

1 THE COURT: Ms. Smith, if you would please come
 2 around to the back of the court reporter and watch your
 3 step as you come into the witness box. Once there would
 4 you please put your left hand on the Bible, raise your
 5 right, look at the jury and listen to the clerk.

6 MS. SMITH: Okay.

7 THE CLERK: You do swear that the evidence you
 8 shall give to the Court and this jury in this case now
 9 being tried shall be the truth, the whole truth, and
 10 nothing but the truth, so help you, God?

11 MS. SMITH: I do.

12 THE COURT: You may have a seat there, ma'am.

13 *(Above request complied with.)*

14 THE COURT: Ms. Allen?

15 MS. ALLEN: Thank you, Your Honor.

16 *****
 17 *****

18 **MS. VANESSA SMITH**, having been first duly sworn by the
 19 Clerk, testified on **DIRECT EXAMINATION** by **MS. ALLEN**:

20 Q. (BY MS. ALLEN) Ma'am, would you state your full name for
 21 the Court, please.

22 A. Vanessa Warner Smith.

23 Q. Al right. And how old are you, Ms. Smith?

24 A. Thirty-one (31).

25 Q. Do you have any kind of criminal record, Ms. Smith, for

1 any convictions in the last ten years that are Class 2
2 misdemeanor or greater?

3 A. Yes, I do.

4 Q. Could you tell us what that record is.

5 A. I have forgery and uttering, and I have breaking,
6 entering, and larceny.

7 Q. And did you also get a misdemeanor larceny charge in
8 1999?

9 A. Yes, ma'am.

10 Q. Did you also have a worthless check charge in 1997?

11 A. Yes, I believe so. I thought it had been paid off.

12 Q. Okay. Now, you -- You gave a couple of statements in
13 this case regarding what you knew about the case to
14 Lieutenant Chris Poole, is that correct?

15 A. Yes.

16 Q. Do you recall approximately when you gave those
17 statements?

18 A. I believe it was around August the 10th, August the 9th of
19 1999.

20 Q. Okay. And you were also charged in this case, is that
21 right?

22 A. Yes.

23 Q. And you were charged with murder as well?

24 A. Yes.

25 Q. And you were also charged with the felony of harboring a

1 fugitive as well?

2 A. Yes.

3 Q. Now, you were also charged with felony larceny in the
4 case?

5 A. Yes.

6 Q. And that was handled already?

7 A. Yes.

8 Q. That was reduced to a misdemeanor in District Court?

9 A. Yes, it was.

10 Q. Okay. When that felony larceny was downgraded to a
11 misdemeanor, did you have an attorney representing you?

12 A. Yes. Butch Jenkins.

13 Q. Were any promises made to you regarding your testimony in
14 this case at that time?

15 A. No.

16 Q. And regarding the murder charge and the charge of
17 harboring a fugitive that are currently pending against
18 you, do you have an agreement with the State of North
19 Carolina dealing with those charges and your testimony in
20 this case?

21 A. Yes.

22 Q. And do you recall what the substance of that agreement
23 is?

24 A. That the murder charge would be dropped, and that I would
25 plead guilty to harboring a fugitive and felony larceny

1 and three counts of obtaining false pretenses, or I'm not
2 sure how that's worded.

3 Q. Okay. And when approximately was the agreement entered
4 into?

5 A. Approximately two weeks ago.

6 Q. All right. Now, prior to that time, had you entered into
7 an agreement with the State?

8 A. No.

9 Q. Had you entered into an agreement or been given any
10 concessions at the time that you made your statement?

11 A. No.

12 Q. Okay. Did Officer Poole make any promises to you or any
13 concessions to you at the time that you made your
14 statement, that you recall?

15 A. No.

16 Q. Okay. Now, you were put in jail at the time you were
17 picked up for the offenses that you're charged with, is
18 that right?

19 A. Yes.

20 Q. Now, do you recall approximately how long you spent in
21 jail?

22 A. Approximately twenty-three (23) months, twenty-three and
23 a half months.

24 Q. Okay. And do you recall approximately when you were
25 released?

1 A. I believe it was July 17th of 2001.

2 Q. And when you were released were you on any kind of
3 monitoring?

4 A. Yes. I was on electronic house arrest.

5 Q. And what did that involve?

6 A. You wear an ankle bracelet and you're not allowed to go
7 within a certain amount or number of feet from your
8 residence, and if you do, then you go back to jail.

9 Q. Were there any other conditions placed on you at that
10 time?

11 A. Yes. I had to take drug tests and go to meetings that
12 were similar to Narcotics Anonymous meetings.

13 Q. Okay. And do you remember how long your period on
14 electronic house arrest lasted?

15 A. A little over a year.

16 Q. And were you able to comply with the conditions that were
17 set out?

18 A. Yes.

19 Q. And was there a component of your agreement regarding
20 truthful testimony in this case?

21 A. Yes.

22 Q. And do you recall what that was?

23 A. That I'm supposed truthfully and fully to the best of my
24 knowledge, and if I don't, if I you know, refuse to
25 testify or if I don't testify truthfully, then my deal is

1 null and void.

2 Q. Okay. And could you tell us, what is your condition now
3 with drugs?

4 A. I've been drug free for four years.

5 Q. Okay. Do you know the defendant, Scott Allen?

6 A. Yes.

7 Q. And do you recall when you first met him?

8 A. It was -- I believe I was about eighteen, and it was at a
9 mill that we both worked in in Norwood.

10 Q. Was that approximately 1991?

11 A. Yes.

12 Q. Okay. And did you have a relationship with him at that
13 time?

14 A. No. I just -- I don't think he worked there but maybe
15 two days. I just met through another friend.

16 Q. Okay. Were you friends with him at that time?

17 A. No.

18 Q. And do you recall approximately when you had, next had
19 contact with him?

20 A. I guess maybe a year or two later. A friend of mine took
21 me to a tattoo shop in Albemarle, and I met him there.

22 Q. Okay. So he was there?

23 A. Yes.

24 Q. And did there come a point in time when you would
25 describe your relationship as boyfriend and girlfriend?

1 A. Yes. At that time, let's see, in 1998 I would describe
2 it as that.

3 Q. Okay. And do you recall visiting him he worked at Capel
4 Mills on work release?

5 A. Yes.

6 Q. All right. And why did you go to see him?

7 A. To -- Just to see him because I wanted to see him, I
8 loved him, I would take him food and money and other
9 things.

10 Q. Okay. And did your relationship change at that point, or
11 tell me what your relationship was at that point?

12 A. It changed at that point. We started having sex in my
13 car at the parking lot of his work release.

14 Q. Okay. And do you recall how often you visited him while
15 he was on work release?

16 A. Two or three times a week.

17 Q. Okay. And was there a time during that period when you
18 stopped visiting him?

19 A. Yes.

20 Q. Do you know why?

21 A. Because I was using drugs so bad that I couldn't even
22 leave my house.

23 Q. Okay. At that time?

24 A. Yes.

25 Q. And what was the next occasion that you saw him, and how

1 did that come about?

2 A. He contacted me through a friend of mine, and she told me
3 that he said it would --

4 MR. OLDHAM: Objection.

5 THE COURT: Could you ask the question again,
6 please?

7 MS. ALLEN: When the next time was that she saw
8 him after she stopped seeing him for a period of time and
9 how did it come about.

10 THE COURT: Ma'am, you can answer that
11 question. When was the next time?

12 A. I don't know how many weeks it was after that, but a
13 friend of mine contacted me and said for me to go with
14 her and go see him.

15 MR. OLDHAM: Objection, Your Honor.

16 THE COURT: Ma'am, don't tell us what other
17 people said.

18 A. Okay. Yes, sir.

19 THE COURT: So that's sustained.

20 Q. (BY MS. ALLEN) When --

21 A. Approximately, maybe three weeks or a month later.

22 Q. Okay.

23 A. At the work release.

24 Q. Okay. And after that, what happened?

25 A. I continued using drugs, and the next thing I knew, he

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1515

1 was out.

2 Q. And what do you mean when you say he was out?

3 A. I rode with a friend of mine to meet him at Wal-Mart
4 parking lot.

5 Q. Okay. And where was he supposed to be?

6 A. He was supposed to be in prison.

7 Q. Okay. And you met him there at the Wal-Mart parking lot
8 in Biscoe?

9 A. No, in Albemarle.

10 Q. In Albemarle. Thank you. What friend was it that you
11 rode with to meet him?

12 A. Jennifer Hill.

13 Q. All right. Now when you got together with Scott Allen at
14 the parking lot at the Wal-Mart in Albemarle, where did
15 you all go from there?

16 A. To a hotel around Lake Norman, I believe it was.

17 Q. And how long, do you recall how long you stayed there?

18 A. Overnight.

19 Q. Okay. And where, do you recall where you all went from
20 there or what kind of things you were doing?

21 A. Just different hotels.

22 Q. Okay. Now why were you going to different hotels?

23 A. Because he was being looked for, and we wanted to keep
24 moving.

25 Q. Trying to keep a low profile?

1 A. Yes.

2 Q. All right. Were you working at that time?

3 A. No.

4 Q. And who was paying for all those hotel activities?

5 A. I was.

6 Q. And how did you have money to pay for that?

7 A. I had a large settlement from the insurance company from
8 when my father was killed.

9 Q. Okay. And do you recall approximately how much money
10 that was for?

11 A. It was -- My share was close to two hundred thousand.

12 Q. Okay. Did you get that all at one time?

13 A. Yes, but it was in stocks mostly.

14 Q. Okay. Now, you indicated you traveled around to several
15 hotels. Were those all in North Carolina?

16 A. Yes.

17 Q. All right. And did anyone else come and see you all when
18 you were at the hotels in North Carolina?

— 19 A. Yes. Jennifer Hill did, and Scott Allen's parents did.

20 Q. Okay. And did you at some point leave North Carolina?

21 A. Yes.

22 Q. All right. And who was with you?

23 A. Scott Allen and I.

24 Q. All right. And where did you all go?

25 A. To Chicago, Illinois.

1 Q. Okay. Why Chicago?

2 A. I had a check from where I had sold a big amount of
3 stocks, and it was drawn on a bank from Chicago. And
4 rather than try to wait around North Carolina and get it
5 cashed I figured I would just take it straight to that
6 bank in Chicago.

7 Q. Okay. So you thought it would be easier to do that and
8 also to get out of the State, is that correct?

9 A. Yes.

10 Q. And Scott traveled with you. And did he have any money?

11 A. No.

12 Q. Okay. Was he able to get any money?

13 A. No.

14 Q. Okay. And how long were you in Chicago?

15 A. Around two months maybe.

16 Q. Okay. Did there come a point in time when you left
17 Chicago?

18 A. Yes.

19 Q. And why was that?

20 A. Because I had a friend of a friend that lived in
21 Washington State that promised to get him an ID.

22 Q. Okay. So you traveled to Washington State, is that
23 right?

24 A. Yes.

25 Q. And how did you get to Washington State?

1 A. By an Amtrak train.

2 Q. Why did you take a train?

3 A. Because you needed ID to get on an airplane, and he
4 either -- I don't know if he didn't have an ID or if he
5 was afraid to show his ID.

6 Q. Okay. He just wanted to avoid that risk?

7 A. Yes.

8 Q. Okay. And where in Washington State did you go?

9 A. To Spokane.

10 Q. And who lives there?

11 A. A friend of a friend named Byron Johnson.

12 Q. All right. So Byron Johnson is an actual person that you
13 know?

14 A. Yes.

15 Q. Okay. And do you recall how you know him or when you met
16 him?

17 A. Through my friend Jeffrey Brantley, I met him at a party
18 several years before that.

19 Q. And you remembered where he lived, is that correct?

20 A. No. Jeff Brantley told me where he lived and gave me the
21 phone number and told me how to get there.

22 Q. Okay. Now, when you got to Byron's, what did you say to
23 Byron about Scott?

24 A. I told him that he was on the run and he needed an ID.
25 And Byron really didn't ask too many questions.

1 Q. Okay. And did you -- How did that come about? What
2 happened then?

3 A. He gave Scott his, I believe birth certificate and some
4 other kind of document, and I gave Byron \$500.00, and
5 Scott went to the Washington D.M.V. or whatever it is,
6 the driver's license, and he got him a driver's license.

7 Q. Okay. And whose picture was on the license?

8 A. Scott's.

9 Q. And whose information was on the license?

10 A. Byron Johnson's.

11 Q. Okay. And did you see the license?

12 A. Yes.

13 Q. Okay. And what did Scott do with the license after that?

14 A. He used it to drive and to -- When we'd rent hotels he
15 would -- could get them in his name, and just things that
16 you need an ID for.

17 Q. Okay. Do you recall how long the two of you stayed in
18 Washington State?

19 A. Around maybe a month and a half, two months, something.

20 Q. Okay. What were you doing during that month and a half,
21 two month period?

22 A. Just spending money and hanging out, and I had run out of
23 money just about, so we were waiting a check to come from
24 where I had sold some more stocks. We were waiting on it
25 to come out there so we could leave.

