15

Q. In this. I mean, she definitely had a

16

part in setting Steve up and starting this

17

whole thing?

18

A. Yes.

19

Q. And then you go on and say, okay, her plan

20

basically is -- Miss Doherty says okay,

21

you know, her claim basically is -- and

22

you say bullshit, and Miss Doherty says, I

23

think it's bullshit too, but basically,

24

you know, she's saying that she's the

25

victim witness to all this and just afraid

1 for her life. And you say, that's not the
2 case. And you go, that's not the case.

3 Right?

4 A. Yes, sir.

5 Q. And then you say -- she says, okay.

6 Then Mr. LoPrinzi says, do you
7 recall her crying at any time during this?

8 And what you said is no.

9 A. Yes.

10 Q. But you do recall her crying in this,
11 don't you?

12 A. Split second, couple seconds, sir, like
13 fleeting emotion, I guess.

14 Q. What?

15 A. Fleeting emotion.

16 Q. So the answer is yes, you did see her
17 crying?

18 A. Yes.

19 Q. So when you told him I never saw her
20 crying, this is all bullshit and I never
21 saw her crying, that wasn't correct, was
22 it?

23 A. No, sir.

24 MS. DOHERTY: Judge, can we
25 just ask him to read the next question?

1 THE COURT: That's called
2 redirect. It always works out that way.
3 You come back and read the other part.

4 Q. Getting back to that part about the gun --

5 THE COURT: What page?

6 MR. WHITAKER: Page 25 of the
7 September 2nd statement.

8 Q. See where it says "Kramer"?

9 A. Yes.

10 Q. I don't know. I don't know where that gun
11 came from. I had never seen it before.

12 A. Okay.

13 Q. You did say that, didn't you?

14 A. Yes. I wasn't sure if it was the same gun
15 used the night before.

16 MR. WHITAKER: Nothing further
17 at this time, Your Honor.

18 THE COURT: Thank you.

19 Redirect?

20 - - -

21 REDIRECT EXAMINATION

22 BY MS. DOHERTY:

23 Q. Mr. Kramer, Attorney Whitaker just asked
24 you about a question that was asked of
25 you, do you recall her crying at all

1 during any of this, and you said no.

2 A. Yeah.

3 Q. Then I asked, well, what about afterwards,
4 anything?

5 And what do you say?

6 A. I think we all shed a tear. I did; Lisa
7 did. But it wasn't like, oh, my God, what
8 happened, whatever.

9 Q. Okay. So you acknowledged that Lisa had
10 cried, and you think everybody probably
11 cried at some point?

12 A. Yes.

13 Q. And you recall seeing that?

14 A. Yes.

15 Q. You indicated the first time you speak to
16 the police in September -- had you just
17 been arrested?

18 A. Yes, ma'am.

19 Q. And had you talked to an attorney, talked
20 to anybody prior to talking to the police?

21 A. No, ma'am.

22 Q. Okay. And at that time, I think you
23 indicated that you were under the
24 influence of something, correct?

25 A. Yes, ma'am.

- 1 Q. And what were you under the influence of?
2 Do you remember?
- 3 A. Meth, pot and alcohol.
- 4 Q. And from the time that this happened up
5 until you spoke to the police, what was
6 your alcohol abuse, your meth abuse, your
7 marijuana abuse until that time?
- 8 A. Zero.
- 9 Q. No. No. I mean up until the time that
10 you were interviewed by the police?
- 11 A. Oh, the first time?
- 12 Q. Uh-huh.
- 13 A. Every day.
- 14 Q. Every day?
- 15 A. Yes, ma'am.
- 16 Q. So when they arrested you and start asking
17 you questions, you're still actually under
18 the influence?
- 19 A. Yes, ma'am.
- 20 Q. From the time you were arrested, did you
21 remain in the Summit County Jail until you
22 gave a statement in December?
- 23 A. Yes, ma'am.
- 24 Q. And did you do any drugs during that time?
- 25 A. No, ma'am.