- 1 Q. Okay. And did you get some money that way?
- 2 A. Yes.
- 3 Q. Do you recall approximately how much at that time?
- 4 A. It was about twenty-four thousand.
- 5 Q. Okay. And what did you do once you got that money?
- 6 A. We left Washington, and we drove, I had bought a Jeep
7 with the other money, and we drove down to San Diego,
8 California.
- 9 Q. Any particular reason you went to San Diego?
- 10 A. Just always wanted to go to California.
- 11 Q. It was there?
- 12 A. Yeah.
- 13 Q. Okay. And once you got to San Diego, what happened?
- 14 A. We rented an apartment.
- 15 Q. Okay. Now, whose name was that apartment in?
- 16 A. Byron Johnson.
- 17 Q. Okay. And how did you pay for that apartment?
- 18 A. Cash. We paid the first six months in advance.
- 19 Q. Okay. So you paid six months rent in advance in cash, is
20 that correct?
- 21 A. Yeah.
- 22 Q. Now how long were the two of you in San Diego?
- 23 A. Not very long.
- 24 Q. Tell us what happened.
- 25 Q. I got on drugs again, and --

- 1 Q. Now when you say drugs, Ms. Smith, what kind of drugs are
2 we talking about?
- 3 A. Well, in San Diego it was methamphetamines.
- 4 Q. Okay. And you remember that?
- 5 A. Yes.
- 6 Q. All right. And you indicated you got on drugs real bad
7 again, is that right?
- 8 A. Yes.
- 9 Q. All right. So what happened?
- 10 A. I went and got on drugs and stayed gone for like three
11 days, and when I came back Scott was gone.
- 12 Q. Okay. And what was the condition of the apartment once
13 he was gone?
- 14 A. There was hardly anything left in it. All, you know, the
15 electronic equipment, I think except for maybe one t.v.
16 was gone, just everything, you know, things that I had
17 bought for both of us to use, everything was gone.
- 18 Q. And y'all just -- had the apartment been furnished and
19 everything was in place, you were living there like a
20 regular home?
- 21 A. No. We had bought furniture, and all the furniture was
22 still there.
- 23 Q. Okay. But it was personal items that were gone?
- 24 A. Yes.
- 25 Q. Okay. And what did you think had happened?

1 A. I thought he had took off or he had gotten caught or that
2 something you know, bad had happened.

3 Q. Okay. And did you find out what had happened?

4 A. Yes.

5 Q. How did you find out?

6 A. I called his mom, and I guess, I don't know if she got
7 the message to him that I had called or what, but a few
8 days later he called me.

9 Q. At the apartment?

10 A. Yes.

11 Q. Okay. And do you know where he was at that point?

12 A. He said he was in North Carolina.

13 Q. Okay. And what did you do at that point?

14 A. Packed up what little bit of clothes and stuff I had and
15 got on a plane and come back to North Carolina.

16 Q. Okay. And when y'all were in North Carolina, were you in
17 Montgomery County?

18 A. No. I believe, we would come -- No, no, not Montgomery
19 County. I was thinking about Guilford County. No. We
20 would --

21 Q. Where were you at that point?

22 A. Let me think. Okay. When I first came back, we were in
23 Greensboro. And then we came back to his, I believe we
24 stayed with his wife a few days, and then we did --

25 Q. Who was his wife?

1 A. Joyce Allen.

2 Q. Was he still married to her at that time?

3 A. I believe so, yes.

4 Q. Okay. And do you recall how long you stayed at Ms.
5 Allen's house?

6 A. Just a couple days maybe.

7 Q. Okay.

8 A. And I don't know exactly recall every little place we
9 went because it's been so long. But I know eventually we
10 ended up staying in the woods in Montgomery County, or
11 right at the Randolph/Montgomery County area, the
12 Uwharries.

13 Q. All right. And were you staying in a residence or just
14 in the woods?

15 A. In the woods, and there was a cabin out there that we
16 would break into and stay in.

17 Q. Okay. Now, what was this cabin close to?

18 A. It was close to Scott's parents' house.

19 Q. Okay.

20 MS. ALLEN: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, ma'am.

23 Q. (BY MS. ALLEN) Thank you. Ms. Smith, I am going to hand
24 you what I have marked as **STATE'S EXHIBIT FORTY-TWO (42)**,
25 **STATE'S EXHIBIT FORTY-THREE (43)**, **STATE'S EXHIBIT FORTY-**

1 **FOUR (44)**. Can you identify what that is in those three
2 photographs?

3 A. Yes. That's the cabin that we stayed at in the woods.

4 Q. Okay. And is that the cabin that is close to Mr. Allen's
5 parents' house?

6 A. Yes.

7 Q. Okay. And could you hold up the first exhibit. I
8 believe that's Number Forty-Two, and take a look at that.
9 What does that photograph show? What part of the house?

10 A. I believe that's the front.

11 Q. Is that a fair and accurate representation of the house
12 that you stayed in at some point with Scott Allen?

13 A. Yes.

14 Q. Okay. And if you would take a look at the photograph
15 that is Number Forty-Three. Is that a fair and accurate
16 representation of another view of that same cabin?

17 A. Yes.

18 Q. All right. If you would take a look at photograph Number
19 Forty-Four. Is that a fair and accurate representation
20 of the interior of that cabin?

21 A. Yes.

22 Q. Okay.

23 MS. ALLEN: And Your Honor, at this time the
24 State would move to have State's Exhibits Forty-Two,
25 Forty-Three, and Forty-Four admitted into evidence.

1 THE COURT: As illustrative exhibits they are
2 admitted.

3 MS. ALLEN: Thank you. If we could have those
4 published to the jury at this time.

5 THE COURT: You can either do it one at a time
6 to them or you can put them on ELMO, it doesn't matter.

7 MS. ALLEN: We would just pass them. It may be
8 easier.

9 *(State's Exhibits Forty-Two, Forty-Three, and Forty-*
10 *Four are published to the jury by Bailiff Heath.)*

11 MR. ATKINSON: I would ask that they be
12 instructed about not discussing these among themselves,
13 Your Honor.

14 THE COURT: If you would, take your time, and
15 while these are being published to you, this is when I
16 refer you back to my instructions. Look at it
17 individually, and then when you're finished looking at it
18 pass it to your colleague to the left without comment.

19 MR. ATKINSON: Thank you, Your Honor.

20 Q. (BY MS. ALLEN) Now, how did you know about that cabin?

21 A. Scott showed it to me.

22 Q. Okay. And -- How often would you all would stay there?

23 A. I mean pretty often. I don't know the exact number of
24 days, but just about every time we would come back to
25 North Carolina and wear out our welcome, you know, at the

1 other places, we would go and stay there.

2 Q. Okay. Now, did you also have contact with his parents
3 during this time?

4 A. Yes.

5 Q. Okay. And that time that you all came back to North
6 Carolina, how long were you in North Carolina, do you
7 recall?

8 A. It was until, I would say around November.

9 Q. And then what happened?

10 A. Then it was getting cold and everything, and so he
11 decided to go back to San Diego.

12 Q. And what did you do?

13 A. I stayed with friends in Charlotte.

14 Q. Was that November of 1998?

15 A. Yes.

16 Q. Okay. And you said he went to San Diego, and I didn't
17 hear what you said you did.

18 A. I stayed with friends in Charlotte.

19 Q. All right. And what happened after that?

20 A. Well, after that, I needed some money, and I didn't have
21 any. So -- And I would talk to him on the phone, and I
22 owned a house in Albemarle, and he said that his mom
23 could -- had a realtor's license and could either sell my
24 house for me or buy it from me. So we got that set up
25 and we did that, and she was to give me half of the money

1 then and half when she fixed up the house and sold the
2 house.

3 Q. And did that take place?

4 A. Yes. She gave me half the money, and he came back to
5 North Carolina.

6 Q. After you got that money?

7 A. Yes.

8 Q. How much money did you get at that point?

9 A. I believe it was ten thousand dollars (\$10,000.00) or a
10 little bit shy of \$10,000.00.

11 Q. And what happened to all your other money?

12 A. Oh, it was gone. It was spent. We had spent it. Scott
13 and I had spent it.

14 Q. Okay. That's fine. And you got this money for selling
15 your house, is that right?

16 A. Yes.

17 Q. And then Scott came back to North Carolina. Do you
18 recall about when that transaction took place about the
19 house?

20 A. It was sometime in January of 1999, because we went back
21 to San Diego when I got the money, and I was in San Diego
22 on my birthday which is January 20th.

23 Q. All right. So then y'all went back out to San Diego?

24 A. Yes.

25 Q. Okay. And how long were you there at that time?

- 1 A. A few weeks.
- 2 Q. Okay. And what happened after you were there for a few
3 weeks?
- 4 A. We went to Colorado.
- 5 Q. All right. And why did you go to Colorado?
- 6 A. To stay with the friend that, a mutual friend that we had
7 that had owned a tattoo shop in Albemarle.
- 8 Q. And who was that?
- 9 A. Greg Fritz.
- 10 Q. Okay. Now, how long did you stay at Greg's place?
- 11 A. I stayed about a month.
- 12 Q. Okay. And when did you leave, about?
- 13 A. I'd say the end of February.
- 14 Q. All right. So where did you go after you left Greg
15 Fritz's place?
- 16 A. I came back to North Carolina.
- 17 Q. And why did you leave?
- 18 A. I missed my little boy, and things had just turned bad
19 out there between me and Scott, and I wanted to come
20 home.
- 21 Q. Okay. And when you say things had turned bad between you
22 and Scott, what, you just weren't getting along, what was
23 the situation?
- 24 A. We had gotten in a fight, and he had hurt me, and so I
25 went and got a bunch of cocaine and did it to make him

1 mad, and then after that we were just at each other's
2 throat all the time.

3 Q. So that you weren't getting along would be an
4 understatement at that point?

5 A. Right.

6 Q. Right. You had a child back in North Carolina?

7 A. Yes.

8 Q. Okay. And who was that child with?

9 A. His father.

10 Q. All right. So you came back to see your child again, is
11 that right?

12 A. Yes.

13 Q. And what was your next contact with the defendant after
14 that?

15 A. On the phone. We would talk on the phone two or three
16 times a week.

17 Q. And once you left Colorado and came to North Carolina,
18 how did those phone conversations go?

19 A. Not very well. Well, I mean sometimes we would get
20 along, but most of the time we would argue. You know, I
21 didn't have any money, and I was starting to suspect that
22 he was seeing somebody else out there. And so not really
23 well.

24 Q. Okay. So you all were still bickering a little bit at
25 that point, is that right?

1 A. Yes.

2 Q. And did you have any idea, you said you suspected he was
3 seeing somebody out there?

4 A. Yes. I suspected that he was seeing a girl that Greg
5 dated named Kelly, I don't remember her last name.

6 Q. Okay. And you spoke on the phone. When did you next
7 actually see him?

8 A. When his mom gave me -- Let me think and make sure
9 because everything is so back and forth at that time. I
10 guess it was when his mom gave me the rest of the money
11 for my house.

12 Q. Okay. And how much did you get on the second end of that
13 transaction?

14 A. I don't think -- It ended up being maybe around eight
15 thousand because she had given me a couple little amounts
16 of cash, you know, five hundred here and five hundred
17 there, so it wasn't quite ten thousand.

18 Q. Okay. And do you remember approximately when he came
19 back to North Carolina to see you again?

20 A. When I got that money. I don't remember what month this
21 was.

22 Q. Was it in the summertime?

23 A. I believe it was starting to get warm.

24 Q. Okay. And when he came back, were you all together
25 again?

1 A. Yes.

2 Q. Okay. Were you dating again?

3 A. Yes.

4 Q. Were you on good terms?

5 A. Yes.

6 Q. Okay. So were things going well on that occasion when he
7 came back?

8 A. Yes.

9 Q. Okay. Do you Christopher Gailey?

10 A. Yes.

11 Q. How did you meet him?

12 A. I met him a long time ago through my husband Larry Smith
13 and through Scott.

14 Q. Okay. And what was the relationship between the
15 defendant and Christopher Gailey?

16 A. They were friends.

17 Q. What was your relationship with Christopher Gailey?

18 A. I wouldn't have called him a friend, I'd say an
19 acquaintance.

20 Q. Okay. Did you all sometimes argue?

21 A. Me and Chris, he got mad at me one time and cursed me
22 out.

23 Q. Okay.

24 A. That was about it.

25 Q. Okay. Do you recall when that was?

- 1 A. That was a few days before he was killed.
- 2 Q. All right. Who else was there when he cursed at you?
- 3 A. Scott.
- 4 Q. Were you the only three people there?
- 5 A. As far as I recall. Robert Johnson may have been there.
- 6 I don't remember.
- 7 Q. Okay. Do you recall what he said to you when he cursed
- 8 at you?
- 9 A. He called me a B-I-T-C-H.
- 10 Q. Okay. And do you remember Robert Johnson?
- 11 A. Yes.
- 12 Q. Do you remember where he lived?
- 13 A. Yes.
- 14 Q. Where was that?
- 15 A. Down by the lake, Whippoorwill Cove Road.
- 16 Q. Okay. And had you ever been there?
- 17 A. No, not before Scott took me there.
- 18 Q. Okay. And when did he take you there?
- 19 A. Late June of '99.
- 20 Q. Okay. And did you all ever spend the night there?
- 21 A. Yes.
- 22 Q. Where would you stay when you spent the night there?
- 23 A. We would sleep on the floor.
- 24 Q. Okay.
- 25 A. Or either in a back bedroom.

1 Q. Okay. So there were a couple of different places that
2 you would stay at?

3 A. Yes.

4 Q. Do you have any idea how many times you stayed there and
5 spent the night?

6 A. No.

7 Q. When you stayed there, what kinds of activities were
8 going on?

9 A. Everybody was doing drugs.

10 Q. Were you?

11 A. Yes.

12 Q. Do you recall what kind?

13 A. I was smoking marijuana and drinking. I never did any
14 cocaine there because we'd had an incident before we went
15 there where he and Chris Gailey had given me some cocaine
16 and I had flipped out on them, and they wouldn't let me
17 have anymore after that.

18 Q. Okay. So was your drug use being monitored by your
19 boyfriend at that point?

20 A. No, my drug use was always monitored by him.

21 Q. Now, do you remember where you were on July 9th, 1999?

22 A. Yes, I do.

23 Q. And where was that?

24 A. At the house on Whippoorwill Cove Road.

25 Q. And who else was there at that time?

1 A. Scott, Chris Gailey, Robbie Johnson, and the other --
2 there was another couple that lived there also. I don't
3 remember their names.

4 Q. Okay. But you remember that they were there?

5 A. Yes.

6 Q. What was going on on that day, that night?

7 A. We had, me and Scott and Chris had planned to go out in
8 the woods. Scott had been telling us for a couple of
9 days that he had some guns out there that he stolen and
10 that he had stashed out there.

11 Q. And when you use the word stashed, what does that mean?

12 A. Hidden.

13 Q. In the woods?

14 A. Yes.

15 Q. Okay. And so what were the plans that you and Chris and
16 Scott had?

17 A. To go out there and get the guns, bring them out of the
18 woods, and then we were going to take them to Albemarle
19 so that the friends of mine that I know that will trade
20 guns for cocaine and money. We were going to do that.

21 Q. Okay. And whose idea was it to go out to the woods and
22 get the guns?

23 A. It was Scott's.

24 Q. All right. And did Chris go along with that?

25 A. He didn't want to at first because he wasn't used to

1 walking, you know, out in the woods, and Scott had said
2 it was pretty far out, but then Scott talked him into it.

3 Q. Okay. Now do you recall when you left, what time it was?

4 A. It was still daylight, but it was late afternoon.

5 Q. And who left?

6 A. Scott, and Chris, and I.

7 Q. Okay. What vehicle did you get into?

8 A. Chris' truck.

9 Q. All right. And who drove?

10 A. I believe Chris drove.

11 Q. Okay. And where did you proceed to go to in Chris'
12 truck?

13 A. We went to a little driveway. I don't know the name of
14 the road it's one, but it's out there at the Uwharries,
15 and we parked the truck and got out, and then we walked
16 across the street kind of diagonally, and there was fire
17 road there. And that's where --

18 Q. What did you mean when you say a fire road?

19 A. It's -- Scott told me it was a fire road, that that's
20 whenever there would be a fire in the woods that they
21 would use that to get up there.

22 Q. Okay. Now how long were you driving from the time that
23 you left Robbie Johnson's house at Whippoorwill until
24 the time the truck stopped at the fire road?

25 A. Maybe ten minutes. It was pretty close.

opposite
of
Johnson
statement

- 1 Q. Okay. It was fairly close to where you were?
- 2 A. Yes. Maybe twenty minutes. Ten or twenty minutes.
- 3 Q. And was it dark or light by the time you got to the fire
4 road?
- 5 A. It was still light.
- 6 Q. All right. What did you all take with you, if anything?
- 7 A. A cooler with some drinks in it, a small cooler, and a
8 duffel bag.
- 9 Q. Who had the cooler?
- 10 A. I was carrying it.
- 11 Q. Who had the duffel bag?
- 12 A. Chris did, was carrying it. And Scott had a backpack.
- 13 Q. Did Scott have anything else?
- 14 A. Yes.
- 15 Q. What was that?
- 16 A. He had a black sawed-off shotgun.
- 17 Q. Now, did you see it?
- 18 A. Yes.
- 19 Q. And how did you know it was a sawed-off shotgun?
- 20 A. Because it was very short.
- 21 Q. Are you familiar with guns to any extent?
- 22 A. Yes, to some extent.
- 23 Q. Okay. Now who was carrying that?
- 24 A. Scott was carrying the gun.
- 25 Q. Okay. And what did you think at the time about him

1 carrying a shotgun when you guys were going out into the
2 woods to get the guns?

3 A. I didn't think anything about that, but later as
4 everything happened I wondered why, you know, I realized
5 that that should have been a red flag.

6 Q. Okay. So you guys got out of the truck and you -- Were
7 you right at the woods there when you got out of the
8 truck or what was it like?

9 A. Yes. It was like a little driveway.

10 Q. And you began to walk?

11 A. Yes. We walked across the road, the paved road
12 diagonally, and then we got to that fire road.

13 Q. Okay. And then where did you walk?

14 A. We walked, it was all uphill just about. It was up that
15 road, that fire road.

16 Q. Okay. Was that in the woods?

17 A. Yes.

18 Q. Okay. And do you know how far you walked?

19 A. We walked for at least an hour, so I don't really know
20 how far it was.

21 Q. Okay. Were you using drugs or alcohol that night?

22 A. I had most likely smoked some marijuana, but they were
23 using powder cocaine.

24 Q. Was that during the walk?

25 A. Yes.

1 Q. Now you said you all walked for an hour. What was the
2 weather like, if you remember?

3 A. It was hot.

4 Q. Okay. What were you wearing?

5 A. I believe I was wearing jeans and a T-shirt, and they
6 were wearing Army fatigues.

7 Q. So Chris and Scott were wearing Army fatigues?

8 A. To the best of my recollection, yes.

9 Q. Okay. Did they have on long pants?

10 A. Yes.

11 Q. You walked for about an hour. Where did the three of you
12 eventually wind up?

13 A. At this house, like a little -- There's a clearing and
14 then there's another like a driveway, and then there's a
15 house and it had a well next to it.

16 MS. ALLEN: If I may approach and see State's
17 Exhibit Two.

18 THE COURT: Yes, ma'am.

19 Q. (BY MS. ALLEN) Ms. Smith, I'm showing you what has
20 already been marked and entered into evidence as State's
21 Exhibit Number Two. Can you identify what is in that
22 photograph, ma'am?

23 A. Yes, that's the house I just spoke of.

24 Q. Okay. That's the house that was where you guys ended up?

25 A. Yes.

1 Q. And you indicated there was a well there?

2 A. Yes.

3 Q. Okay. Did you all stop or did you keep going at that
4 point?

5 A. We stopped right there. Chris and Scott drank out of the
6 well, and Chris was, I guess he thought the guns were
7 there. And Scott said no, we have to go a little bit
8 further. And we walked into, there's a little path.
9 Scott said there was another cabin at the end of that
10 path, and that's where the guns were.

11 Q. So you all kept walking?

12 A. Yes.

13 Q. How were you feeling at that point?

14 A. Tired.

15 Q. Okay. What happened after you resumed walking past the
16 cabin?

17 A. We went onto the little path, it was very narrow, and we
18 had to walk in single file, and all of a sudden Scott
19 turned around and pushed me backwards and then turned
20 back around and fired the gun at Chris' back.

21 Q. Okay. And when he pushed you backwards, what did you do?

22 A. When I heard the gunshot, he pushed me backwards and then
23 shot, and then he turned back around and shot
24 immediately. I got down on the ground and covered my
25 head up.

1 Q. Okay. Why did you do that?

2 A. I didn't know what was happening. And I heard -- I knew
3 he had fired the gun at Chris and I kept hearing him
4 shooting over and over again, and I was afraid.

5 Q. Did you hear him fire the gun more than one time?

6 A. Yes.

7 Q. And did you see Christopher get hit?

8 A. I did not actually see the bullets go into Chris, but I
9 heard the sounds that he made when he was shot.

10 Q. So he made a sound when he was shot?

11 A. Yes.

12 Q. Do you recall what kind of sound he made?

13 A. It was just horrible. I don't -- It was just -- just a -
14 - the sound of being in pain.

15 Q. All right. Did you see him after that?

16 A. No.

17 Q. Okay. What happened next?

18 A. Scott grabbed me by the back of my shirt and said come
19 on, and we ran back up to this cabin.

20 Q. Okay. Approximately how far were you from the cabin at
21 that point?

22 A. Fifty, sixty feet. I don't -- I don't know.

23 Q. Okay.

24 A. Not very far at all.

25 Q. Now, you went back up to the cabin. Where did y'all go

1 at the cabin?

2 A. We just set on the porch.

3 Q. And what were you thinking at that point?

4 A. I thought I was going to die.

5 Q. Okay. Do you know what Chris was doing at that point?

6 A. He was making noises.

7 Q. What did Scott do next?

8 A. He -- He kept going, trying to get close to Chris, and I
9 guess to see if Chris was dead.

10 Q. And do you know if Chris was dead or not at that point?

11 A. I could hear him making sounds, so no, he wasn't dead.

12 Q. What kinds of sounds was he making?

13 A. Sounds that he was in pain.

14 Q. And you said that Scott would try to get close to Chris.
15 What would he do?

16 A. He would like get on his stomach and sort of creep over
17 there and try to get close and see if he was dead or not.

18 Q. Okay. What would he do to try to figure out if
19 Christopher was dead or not?

20 A. Well, he picked up some rocks and threw them at Chris to
21 see, I guess, if Chris would make a sound.

22 Q. And what happened when he would throw rocks at
23 Christopher?

24 A. Chris would make a sound.

25 Q. And what kind of sound was it?

1 A. Of being in pain.

2 Q. Did Christopher have any weapons with him?

3 A. Yes.

4 Q. Do you know what kind of weapon he had?

5 A. He had a handgun, I believe it was a .45.

Johnson 6 Q. Okay. Do you know, do you have any idea how long you
stated stayed out there?

says 8 A. I'd say approximately seven or eight hours.

3 hours 9 Q. And what was going on while y'all -- Why did you stay out
she is 10 there?

at his 11 A. I was scared to death, and that's why I stayed. Scott
house 12 stayed just, I guess, waiting for Chris to die.

13 Q. Where was the gun at this point?

14 A. Scott had it.

15 Q. Do you recall how often, how many times Scott would try
16 to get close to Christopher and threw rocks at him?

17 A. Every little bit for, you know, all that time. I don't
18 know how many times.

19 Q. You didn't try to help Chris?

20 A. I -- I was scared to death. No, I didn't try to help
21 him.

Johnson 22 Q. Do you know about when you left the area?
says

All P.M. 23 A. It was about dawn, just about, it wasn't light yet.

24 Q. It wasn't quite light?

25 A. No.

1 Q. And did anything happen when you guys were walking out?

2 A. Yes.

3 Q. What was that?

4 A. We heard, I'm assuming it was Chris empty his gun out.

5 Q. And do you know what kind of gun he had?

6 A. Yes.

7 Q. What was that?

8 A. It was a .45.

9 Q. You walked back to the vehicle?

10 A. Yes.

11 Q. And what did you do when you got there?

12 A. Scott told me to stand right there, and he went into the
13 woods and he hid the gun.

14 Q. Okay. And did he have the gun with him when he left you?

15 A. Yes.

16 Q. And when he came back?

17 A. No.

18 Q. No gun?

19 A. No.

20 Q. Okay. And what did you do at that point?

21 A. We got into the truck, and we drove back to Whippoorwill
22 Cove Road, and when we got almost to the house that we'd
23 been staying at, Scott told me that he was going to get
24 out and for me to go into the house, get our belongings
25 and get Chris' wallet, and that I had better be back in

down
MEDICAL
EXAMINER
SAYS
HE WOULD
BE UNCONSCIOUS
AND DEAD
WITHIN
MINUTES
AFTER
WOUNDS

1 ten minutes, and he got out.