- 1 Q. Did you drink any alcohol?
- 2 A. No, ma'am.
- 3 Q. All right. So when you're interviewed
4 then on December 21st, you're not under
5 the influence of anything?
- 6 A. No, ma'am.
- 7 Q. All right. And on the 21st, you were
8 asked specific questions about what sort
9 of people did as a part of this, correct?
- 10 A. Yes, ma'am.
- 11 Q. Attorney Whitaker asked you about you
12 being transported or being in a room with
13 other co-defendants?
- 14 A. Yes, ma'am.
- 15 Q. And you came in here today and talked
16 about what each one of those people did
17 and how they participated, correct?
- 18 A. Yes, ma'am.
- 19 Q. You're not trying to protect them?
- 20 A. No, ma'am.
- 21 Q. And you had agreed at the time that you
22 pled guilty to a life sentence that you
23 would testify against any of the
24 co-defendants that you -- you were going
25 to testify against any of the

1 co-defendants as to what you saw, what you
2 observed, what you knew?

3 A. Yes, ma'am.

4 Q. And you've done that?

5 A. Yes, ma'am.

6 Q. And, Mr. Kramer, that first time you spoke
7 to the police in September when you were
8 arrested --

9 A. Yes, ma'am.

10 Q. -- did you tell the police about your part
11 in this?

12 A. Yes, ma'am.

13 Q. So you may not have included everybody
14 else's part, but you included your part?

15 A. That was the main part, ma'am.

16 Q. And you indicated that you participated in
17 this, that you assisted in cutting off
18 Steven Spade's head?

19 A. Yes, ma'am.

20 Q. And that was just after you were arrested?

21 A. Yes, ma'am.

22 Q. Prior to having talked to anybody about
23 pleading guilty to aggravated murder?

24 A. Yes, ma'am.

25 MS. DOHERTY: I don't have

1 anything further, Judge.

2

- - -

3

REXCROSS-EXAMINATION

4

BY MR. WHITAKER:

5

Q. In this first statement that you were
6 supposedly so far under the influence that
7 you couldn't remember things, you gave a
8 46-page statement in fairly great detail,
9 didn't you?

10

A. Yes.

11

Q. And you talk about what Steven -- what
12 Shane did, about what Shane said, about
13 punching Steven in the bathroom -- in the
14 office and then dragging him to the
15 bathroom, right?

16

A. Yes.

17

Q. And what happened when you got into the
18 bathroom?

19

A. Yes.

20

Q. But all the time, you're saying that Shane
21 just forced you to. You didn't want to do
22 anything yourself, right?

23

A. Yes.

24

Q. And you're saying that, in fact, you were
25 trying to help Steven get away. You were

1 hoping you could help him get away, isn't
2 that correct?

3 A. Yes.

4 Q. That's sort of not taking -- well, forget
5 about that. But you didn't -- you weren't
6 that concerned right away. When you first
7 got there, you said, I'm not going to
8 talk. I don't want to talk about it and
9 I'm not going to talk --

10 MS. DOHERTY: Your Honor, I
11 object.

12 THE COURT: Well, he talked
13 for 46 pages. You just pointed that out,
14 Mr. Whitaker. So I'm not sure where
15 you're going.

16 Q. Well, at first you said, and I'll -- I
17 would rather speak to an attorney first.
18 I would like to know what this is all
19 about, first off, since nobody else will
20 tell me a fucking thing.

21 That's what you said to the police
22 officers, isn't it?

23 A. Yes, sir.

24 Q. And it wasn't until they played a tape of
25 Rafferty saying you're the one that did it

1 that you started talking about it, isn't
2 that correct?

3 A. Yes.

4 Q. You didn't think it was Rafferty at first
5 though, did you?

6 A. No, sir.

7 Q. Who did you think it was?

8 A. Josh.

9 Q. Who?

10 A. Josh Fancher.

11 Q. And that's only when you started talking
12 about it, and then you went on -- I'll let
13 you see just so you know -- 46 pages in
14 great detail?

15 A. I've seen the pages.

16 MR. WHITAKER: All right.

17 Nothing further.

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

20 THE COURT: Thank you very
21 much, Mr. Kramer. You can go back.

22 They're in the process of bringing Mr.

23 Shutt to us.

24 *****END OF EXCERPT*****

25