2 Q. All right. Did you do what he told you to do?

3 A. Yes.

4 Q. And did you find Christopher's wallet?

5 A. Yes.

6 Q. Where was it?

7 A. I don't remember.

8 Q. Okay. Did you go get Scott after that?

9 A. Yes.

10 Q. And where was he?

11 A. In the little patch of woods waiting on me to come back.

12 Q. All right. When you came back and picked him up, what
13 did you do then, or what happened then?

14 A. He got in the driver's seat, and we drove to Shallotte.

15 Q. Okay. What did you do with the wallet?

16 A. Gave it to him.

17 Q. Did he look at it?

18 A. Yes.

19 Q. Do you recall what was in it?

20 A. There was no money in it. There was an ATM card, I guess
21 some other things. I don't remember. You know, normal
22 things that would be in a wallet.

23 Q. Okay. And where did you all go in the truck?

24 A. To Shallotte, North Carolina.

25 THE COURT: At this time I think we're going to
take a break.

1 get to that point, at some point in time.

2 THE COURT: All right. If everybody knows who
3 he is and what he's here for, I don't know why it's a big
4 secret. I mean what am I, chopped liver or something?

5 MR. YATES: I can speculate, Your Honor. Since
6 it was on the witness list, I just figured that's who it
7 was.

8 THE COURT: All right. I'm going to let you
9 find that. I can take care of that. All right. We can
10 use this video machine, so Ms. Cook can help us with that
11 when we get to that point. Okay?

12 BAILIFF COOK: Yes, sir.

13 THE COURT: Okay. Somebody got that video?
14 Where is it? All right. Let's give it to her and then
15 we can rock and roll whenever it gets here. Bring in the
16 jury. Ma'am, you're still under oath, you know that?

17 WITNESS VANESSA SMITH: Yes, sir.

18 THE COURT: We can go with her until 4:30.

19 MS. ALLEN: Okay.

20 THE COURT: I'm going to bring the jury back in
21 tomorrow at 1:30.

22 *(Jury enters the courtroom.)*

23 TIME: 4:10 p.m.

24 *(The following proceedings were held in open court*
25 *in the presence of the jury.)*

1 THE COURT: Folks, before we start back up, let
2 me tell you what we're going to do today and tomorrow.
3 Today we're going to go with you until 4:30 so you can
4 get back around the 5:00 hour. Tomorrow though I'm going
5 to ask that all of you meet at the Montgomery County
6 Courthouse at 1:00. They will transport you up here and
7 we'll try to get started at 1:30. The reason for that is
8 there are some legal matters that I need to take up, and
9 I would just as soon do that when y'all are not sitting
10 back there in the room waiting. All right? So maybe
11 y'all can all maybe take care of some other things in the
12 morning. But we'll start right back at 1:30. So that's
13 the schedule that we will abide by. And also remember,
14 and I'm going to tell you at the end of the day, but
15 remember the rules that we talked about. We're human
16 beings. What we typically do in our regular lives? We
17 talk about what happened that day. The first question I
18 ask my child is what'd you do in school. Who'd you talk
19 to. How'd you do on your test. You can't do that in
20 this case. I know it's hard, but you've all taken that
21 oath, and I believed you when you took it, and I know
22 that you'll do that for the next few days. With that,
23 we're going to continue with Ms. Smith's testimony, and
24 at 4:30 we'll let you go and come back tomorrow at 1:00
25 at Montgomery, 1:30 here. Yes, ma'am?

- 1 MS. ALLEN: Thank you, Your Honor.
- 2 Q. (BY MS. ALLEN) Ms. Smith, if you could go back to when
3 you were still in the woods with Mr. Allen and after Mr.
4 Gailey had been shot. While you were there with the
5 defendant waiting in the woods, did the defendant make
6 any statements to you about what had happened?
- 7 A. He -- He said Chris will never call me a "B" word again.
- 8 Q. Okay. Did he say anything else to you?
- 9 A. That's really the only thing that I can remember at this
10 time. I was very upset.
- 11 Q. Okay. You were upset at the time that it happened?
- 12 A. Yes.
- 13 Q. Okay. And right before we broke, I believe you had
14 indicated you all were in Christopher Gailey's truck, and
15 where did you go?
- 16 A. When? I mean --
- 17 Q. Right after it happened, you were in the truck. Where
18 did you say that you went?
- 19 A. We went back to right near the house on Whippoorwill Cove
20 Road.
- 21 Q. And after that, where did you all go?
- 22 A. To Shallotte.
- 23 Q. Okay. And why did you go to Shallotte?
- 24 A. Because my friend Jeff Brantley was living there, and
25 that's just where we went.

1 Q. Okay. What state is Shallotte in?

2 A. I believe it's in North Carolina. It's right next to the
3 South Carolina line. But it could actually be in South
4 Carolina.

5 Q. Okay. And you drove to Shallotte and went to Jeff
6 Brantley's, is that right?

7 A. Yes.

8 Q. And what was going on with the bank card?

9 A. Well, nothing right then.

10 Q. Okay. Did some activity occur with the bank card later?

11 A. Yes.

12 Q. Tell us what that activity was.

13 A. Scott wanted to get some cocaine, and the kind that you
14 could get down there was not what he wanted.

15 Q. Okay. And what did you all do?

16 A. We drove to Albemarle to get --

17 Q. So you were in Shallotte, you decided you needed to drive
18 back to Albemarle?

19 A. Yes. To obtain the cocaine.

20 Q. And what happened with the bank card?

21 A. He had me to go and put it in the machine and draw money
22 out.

23 Q. And where did you use the bank card?

24 A. Used it, either in Shallotte or at the next little town.
25 I don't recall if it was actually in Shallotte, but it

Everyone
else
states
that I
did not
go to
Albemarle

1 was down there, you know. And then we used it again
2 later on in Albemarle.

3 Q. Okay. You used it in Shallotte and you also used it in
4 Albemarle?

5 A. Yes.

6 Q. All right. Now you returned to Albemarle, and after that
7 did you go back to Shallotte?

8 A. That's where things started breaking down for me, and I
9 don't -- all I remember after that point is that I went,
10 you know, woke up in Albemarle. I believe we went back
11 to Shallotte again, but I'm not sure. I was very upset
12 and I had been given some Xanax, which is a nerve pill,
13 and I can't truthfully testify to how long a period
14 between using the ATM cards or how many times we went
15 back to Shallotte. I cannot truthfully testify to that.

16 Q. Okay. When you went to Jeff Brantley's, do you have any
17 recollection of who else was there?

18 A. It was Jeff Brantley and his wife, and Jeffrey Page --

19 MR. ATKINSON: I can't understand her, Your
20 Honor.

21 THE COURT: Ma'am, could you pull the
22 microphone down a little bit?

23 A. Yes, sir.

24 THE COURT: Thank you.

25 A. It was Jeff Brantley and his wife Gail Brantley, and

1 Jeffrey Page, and John Blackwelder. And there was
2 another guy there, Lilly Efird's brother. I don't recall
3 his first name.

4 Q. Was it Robert Herald?

5 A. Yes.

6 Q. And do you remember anything that went on when you were
7 at Shallotte at Jeff Brantley's house?

8 A. I remember that I was very upset. I remember that Scott
9 told Jeff that he had shot Chris, but that it was because
10 Chris was trying to hurt me. And I remember just feeling
11 sick when he said that because I knew it wasn't true.

12 Q. Where was the truck?

13 A. It was parked there at Spider's house. I mean Jeff
14 Brantley's, I'm sorry.

15 Q. Is Spider his nickname?

16 A. Yes, that's what I've always called him.

17 Q. How long have you known Jeff Brantley?

18 A. Since I was fourteen years old.

19 Q. Okay. And do you have any recollection about what
20 happened to the truck?

21 A. I know that Scott sold the truck to Jeffrey Page.

22 Q. And does Jeffrey Page have a nickname?

23 A. Yes. It's Cooter Page.

24 Q. His name is Cooter?

25 A. Yes.

1 Q. Okay. Do you recall what happened after the truck was
2 sold?

3 A. I know that I went to Albemarle.

4 Q. Do you know who you went with?

5 A. I don't know. I don't remember. I don't know if I went
6 with Scott or if I went with someone else. I just know
7 that I woke up at Lilly Efird's house from all the dope,
8 the Xanax. That's all I remember.

9 Q. All right. So you went to Lilly Efird's house at some
10 point in Albemarle?

11 A. Yes.

12 Q. And how do you know Lilly Efird?

13 A. She has been a friend of mine and also a girlfriend of
14 mine.

15 Q. All right. Do you recall if you told her anything about
16 what had happened?

17 A. Yes, I told her everything.

18 Q. Okay. When did you next see the defendant?

19 A. It was maybe a week or two weeks later.

20 Q. Do you know where he went after being in Shallotte?

21 A. He went to Colorado.

22 Q. Okay. And do you know where in Colorado he was?

23 A. Yes. In -- It was either Denver or Aurora. They're two
24 towns right next to each other. I don't know if the
25 location he was at was located in Denver or Aurora.

1 Q. Okay. So you saw him a couple of weeks later. And how
2 did you see him?

3 A. I went out there.

4 Q. You went out there?

5 A. Yes.

6 Q. And how did you get there?

7 A. I hitchhiked.

8 Q. Okay. When you went out there, were you able to find the
9 defendant?

10 A. Yes.

11 Q. And what was your reason in going out there?

12 A. Because I was pregnant and I wanted to know what was he
13 going to do, was he going to take care of me, take care
14 of it, or you know. And also I was angry because he had
15 left me here after all that had happened, and he was out
16 there with that girl.

17 Q. The girl you mentioned earlier?

18 A. Yes.

19 Q. And what was her name?

20 A. Kelly something, I don't remember her last name.

21 Q. All right. Now, did you have a conversation with him on
22 the telephone prior to going out there?

23 A. Yes, several times.

24 Q. Okay. How did you know how to get to where he was?

25 A. He told me how to get there. And I knew the address,

NOT
PREGNANT

1 because I would always look through his things, and I
2 would memorize the addresses and phone numbers of places
3 that he would go and be.

4 Q. Do you recall when you went out, what month it was,
5 approximately when you went out there to see him?

6 A. Yes. It had to be late July.

7 Q. Okay.

8 A. Early August.

9 Q. And did you go to Kelly's house?

10 A. Yes.

11 Q. And what happened when you got there?

12 A. Scott came out, and he got mad at me because I came
13 directly to her house. I wasn't supposed to go directly
14 to her house. I was supposed to meet him.

15 Q. Did you have some pre-arranged agreement with him about
16 where you were supposed to meet him?

17 A. Yes, but I just remember I wasn't supposed to go to her
18 house, but I did.

19 Q. You did anyway?

20 A. Yes.

21 Q. Why was that?

22 A. Because I just didn't care, you know, about following his
23 directions. I was upset and I went to her house.

24 Q. Did you normally follow his directions?

25 A. Yes.

1 Q. And this time you were upset and you didn't want to, is
2 that right?

3 A. That's right.

4 Q. So when he saw you there, what was his reaction?

5 A. He started cursing me and called me names, telling me
6 that I was supposed to meet him at the other place, not
7 come to her house, and then he wanted me to walk with
8 him, so I walked with him and --

9 Q. What kind of surroundings was this house in?

10 A. It was in a bunch of houses.

11 Q. Okay.

12 A. And it was right near downtown, either Denver or Aurora.
13 I believe it was Denver.

14 Q. Okay. And so the two of you went for a walk?

15 A. Yes.

16 Q. And what happened during that time?

17 A. He had a backpack that he always carried, and it was
18 always full, and I noticed while we were walking that it
19 was almost empty, there wasn't hardly nothing in it, and
20 it was open, and we were arguing and walking, and he
21 tried to get me to go down an alley with him, and I just
22 -- something told me not to go, and I ran.

23 Q. Okay. Why did you run?

24 A. Because I was afraid he had a gun in there and he was
25 going to shoot me.

1 Q. And Ms. Smith, when you ran, where did you go?

2 A. I met up with some friends of mine that are in a band
3 that were playing in that area, and I came back to North
4 Carolina with them.

5 Q. What part of North Carolina did you return to?

6 A. Charlotte.

7 Q. And what did you do after you came back to Charlotte?

8 A. I used some drugs, and then I started thinking how I
9 could fix things, you know, how I could turn myself in,
10 you know, and do the right thing and how could someday
11 hope to have a life with my son again.

12 Q. Okay. And what was the situation with your son at that
13 point?

14 A. He was with his father.

15 Q. Okay. So you were contemplating turning yourself in?

16 A. Yes.

17 Q. And did you indeed do that?

18 A. Yes, I did.

19 Q. And how did you accomplish that?

20 A. I called the U.S. Marshall, I believe it was, and told
21 him who I was, and they connected me to the Charlotte
22 police, and I told the Charlotte police where the
23 location and address I was at, and they came and got me.

24 Q. All right. And where did you go after they came and got
25 you?

1 A. To the -- I guess to the police station or the --
2 wherever they take people up there to be interviewed.

3 Q. All right. Was that in Charlotte?

4 A. Yes. Yes.

5 Q. Okay. And do you recall who you spoke with?

6 A. No.

7 Q. Was there a point when you spoke to Lieutenant Chris
8 Poole while you were in Charlotte?

9 A. Yes.

10 Q. All right. And what did you speak with him about?

11 A. I told him the whole thing, what happened.

12 Q. Okay. You told him what you remembered about what
13 happened?

14 A. Yes.

15 Q. And did you give him an additional statement at a later
16 date?

17 A. Yes.

18 Q. All right. Where were you actually arrested?

19 A. I don't know if it was Charlotte or if it was Troy, North
20 Carolina.

21 Q. Okay.

22 A. I can't remember.

23 MS. ALLEN: May I approach the witness, Your
24 Honor?

25 THE COURT: Yes, ma'am.

1 (Paperwriting is shown to Mr. Atkinson and Mr.
2 Oldham by Ms. Allen.)

3 MR. ATKINSON: We have that. Thank you.

4 Q. (BY MS. ALLEN) Ms. Smith, I'm going to hand you what I
5 have previously marked as **STATE'S EXHIBIT NUMBER FORTY-**
6 **FIVE (45)**. Can you identify that photograph, please.

7 A. Yes, that's me.

8 Q. And does that photograph fairly and accurately represent
9 your appearance at the time of your arrest?

10 A. Yes, it does.

11 Q. And I notice you're standing in front of something with
12 numbers on it.

13 A. Yes.

14 Q. What is that?

15 A. I guess that's where they measure how tall you are.

16 Q. Do you know how tall you were at the time?

17 A. Well, I think I was around five foot.

18 Q. Okay.

19 MS. ALLEN: Your Honor, State would move to
20 have State's Exhibit Number Forty-Five entered into
21 evidence for illustrative purposes.

22 THE COURT: So admitted.

23 MS. ALLEN: State would ask that that
24 photograph be passed to the jury at this time.

25 THE COURT: Okay.

1 (State's Exhibit Number Forty-Five is published to
2 the jury at this time by Captain Little.)

3 THE COURT: Okay. Ms. Allen?

4 MS. ALLEN: Yes, Your Honor. May I approach
5 the witness again?

6 THE COURT: Yes, ma'am.

7 Q. (BY MS. ALLEN) Ms. Smith, I'm handing you what I have
8 marked as **STATE'S EXHIBIT NUMBER FORTY-EIGHT (48)**. Can
9 you identify that document, ma'am?

10 A. Yes. It's the agreement that I signed in your office
11 explaining my deal for my testimony.

12 Q. Okay. And you talked about that early on in your
13 testimony, do you recall?

14 A. Yes.

15 Q. And what is the agreement as to what will happen once you
16 plead guilty to the three counts of false pretenses?

17 A. I will be given probation.

18 Q. All right. Is there anything special about that
19 probation?

20 A. I don't know. My lawyer said he doesn't know if there
21 will be intense or regular. Is that what you mean?

22 Q. You're pleading guilty to three separate counts?

23 A. Oh, it will be three consecutive terms of probation.
24 When I finish the first term then I start the second
25 term. When I finish the second I start the third.

1 as Exhibit Number Fifty-Eight. We'll talk more about
2 that later.

3 MS. ALLEN: Thank you, Your Honor. At this
4 time I would ask that that be published to the jury just
5 by having them pass it around.

6 THE COURT: That's granted.

7 *(State's Exhibit Number Fifty-Eight is published to*
8 *the jury by Bailiff Heath.)*

9 THE COURT: Yes, ma'am.

10 MS. ALLEN: Thank you, Your Honor.

11 Q. (BY MS. ALLEN) Now, Ms. Smith, you gave some statements
12 to Lieutenant Poole back in 1999, is that right?

13 A. Yes.

14 Q. And about four years have passed since then.

15 A. Yes.

16 Q. Is it fair to say your memory was better at that time
17 about what happened?

18 A. Yes.

19 Q. Okay. Did you have a chance to review your statements
20 since yesterday?

21 A. Yes.

22 Q. And did that review refresh your recollection as to what
23 statements you made back in 1999?

24 A. Yes.

25 Q. All right. Do you happen to recall what the defendant

1 said to you as you were leaving the woods?

2 A. Yes. He said that I should say that we were walking
3 through the woods and that somebody jumped out and that
4 that person and Chris Gailey started shooting it up. And
5 that he shot Chris in self-defense. And he also said
6 that I should say that a guy named Dustin had reason to
7 want to harm Chris.

8 Q. Okay. And who is Dustin?

9 A. He was a person that was around, I guess a friend of
10 Chris', and they had a falling out. I don't know his
11 last name.

12 Q. Would -- Do you recall what you said in your statement
13 about Christopher Gailey's family?

14 A. Yes, I do. I said that I was very, very sorry for what
15 happened, and that I wish that I could have been stronger
16 back then and done something to stop it or to help.

17 Q. And back in August of 1999 when you decided to turn
18 yourself in, did you have a conversation with the
19 defendant just prior to doing that?

20 A. Yes.

21 Q. And what was that about?

22 A. I had two conversations with him. The first one --

23 Q. Were they in person or on the telephone?

24 A. On the telephone.

25 Q. Okay.

1 A. He had told me that --

2 MR. OLDHAM: Objection.

3 THE COURT: Lay a foundation. Sustained.

4 MS. ALLEN: I'm sorry?

5 THE COURT: Sustained without a full
6 foundation.

7 Q. (BY MS. ALLEN) When you turned yourself in to law
8 enforcement what were your thoughts and feelings?

9 A. I just wanted to -- I was scared. I was scared. I
10 thought he was going to come back and kill me and -- or
11 hurt my little boy.

12 Q. Okay. And once you turned yourself in did you do
13 anything to assist in the apprehension of the defendant?

14 A. Yes, I did.

15 Q. Will you tell us what you did.

16 A. I told the police exactly where he was, and then I made a
17 phone call to the residence where he was from the police
18 department.

19 Q. And whose residence was that that you made a phone call
20 to?

21 A. The Kelly girl.

22 Q. Okay. And where did Kelly live?

23 A. Denver, Colorado.

24 Q. And you told officers where her house was?

25 A. I gave them the address, yeah.

1 Q. Okay. Where does your son live now, Ms. Smith?

2 A. He lives with me and my mother.

3 Q. All right. And how old is he?

4 A. He's seven and a half.

5 Q. This person that we've been talking about, Scott Allen,
6 the defendant, also known as Byron Johnson, do you see
7 him here in the courtroom today?

8 A. Yes, I do.

9 Q. Would you point him out for us.

10 A. Over there.

11 Q. Is he the person seated beside Mr. Atkinson?

12 A. He's -- Yes, he is.

13 MS. ALLEN: No further questions at this time.

14 THE COURT: Any cross examination?

15 MR. OLDHAM: Yes, sir.

16 *****

17 *****

18 **CROSS EXAMINATION of MS. VANESSA SMITH by MR. OLDHAM:**

19 Q. (BY MR. OLDHAM) Ms. Smith, the Assistant District
20 Attorney just asked you if you reviewed your statements
21 that you made to Officer Poole after any testimony
22 yesterday, is that correct?

23 A. Yes.

24 Q. Had you not seen those statements at any time prior to
25 yesterday afternoon since you had made them to Officer

1 Poole back in 1999?

2 A. I had seen them one prior time at Ms. Allen's office.

3 Q. When did you see them on that prior occasion in Mrs.
4 Allen's office?

5 A. Approximately two weeks ago, three weeks ago.

6 Q. And was that at the time that you were there with your
7 attorney to talk to Ms. Allen?

8 A. My attorney wasn't there.

9 Q. Your attorney was not there?

10 A. No.

11 Q. It was just you and Ms. Allen?

12 A. Yes.

13 Q. And how long did you and Ms. Allen talk about the events
14 of 1999 during the course of the conversation with her
15 about two weeks ago?

16 A. Maybe an hour.

17 Q. And was that concerning your testimony in the upcoming
18 trial of Mr. Allen?

19 A. It was concerning the events that happened.

20 Q. And at that time you had an opportunity to look at the
21 statements that you had given to Mr. Poole?

22 A. Yes, I did.

23 Q. And did you talk with Ms. Allen on any other occasions
24 about your testimony today?

25 A. Yesterday.

1 Q. Yesterday. Was that before you testified yesterday?

2 A. Yes.

3 Q. And on any other occasions?

4 A. I believe on the phone when she -- she called me to tell
5 me to come in and sign the paper for my deal.

6 Q. You would have went with your attorney on that occasion?

7 A. I'm sorry?

8 Q. Did you go in with your attorney on that occasion?

9 A. No.

10 Q. He did not come with you on any of these occasions?

11 A. No.

12 Q. Now, you indicated yesterday in your testimony that after
13 you testified that you and Chris left for the community
14 of Shallotte that things had began to break down for you,
15 is that a fair statement?

16 A. Yes.

17 Q. Well, was that because of any controlled substances that
18 you'd been using?

19 A. Yes.

20 Q. What types of substances were you using?

21 A. Nerve pills.

22 Q. What type of nerve pills specifically?

23 A. Zanax.

24 Q. And how many Zanax did you take?

25 A. Around eight.

1 Q. And you did not get those from Scott Allen, did you?

2 A. No.

3 Q. You obtained those yourself, did you not?

4 A. Yes.

5 Q. And when you took those, you're testifying to the jury
6 that it causes you to have lapses in your memory, is that
7 correct?

8 A. And to fall asleep and -- yes.

9 Q. Makes it difficult for you to recall things because of
10 your grogginess, being groggy, is that correct?

11 A. Yes.

12 Q. Makes you forgetful, is that correct?

13 A. Yes.

14 Q. You've had a long-term drug addiction problem, haven't
15 you, Ms. Smith?

16 A. Yes.

17 Q. And that predates the time you ever met Scott Allen,
18 doesn't it?

19 A. Yes.

20 Q. What was your drug of choice?

21 A. It was cocaine.

22 Q. Powder cocaine?

23 A. Yes.

24 Q. Crack cocaine?

25 A. Occasionally.

1 Q. Any other drugs that you've used?

2 A. I've used a lot. Would you like me to list them?

3 A. Yes, please.

4 Q. Marijuana, alcohol, cocaine, different types of pills,
5 I've used heroine, methamphetamines, and LSD.

6 Q. Okay. Now, LSD is hallucinogenic, isn't it?

7 A. Yes, it is.

8 Q. Makes you have visions of things that really aren't
9 there, don't they?

10 A. Yes, it does.

11 Q. What is meth? Tell the jury about that?

12 A. I'm sorry?

13 Q. What is meth?

14 A. It is an -- speed, an upper.

15 Q. And were you using this during the periods of times that
16 you were testifying about yesterday?

17 A. During the time in California, yes, I was.

18 Q. Okay. And how do you take this particular drug?

19 A. I smoked it.

20 Q. Smoked it. How many times did you use it during that
21 period of time?

22 A. I don't recall. Maybe -- A bunch of times over the
23 course of about three days.

24 Q. Okay. Did that make it difficult for you to recall what
25 happened during those three days?

1 A. No.

2 Q. It does not?

3 A. No.

4 Q. What effect did it have on you?

5 A. It speeded me up, made me nervous.

6 Q. Okay. When you say made you nervous, would that make you
7 tense and edgy?

8 A. Yes.

9 Q. Would it make you irritable with other people?

10 A. Yes.

11 Q. Easy to get upset with other people that you were around?

12 A. Yes.

13 Q. Promote arguments with other people that you were around?

14 A. Yes.

15 Q. Over irrational things, wouldn't it?

16 A. Yes, it would.

17 Q. What about marijuana, what effect did that have on you?

18 A. It really had no effect.

19 Q. It had no effect on you at all?

20 A. Not really.

21 Q. Didn't make you drowsy?

22 A. It made you be more, like if you're watching a movie, I
23 guess get into the movie better, but by the time that I
24 was locked up I had been smoking for so long that it
25 really didn't do anything for me.

1 Q. And you mentioned cocaine and crack cocaine. You took
2 those?

3 A. Yes.

4 Q. Did you have to take more cocaine after you were addicted
5 to it in order to get the same effect that you did
6 originally?

7 A. Yes, you do.

8 Q. Because after prolonged use it requires more to get that
9 high, doesn't it?

10 A. Yes.

11 Q. How long had you been using cocaine?

12 A. Until 1999 I had been using it since I was seventeen, I
13 believe.

14 Q. Did you inject it?

15 A. Yes, I did.

16 Q. Did you ever snort?

17 A. Yes.

18 Q. As well as smoked it in a form of crack cocaine?

19 A. Yes, I did.

20 Q. That made you irritable, didn't it?

21 A. When the high was over, yes, it did.

22 Q. Made it difficult for you to get along with other people,
23 did it not?

24 A. Yes, it did.

25 Q. Effected your reasoning, did it not?

1 A. Yes, it did.

2 Q. And it effected your ability to be truthful about what
3 you said, is that right?

4 A. Yes.

5 Q. You also used alcohol?

6 A. Yes.

7 Q. What types?

8 A. Beer and liquor.

9 Q. And you used these with the various drugs you've
10 indicated?

11 A. Yes.

12 Q. And alcohol of course would give you a high, would it
13 not?

14 A. Yes.

15 Q. You drink enough of it, it would make you forgetful,
16 would it not?

17 A. Yes.

18 Q. You have blackouts with it too, don't you?

19 A. Yes.

20 Q. Where you can't remember things, is that correct?

21 A. Yes.

22 Q. And you get things confused, do you not?

23 A. Yes.

24 Q. Actually, when you said yesterday to Mrs. Allen that you
25 had a boyfriend/girlfriend relationship with Scott Allen

1 since 1998, is that correct?

2 A. Yes.

3 Q. And you had known him before then but there had never
4 been this type of boyfriend/girlfriend relationship
5 between you and him, was there?

6 A. No.

7 Q. And you testified yesterday that you visited him while he
8 was on work release at Capel Mills, is that correct?

9 A. Yes.

10 Q. And did I understand you to say that you would visit him
11 there two or three times a week?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. And over what period of time was this before you stopped?

16 A. Maybe a month.

17 Q. A month?

18 A. Yes.

19 Q. And did you tell Ms. Allen yesterday that during that
20 period of time that you developed this relationship with
21 him and that you loved him, is that correct?

22 A. Yes.

23 Q. And you also told her yesterday, did you not, that you
24 stopped after this period of time because you were using
25 drugs so bad that I could not leave the house, is that

1 correct?

2 A. Yes.

3 Q. What were you on that particular time?

4 A. I was injecting powder cocaine.

5 Q. Anything else?

6 A. Not to my recollection.

7 Q. So you're telling us that during that period of about
8 three weeks during these visits you had developed a
9 relationship with Scott where you were in love with him,
10 is that correct?

11 A. Yes.

12 Q. You were infatuated with him, is that correct?

13 A. Yes.

14 Q. And at some point your drug habits and addiction got so
15 bad that you no longer could drive a car, is that
16 correct?

17 A. Yes, sir, that's correct.

18 Q. And you had by that time, before you met Scott, you had
19 already obtained this money from the settlement from your
20 father's death in an accident, is that correct?

21 A. Yes.

22 Q. And you had been using that money to support your drug
23 habit, had you not?

24 A. Yes.

25 Q. And you had spent a considerable amount of money at that

1 point in time that you received from that settlement, had
2 you not?

3 A. Yes.

4 Q. And was your drug habit so bad at that point in time that
5 members of your family had you --

6 MS. ALLEN: Objection.

7 THE COURT: Overruled.

8 Q. (BY MR. OLDHAM) - had you examined to determine whether
9 you could take care of yourself?

10 A. Yes.

11 Q. And you were a substance abuser then, weren't you?

12 A. Yes, sir.

13 Q. And you were unable because of your substance abuse to
14 make informed decisions about yourself and others, is
15 that correct?

16 A. No.

17 Q. You got your child to stay with your husband Larry Smith?

18 A. I think that was a very good decision I made.

19 Q. Okay. Was that your decision or his decision?

20 A. My decision.

21 Q. Okay. It was not your decision to be examined though,
22 was it?

23 A. No.

24 Q. That was your mother's decision, was it not?

25 A. Yes.

1 Q. She thought you were even suicidal, didn't she?

2 MS. ALLEN: Objection.

3 THE COURT: Overruled.

4 A. I believe that that is what she told the magistrate so
5 that he would issue an order for me to be examined. I
6 believe that was the only way that he would do it.

7 Q. (BY MR. OLDHAM) Okay. You never felt like you were, is
8 that correct?

9 A. No.

10 Q. Now, following that time you continued to use drugs
11 though, didn't you?

12 A. Yes.

13 Q. And you next saw Scott Allen you testified when a
14 Jennifer Hill brought him into a parking lot at the Wal-
15 Mart store, is that correct?

16 A. No.

17 Q. Where was it?

18 A. The next time I saw him she took me to the work release.

19 Q. To the work release?

20 A. Yes.

21 Q. All right. It was not at the Wal-Mart parking lot?

22 A. That was the next time after the time that she took me to
23 his work release.

24 Q. Okay. Did you tell Officer Poole that you did not go
25 back to see Scott Allen because the only thing you cared

1 for at that time was drugs?

2 A. Yes.

3 Q. That is a correct statement then, is that correct?

4 A. Yes.

5 Q. Okay. Did you also tell Officer Poole that you were so
6 in love or infatuated with Scott Allen that if you saw
7 him you would keep seeing him?

8 A. Yes.

9 Q. And when you saw him at this parking lot at the Wal-Mart
10 with Jennifer Hill, did you tell Officer Poole that you
11 fell in love with him at first glance?

12 A. Yes.

13 Q. Is that your words?

14 A. Yes.

15 Q. And you were still using the same types of cocaine at
16 that time, is that correct?

17 A. Yes, but not around him.

18 Q. But not around. Why wouldn't you use it around Scott
19 Allen?

20 A. Because he didn't believe in using it in that way.

21 Q. Okay. He tried to get you to stop is what you're saying,
22 is that right?

23 A. He tried to get me to stop using it in that way.

24 Q. Okay. Did you?

25 A. Yes, for a little while.

1 Q. For a little while. Okay. And you testified the other
2 day that at some point because of your love for him that
3 you went with him to Chicago, is that correct?

4 A. Yes.

5 Q. Okay. Now at that time you knew he was out -- he had
6 left prison, didn't you?

7 A. Yes.

8 Q. Jennifer Hill knew that, didn't she?

9 A. Yes.

10 Q. As a matter of fact, you told Officer Poole that both of
11 y'all knew that, is that correct?

12 A. Yes, sir.

13 Q. And when you went to Chicago it was to get a check, is
14 what you told Officer Poole, cashed that you had received
15 from the settlement from your father's death, is that
16 correct?

17 A. Yes.

18 Q. And you subsequently went to Spokane, Washington, is that
19 correct?

20 A. Yes.

21 Q. And saw this individual that you knew as Byron Johnson,
22 is that correct?

23 A. Yes.

24 Q. And that's where you helped Scott obtain a driver's
25 license, is that correct?

1 A. Yes.

2 Q. And you were still married at that time, were you not?

3 A. Yes.

4 Q. And your husband was Larry Smith, is that correct?

5 A. Yes.

6 Q. And the child you have with him is the child you
7 testified to Ms. Allen today about he's living with you
8 now, is that correct?

9 A. Yes.

10 Q. Is that the only child you have?

11 A. Yes.

12 Q. Now, did there come a time when you asked Larry Smith to
13 come out there to Washington with your child?

14 A. Yes.

15 Q. Did he?

16 A. Yes.

17 Q. And he knew Scott Allen, didn't he?

18 A. Yes, he did.

19 Q. Okay. And there was no secret about Scott Allen being
20 out of prison on that occasion with him, was there?

21 A. No.

22 Q. And he brought the child out there, is that correct?

23 A. Yes.

24 Q. And you spent some more of the money that you had and you
25 bought a Jeep, is that correct?

1 A. Yes.

2 Q. And at some point you sold that Jeep and gave it to Mr.
3 Smith and told him to take the child back to North
4 Carolina, is that correct?

5 A. Yes.

6 Q. Is that because of your drug problem?

7 A. Yes.

8 Q. What kind of drug problem was it at that point in time?

9 A. Methamphetamines.

10 Q. And had you used Meth before?

11 A. Not in that way.

12 Q. What way had you used it previously?

13 A. I had snorted the powder.

14 Q. And in what way did you begin to use it while you were in
15 Spokane, Washington?

16 A. Smoking it.

17 Q. Smoking it?

18 A. Yes.

19 Q. And how often did you use it during that time?

20 A. Every chance I could.

21 Q. Okay. Did you use any other drugs along with it?

22 A. Marijuana, alcohol.

23 Q. How about cocaine?

24 A. I may have. I obtained a lot of powder cocaine because
25 Scott liked to do that. So we may have gotten some of

1 that, but I don't remember.

2 Q. Okay. You don't recall exactly what you were using at
3 those different times because you used so much at so many
4 different times, didn't you?

5 A. Yes.

6 Q. Is that a fair statement?

7 A. Yes.

8 Q. Okay. And at some time you went over and went down to
9 San Diego, is that correct?

10 A. We were already in San Diego.

11 Q. When you left Spokane, Washington you told Ms. Allen you
12 just went to San Diego because you had always wanted to
13 go there, is that correct?

14 A. Yes. There may have been other reasons but I don't
15 recall.

16 Q. And you obtained an apartment out there, is that correct?

17 A. Yes.

18 Q. And paid for it six months in advance, is that also a
19 fair statement?

20 A. Yes.

21 Q. Okay. And was your husband with you at that time?

22 A. Yes.

23 Q. Larry Smith was?

24 A. Yes.

25 Q. This was before you sent him back to North Carolina with

1 the child?

2 A. Yes.

3 Q. Is that correct?

4 A. Yes.

5 Q. And you said that when you were in Spokane you got on
6 drugs again yesterday, is that right?

7 A. No. I said when I was in San Diego.

8 Q. Okay. Well, did you not testify the other day that you
9 got on some type of drug and stayed gone for three days
10 and when you returned Scott Allen was gone from the
11 apartment?

12 A. That was in San Diego.

13 Q. Okay. This was after you got to San Diego, is that
14 correct?

15 A. Yes.

16 Q. Okay. What type of drugs did you get on that caused you
17 to absent yourself from this apartment for three days?

18 A. Methamphetamines. Earlier when, just two seconds ago, I
19 thought you were talking about when we were in San Diego.
20 I was knew you were talking about when we were in
21 Spokane.

22 Q. Okay. I was talking about the Spokane. Were you not
23 using Methamphetamines when you were in Spokane?

24 A. No.

25 Q. What were you using there?

1 A. Marijuana.

2 Q. Is that all?

3 A. Yes.

4 Q. Where did you get this Meth in San Diego?

5 A. From the people that sell it.

6 Q. From the people, do you remember who they were?

7 A. No, I don't.

8 Q. How much did you buy?

9 A. I would buy what is called an eight-ball at the time. I
10 don't know exactly how much that is.

11 Q. How much did an eight-ball cost?

12 A. A hundred bucks.

13 Q. And how many eight-balls did you buy while you were there
14 in San Diego?

15 A. Possibly ten.

16 Q. And that would be about a thousand dollars, is that
17 correct?

18 A. Yes.

19 Q. Okay. And you used those yourself, didn't you?

20 A. Yes.

21 Q. Your husband didn't use them, did he?

22 A. No.

23 Q. Scott didn't use them, did he?

24 A. Yes, on some occasions he did.

25 Q. You never told Officer Poole, that did you?

1 A. I guess I didn't -- He didn't ask.

2 Q. Did you tell him about your drug use out there in San
3 Diego?

4 A. I believe I did.

5 Q. You believe you did?

6 A. Yes.

7 Q. Was that in the statements you read to refresh your
8 memory about it since yesterday?

9 A. Yes.

10 Q. Okay. Now, I asked you earlier about the effects,
11 effects Meth has on you, didn't I?

12 A. Yes.

13 Q. When you got back to the apartment there, you became very
14 upset with Scott because he wasn't there, isn't that what
15 you testified to yesterday?

16 A. Yes. And also because all the things that I had
17 purchased were gone.

18 Q. Okay. And when you were asked about that, you said not
19 the furniture, the electronics, is that correct?

20 A. Yes, and clothing and videos of you know, music that we
21 both liked at the time.

22 Q. But it was still furnished with furniture, is that not
23 correct?

24 A. Yes.

25 Q. And you became very upset at him, is that right?

1 A. Yes.

2 Q. And very mad at him, is that not right?

3 A. Yes.

4 Q. And you tried to find out where he was, is that not
5 right?

6 A. Yes.

7 Q. And there came a time he called you, he was back in North
8 Carolina, is that correct?

9 A. Yes.

10 Q. And this was in response to some inquiries you made about
11 where he had gone, is that correct?

12 A. Yes.

13 Q. You thought that he had taken off from you because of
14 your drug use, didn't you?

15 A. Yes. Or that he had gotten caught.

16 Q. But you were mad at him?

17 A. Yes.

18 Q. So you packed up and you came back here to North
19 Carolina, is that correct?

20 A. Yes.

21 THE COURT: I think perhaps now that we're in
22 that move, we're going to all move to a recess this
23 afternoon. Everyone's been here about an hour and twenty
24 to thirty minutes, depending on what seat you have. So
25 we're going to take about a fifteen minute break to 3:15.

1 Smith, would you come back up to the witness stand.

2 (Ms. Vanessa Smith retakes the witness stand.)

3 MR. YATES: You may need to leave early
4 tomorrow morning.

5 THE COURT: The President won't be in Winston
6 until later on in the day. That will be I-40. I will be
7 coming down 64 tomorrow.

8 MR. YATES: Some information. Highway 52 is
9 probably where they're going to close tomorrow, so you
10 may need to take a different route.

11 THE COURT: Well, if somebody knows, they need
12 to tell me how to come down here tomorrow.

13 MR. YATES: Apparently the S.B.I. in on the
14 route. I doubt if they'll be out there as early as you
15 come down.

16 (Jury enters the courtroom.)

17 TIME: 3:28 p.m.

18 (The following proceedings were held in open court
19 in the presence of the jury.)

20 THE COURT: It's 3:28. The jury is back in.
21 Mr. Oldham? The witness is with you, Mr. Oldham.

22 MR. OLDHAM: Thank you, Your Honor.

23 Q. (BY MR. OLDHAM) Ms. Smith, you said you returned to
24 North Carolina after Scott Allen contacted you in San
25 Diego, is that correct?

1 A. Yes.

2 Q. And y'all got back up together, did you not?

3 A. Yes.

4 Q. And everything sort of calmed down, didn't it?

5 A. Yes.

6 Q. You weren't mad at him anymore, were you?

7 A. No.

8 Q. Because you were back with him, weren't you?

9 A. Yes.

10 Q. And y'all stayed for a little while down in Montgomery
11 County you testified yesterday afternoon, in a cabin, is
12 that correct?

13 A. Yes.

14 Q. And somewhere around -- You said you stayed there off and
15 on, is that correct?

16 A. Yes.

17 Q. And you stayed at other peoples' places off and on, is
18 that correct?

19 A. Yes.

20 Q. And sometime around November he decided to return to San
21 Diego, was that your testimony?

22 A. Yes.

23 Q. And you went to Charlotte, is that correct?

24 A. Yes.

25 Q. And how long were you in Charlotte?

- 1 A. Approximately a month, month and a half. I don't
2 remember exactly.
- 3 Q. Okay. Were you still using drugs during that time?
- 4 A. No, just marijuana.
- 5 Q. Just marijuana by now, is that correct?
- 6 A. Yes.
- 7 Q. Okay. And then at some time you wound up back in San
8 Diego by your birthday in January, is that correct?
- 9 A. Yes.
- 10 Q. And you and Scott knew this fellow named Greg Fritz, is
11 that correct?
- 12 A. Yes.
- 13 Q. And he lived out in Colorado, is that correct?
- 14 A. Yes.
- 15 Q. And sometime at the end of January after your birthday
16 you and Scott went to see him, is that correct?
- 17 A. Yes.
- 18 Q. And there was a girl that he had there, is that correct?
- 19 A. Not at that time, no.
- 20 Q. Not at that time?
- 21 A. No.
- 22 Q. Not in February of '99?
- 23 A. I don't remember.
- 24 Q. You don't remember?
- 25 A. I don't remember if he was -- No, because I was staying

1 there.

2 Q. You were staying there?

3 A. Yes.

4 Q. Okay. And did you get him to get you some cocaine at
5 that time, Greg Fritz?

6 A. Yes.

7 Q. How much did you get him to get you?

8 A. An ounce.

9 Q. Is that all?

10 A. Yes.

11 Q. Is that when you said you got back bad on cocaine again?

12 A. I used that ounce and that was it.

13 Q. And your child was still back in North Carolina with your
14 husband Larry Smith, is that correct?

15 A. Yes.

16 Q. Now didn't you say you did a bunch of cocaine at that
17 time when you there with Mr. Fritz yesterday?

18 A. Well, an ounce is a bunch.

19 Q. An ounce is a bunch. Was that all at one time?

20 A. I didn't consume it all at one time, but I did it until
21 it was gone.

22 Q. Okay. Well now, did you visit his residence more than
23 once during this time?

24 A. Who?

25 Q. Greg Fritz?

1 A. We stayed there.

2 Q. More than once?

3 A. We lived there.

4 Q. More than once?

5 A. Yes.

6 Q. When did you return there?

7 A. We lived there so therefore we were at his residence more
8 than once is what I meant.

9 Q. Okay. Well, did you meet a girl there by the name of
10 Kelly at some time?

11 A. Yes.

12 Q. And was she someone who had been seeing Mr. Fritz?

13 A. Yes.

14 Q. Okay. You didn't like her, did you?

15 A. I don't believe I had any problem with her then.

16 Q. You don't believe you had any problem with her then?

17 A. No.

18 Q. Okay. Did you tell the jury yesterday that at some point
19 you started to suspect that Scott was seeing someone
20 else, a girl named Kelly?

21 A. After I returned to North Carolina, yes, I did.

22 Q. Okay. You never suspected that while you were out there?

23 A. No.

24 Q. Okay. That was not the reason you used cocaine, was it?

25 A. No.

1 Q. Or fell back off the wagon?

2 A. No.

3 Q. Okay. And what made you suspect it after you came back
4 here to North Carolina?

5 A. Things he would say. He would tell me some of the same
6 lies that he used to tell his wife about seeing me, he
7 would just remanufacture them and tell them to me.

8 Q. Okay. You testified yesterday that you snooped around in
9 his things, is that right?

10 A. Yes.

11 Q. When did that start?

12 A. I don't recall.

13 Q. You don't recall?

14 A. No.

15 Q. Well, when you were snooping around did you find anything
16 to arouse your suspicion that he was having an affair
17 with this Kelly girl?

18 A. At some point, yes, I did.

19 Q. Okay. And did he ever at some point admit that to you
20 after y'all came back here to North Carolina?

21 A. Yes.

22 Q. Okay. And you didn't really like her after that, did
23 you?

24 A. No.

25 Q. Okay. And it was after you returned to North Carolina

- 1 that you met up with Chris Gailey again, is that correct?
- 2 A. It was after Scott returned to North Carolina.
- 3 Q. Okay. Did you come back with him?
- 4 A. No. I came back first.
- 5 Q. Okay. And how did you get back?
- 6 A. By train.
- 7 Q. By train.
- 8 A. Yes.
- 9 Q. And when was that?
- 10 A. It was around the first of March, I believe.
- 11 Q. Okay.
- 12 A. Because that's my little boy's birthday, around that
- 13 time.
- 14 Q. And did you call Scott back at Greg's residence in
- 15 Colorado?
- 16 A. Yes.
- 17 Q. And did you call him on a lot of occasions during that
- 18 period of time?
- 19 A. Yes.
- 20 Q. Every day?
- 21 A. I don't think every day.
- 22 Q. Was that because you still wanted to see him?
- 23 A. Yes.
- 24 Q. Okay. And did he ask you to come back out there?
- 25 A. I don't remember.

1 Q. Okay. Did you tell him you were not coming back out
2 there?

3 A. I don't remember if I told him that, but I was not going
4 to go back out there.

5 Q. Did you ask him to come back to North Carolina?

6 A. Yes.

7 Q. Did he come back to North Carolina?

8 A. Eventually he did.

9 Q. When was that?

10 A. When I got some more money.

11 Q. Now, where were you staying when he came back to North
12 Carolina?

13 A. With friends in Charlotte.

14 Q. Okay. And when he came back this last time it was around
15 April of 1999, wasn't it?

16 A. I don't remember exactly, but yes, it was somewhere
17 around that time, I guess.

18 Q. And you were staying back out at this cabin in Montgomery
19 County with him?

20 A. Yes.

21 Q. And you saw Chris Gailey there, didn't you?

22 A. Yes.

23 Q. And you had known Chris Gailey, hadn't you?

24 A. Yes, I had known who he was.

25 Q. You didn't consider him your friend though, did you?

- 1 A. I didn't know him very well, so no, I didn't.
- 2 Q. You considered him an acquaintance I believe is what you
3 said?
- 4 A. Yes.
- 5 Q. You considered him to be Scott's friend, didn't you?
- 6 A. Yes.
- 7 Q. And he came down there to the cabin where you and Scott
8 were staying in Montgomery County, didn't he?
- 9 A. Yes.
- 10 Q. And when he came down there, did you ever get any cocaine
11 from him?
- 12 A. No, not at the cabin.
- 13 Q. Not at the cabin?
- 14 A. No.
- 15 Q. Okay. Now, did you testify the other day that you had
16 flipped out over some cocaine you had gotten from Chris?
- 17 A. Yes, but that was not at the cabin.
- 18 Q. Where was that?
- 19 A. At a motel in Charlotte.
- 20 Q. Was that during this period of 1999 after Scott returned
21 to North Carolina?
- 22 A. Yes.
- 23 Q. Did you and Scott and Chris go to the motel in Charlotte
24 at some time?
- 25 A. Yes.

1 Q. In May or April of 1999?

2 A. I'm not sure what month it was.

3 Q. You're not sure what month it was?

4 A. No.

5 Q. How much cocaine did you use on that occasion?

6 A. Not very much.

7 Q. Had you ever obtained drugs from Chris Gailey before?

8 A. No.

9 Q. Never had?

10 A. No.

11 Q. Did you pay him for these drugs on this occasion?

12 A. I don't remember.

13 Q. You don't recall?

14 A. No.

15 Q. Do you recall how much you got from him?

16 A. I remember that they were giving me some. I don't know
17 exactly how much it was.

18 Q. But you said Scott didn't have any money at this time,
19 did he?

20 A. No. Chris didn't ever make Scott pay for anything.

21 Q. He never made Scott pay for anything?

22 A. No.

23 Q. He would take Scott to places if Scott wanted to go to
24 some place, right?

25 A. Yes.

1 Q. He would buy food for him if Scott needed food?

2 A. Yes.

3 Q. He would drive him from Montgomery County to a bus
4 station or any place he needed to if he would have to go
5 somewhere, didn't he?

6 A. Yes.

7 Q. And there came a point at some time in May of 1999 that
8 you told Officer Poole that Scott came clean and told me
9 about him and Kelly, is that correct?

10 A. Yes.

11 Q. And Scott told you he needed to go back to Denver to get
12 the rest of his items, is that correct?

13 A. Yes. So earlier when I said that he didn't go back, I
14 was wrong. I had forgotten about that.

15 Q. You were wrong?

16 A. Yes.

17 Q. Okay. Now you mentioned somebody named Spider the other
18 day, is that correct?

19 A. Yes.

20 Q. What's Spider's real name?

21 A. I'm sorry?

22 Q. What's his real name?'

23 A. Jeff Brantley.

24 Q. Mr. Brantley is deceased now, isn't he?

25 A. Yes, he is.

1 Q. And he lived down in Shallotte, didn't he?

2 A. Yes.

3 Q. And you knew him, didn't you?

4 A. Yes.

5 Q. And how long had you known him?

6 A. Since I was fourteen.

7 Q. And you testified yesterday I believe that you're thirty-
8 one now, is that correct?

9 A. Yes.

10 Q. So you would have been about twenty-seven in 1999, is
11 that correct?

12 A. Yes.

13 Q. And you would have known Mr. Brantley for about thirteen
14 years?

15 A. Yes.

16 Q. And did you know someone else who stayed there with him?

17 A. His wife.

18 Q. Okay. Anyone else?

19 A. I believe Mr. Peralta (SIC) stayed there.

20 Q. Okay. And how did you know him?

21 A. He was a friend of mine's brother.

22 Q. Okay. Was he related to a Lilly Efird?

23 A. Yes, that's the same guy that I'm speaking about.

24 Q. And is that a friend of yours?

25 A. Yes.

1 Q. And does she live in Albemarle?

2 A. Stanfield.

3 Q. And how long have y'all been friends?

4 A. Maybe two years.

5 Q. You said you were not only friends but she was your
6 girlfriend, is that correct?

7 A. Yes.

8 Q. There's a relationship between you and her?

9 A. Yes.

10 Q. Sexual relationship?

11 A. Yes.

12 Q. And how long have you known her?

13 A. Around two years.

14 Q. And this was her brother that stayed down there in
15 Shallotte with Mr. Brantley, is that correct?

16 A. Yes.

17 Q. And he's deceased now too, is that correct?

18 A. Yes.

19 Q. Now, at some time in June of 1999 -- Let me back up a
20 little. You said at some point Scott went back to
21 Colorado, is that correct?

22 A. Yes.

23 Q. And told you he'd be back in a couple of weeks, is that
24 correct?

25 A. Yes.

1 Q. And you know when he went back out there you suspected
2 that he was staying at Kelly's house, is that correct?

3 A. Yes.

4 Q. And you told Officer Poole that you would call this Kelly
5 at work and at home, didn't you?

6 A. Yes.

7 Q. And you told Officer Poole that when you called her at
8 home and at work you gave her hell about Scott, is that
9 right?

10 A. Yes.

11 Q. And you told Officer Poole that you gave her hell about
12 Scott because was your man, is that correct?

13 A. Yes.

14 Q. I take it by that that you were intensely jealous about
15 Scott, is that correct?

16 A. At that time, yes.

17 Q. This was in June of 1999, is that correct?

18 A. Yes.

19 Q. Okay. And you also told Officer Poole that at some time
20 later that month you went to a drug treatment center,
21 didn't you?

22 A. Yes.

23 Q. And this jealousy that you had over Scott and this girl
24 caused you to relapse again, is that what you're telling
25 us?

1 A. No.

2 Q. No. You just used the drugs on your own at that time?

3 A. Yes.

4 Q. Okay. And you told Officer Poole that you actually broke
5 out of the drug treatment center. By that I take it you
6 mean you left, is that correct?

7 A. Yes.

8 Q. Because you'd heard that Scott was back in Randolph
9 County, is that correct?

10 A. Yes.

11 Q. And you went up and saw him, did you not?

12 A. Yes.

13 Q. And y'all went back out to this cabin there in Montgomery
14 County, is that correct?

15 A. Yes.

16 Q. And while you were there at the cabin, you told Officer
17 Poole that Chris Gailey would come there on occasion, is
18 that correct?

19 A. Yes.

20 Q. And you told him that he and Scott were using cocaine, is
21 that what you told Officer Poole?

22 A. Yes.

23 Q. Were you not using cocaine?

24 A. No.

25 Q. You didn't touch it?

1 A. No.

2 Q. You were able to abstain from it, is that correct?

3 A. Yes.

4 Q. How long had you been at the drug treatment center before
5 you left?

6 A. I don't remember.

7 Q. Was it less than a month?

8 A. Yes.

9 Q. You didn't stay there for twenty-eight days, did you?

10 A. No.

11 Q. Did you stay there a week?

12 A. I don't remember.

13 Q. And how much cocaine did you use after you left there?
14 Any? At any time?

15 A. I believe I used some shortly before I turned myself in.

16 Q. Okay.

17 A. But that was the only time.

18 Q. That was the only time.

19 A. Yes.

20 Q. How often would Chris Gailey come down there to this
21 cabin?

22 A. I don't remember. A couple of times a week. I don't
23 know.

24 Q. Now he would come at all times of the day, wouldn't he?

25 A. Yes.

1 Q. He didn't have a job like 8:00 to 5:00 or anything?

2 A. No.

3 Q. Okay. And you knew he dealt in drugs, didn't you?

4 A. Yes.

5 Q. You saw that, didn't you?

6 A. Yes.

7 Q. What types of drugs?

8 A. Marijuana and cocaine.

9 Q. You saw him sell those drugs, didn't you?

10 A. Yes.

11 Q. On more than one occasion?

12 A. Yes.

13 Q. How many occasions?

14 A. I don't know.

15 Q. Would it have been more than ten?

16 MR. YATES: Object.

17 THE COURT: Overruled.

18 A. I don't remember.

19 Q. (BY MR. OLDHAM) You don't remember?

20 A. No.

21 Q. Now, Lilly Efird actually came out there one time, didn't
22 she?

23 A. Yes.

24 Q. And you told Officer Poole that Lilly started to get mad,
25 is that right?

1 A. Yes.

2 Q. And she was -- She didn't like Scott, did she?

3 A. It wasn't that she didn't like him. I don't know. I
4 guess maybe she didn't know him.

5 Q. Okay. You and she had a relationship, is that correct?

6 A. Yes.

7 Q. And at some point y'all went over to this place on
8 Whippoorwill Cove Road and started staying there, is that
9 correct?

10 A. Yes.

11 Q. And you said yesterday everybody over there was doing
12 drugs, is that correct?

13 A. Yes.

14 Q. What types of drugs?

15 A. Marijuana, alcohol, cocaine.

16 Q. Heroin?

17 A. No.

18 Q. Meth?

19 A. No.

20 Q. Any other types of drugs?

21 A. Not that I can recall, no.

22 Q. And you were smoking over there marijuana yourself and
23 drinking, is that correct?

24 A. Yes.

25 Q. But you had not used any cocaine there, is that correct?

1 A. No.

2 Q. All right. Now, at some point this day of July 9th rolled
3 around, didn't it, while y'all were staying over there?

4 A. Yes.

5 Q. Is that correct?

6 A. Yes.

7 Q. And was Robert Johnson there in the trailer? Did he live
8 there?

9 A. Yes.

10 Q. Was he one of the people who rented that space?

11 A. Yes.

12 Q. Did you know Danny Lanier?

13 A. Yes.

14 Q. Was he there?

15 A. I believe he had a job. He was probably there part of
16 the day.

17 Q. Well, did he live there at the trailer?

18 A. Yes.

19 Q. Okay. Did his wife Tanzie live there?

20 A. Yes.

21 Q. Did he have a pickup?

22 A. Yes.

23 Q. What color was it?

24 A. I don't remember.

25 Q. You don't recall what color Danny's pickup was?

1 A. No, it was brown or gray or tan. I don't know.

2 Q. How long were you there at the trailer?

3 A. Approximately two weeks maybe.

4 Q. Okay. And did you ride in Mr. Lanier's truck?

5 A. Yes.

6 Q. Okay. Now Chris usually carried a .45 pistol in his
7 pants, did he not?

8 A. Yes.

9 Q. And you saw him with that gun on many occasions, did you
10 not?

11 A. Yes.

12 Q. You ever see him with a shotgun?

13 A. Yes.

14 Q. A sawed-off shotgun?

15 A. There was a sawed-off shotgun at the residence.

16 Q. Was that Chris Gailey's?

17 A. I don't know.

18 Q. It wasn't Scott's, was it?

19 A. No.

20 Q. And did you ever see Chris Gailey with that sawed-off
21 shotgun?

22 A. I don't remember.

23 Q. Now, do you recall if you were using or smoking any
24 marijuana on that day of July 9th?

25 A. I don't remember. I assume that I was.

1 Q. Were you drinking that day?

2 A. I don't remember.

3 Q. You don't remember?

4 A. I don't believe I was.

5 Q. You don't remember what you'd used that day?

6 A. I remember I used marijuana. I'm pretty sure. I mean I
7 did that every day, so --

8 Q. And -- But you have difficulty remembering what happened
9 before you left the trailer?

10 A. Yes, because it's been so long ago.

11 Q. And you have difficulty remembering what happened after
12 you left that area and went down to Shallotte, is that
13 correct?

14 A. Yes.

15 Q. But you remember what happened supposedly out there in
16 the woods?

17 A. Some things you don't forget.

18 Q. Okay. Now, did you ever tell Lilly Efird about any of
19 this?

20 A. Yes.

21 Q. Okay. Did you ever tell Lilly Efird that -- You told her
22 that Scott had shot Chris Gailey, didn't you?

23 A. Yes.

24 Q. But you told her that you had left out there and came
25 back and picked Scott up six or seven hours later, didn't

1 you?

2 A. No.

3 Q. You didn't tell Lilly Efird that?

4 A. No.

5 Q. You said at some point down in -- You returned to
6 Shallotte at some subsequent occasion, is that correct,
7 with Lilly Efird?

8 A. Yes.

9 Q. Do you recall how you got back down to Shallotte with
10 Lilly Efird?

11 A. She drove.

12 Q. She drove?

13 A. Yes.

14 Q. Okay. Now, you indicated yesterday, did you not, that at
15 some point after you were back down there in Shallotte
16 with Lilly Efird that you left down there and went back
17 to Denver, or started hitchhiking to Denver, didn't you?

18 A. Yes.

19 Q. Okay. And that was the morning after you'd gotten back
20 down there with Lilly Efird, wasn't it?

21 A. Yes.

22 Q. In actuality, what you didn't tell the jury is that you
23 took her car without her permission, didn't you?

24 A. No, I didn't.

25 Q. And you took money from her, didn't you?

1 A. She gave me money and she gave me her car.

2 Q. You didn't steal the money and the car?

3 A. No.

4 Q. To start to Denver?

5 A. No.

6 Q. Did you tell Mr. Poole that while you stayed with Lilly
7 Efird you not only told her what happened but you also
8 called Kelly in Denver because you thought Scott might be
9 there with her?

10 A. I don't remember. I remember that I told Lilly what
11 happened. I don't remember if I called Kelly from her
12 phone, from Lilly's house.

13 Q. Did you tell Officer Poole that you talked to Scott
14 during that week, and Scott told you that he was going to
15 try to find somewhere for you and him to stay?

16 A. I don't remember if I told Mr. Poole that or not.

17 Q. You reviewed your statement this morning, didn't you?

18 A. Yes.

19 Q. Didn't you tell him that Scott had told you he had taken
20 a bus to Denver?

21 A. If that's what Mr. Poole says, then I'm sure that's what
22 I told him.

23 Q. But you don't remember that?

24 A. No.

25 Q. Now, did you tell Mr. Poole that after you started out

1 there to Denver that you would call Kelly, is that
2 correct?

3 A. Yes, I remember that.

4 Q. And how many times did you do that?

5 A. I don't know how many times.

6 Q. And you told Officer Poole you would cuss her out when
7 you called her up on the way out there back to Denver,
8 didn't you?

9 A. Yes.

10 Q. And you were still jealous, weren't you?

11 A. Yes.

12 Q. And the reason you were going out there to Denver was
13 because you were jealous about her relationship with
14 Scott and you wanted Scott, wasn't it?

15 A. That and the fact that I was pregnant.

16 Q. And the fact that you were pregnant. And you weren't
17 afraid of Scott if you were going out there to see him at
18 that time, were you?

19 A. No, not at that time.

20 Q. You wanted to get back up with him, didn't you?

21 A. I wanted him to take care of me.

22 Q. You wanted him to take care of you. And you said
23 yesterday I went out there because I was pregnant, that's
24 what you just said, is that right?

25 A. Yes.

NOT
PREGNANT

1 Q. I also was angry, is that what you said?

2 A. Yes.

3 Q. And I was angry because he was out there with that girl,
4 is that correct?

5 A. Yes. And because he had done this and left me here and I
6 didn't know what to do.

7 Q. You said you had conversations several times with Scott
8 about this, hadn't you?

9 A. About what?

10 Q. I guess you're talking about Kelly, right?

11 A. Yes. I had had several conversations with Scott about
12 Kelly.

13 Q. And your feelings were so strong that you started looking
14 through his stuff to check up on him, right?

15 A. Yes.

16 Q. You said I snooped through his things?

17 A. Yes.

18 Q. Right?

19 A. Yes.

20 Q. Now, you said yesterday that when you got out there at
21 Kelly's house that Scott got mad at you because you
22 weren't supposed to go to her house, is that what you
23 testified to?

24 A. Yes.

25 Q. Now when you talked to Mr. Poole you said before I got to

1 Denver Scott and I had talked on the phone and Scott told
2 me to meet him at Kelly's house, is that correct?

3 A. He told me to meet him in a little street behind her
4 house.

5 MR. OLDHAM: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes, sir.

8 Q. (BY MR. OLDHAM) When you gave Mr. Poole this statement
9 he had you to read it, didn't he?

10 A. Yes.

11 Q. He had you sign each page, didn't he?

12 A. Yes.

13 Q. And he had to date each page, didn't he?

14 A. Yes.

15 Q. And right here at the bottom of the page it says before
16 she got to Denver Scott and her talked on the phone and
17 Scott told her to meet him at Kelly's house at 1401 South
18 Emerson Street in Denver. So she met Scott there. Is
19 that correct?

20 A. Yes.

21 Q. Does that refresh your memory?

22 A. Yes.

23 Q. So you were incorrect yesterday when you said he got mad
24 at you because you showed up at her house, didn't you?

25 A. No, I was not.

1 Q. You were not incorrect yesterday?

2 A. No.

3 Q. Is this statement wrong?

4 A. No. I just wanted to clarify that he wanted me to meet
5 him in this street behind her house.

6 Q. But you gave him, Mr. Poole, the actual address of her
7 house he gave you in this statement?

8 A. Yes, I knew where her address already, so there would
9 have been no reason for Scott to have told it to me.

10 Q. Okay. And you saw him out there, is that correct?

11 A. Yes.

12 Q. And you were upset because he was there at Kelly's house,
13 is that correct?

14 A. I was just upset period.

15 Q. You were just upset period. Okay. You didn't say leave
16 there and go to the police right then, did you?

17 A. No.

18 Q. You actually testified yesterday that you went back to
19 Charlotte with some people that you knew in a band, is
20 that correct?

21 A. Yes.

22 Q. How long did that take you?

23 A. I don't know. Maybe four or five days.

24 Q. You didn't fly?

25 A. No.

1 Q. By plane?

2 A. No.

3 Q. You rode in a vehicle?

4 A. Yes.

5 Q. Who were these people?

6 A. My friend Jamie Brewer and Billy Graves, Kelly, I don't
7 remember his last name, and Jeff Trice.

8 Q. Did you tell any of these people anything?

9 A. Yes.

10 Q. You did?

11 A. Yes.

12 Q. Did you use any drugs?

13 A. Marijuana.

14 Q. Only marijuana?

15 A. Yes.

16 Q. Now, yesterday when you testified out there about what
17 happened, you said that when you got out into the woods
18 past this cabin that Scott and Chris had a drink of water
19 from a well, is that correct?

20 A. A well at the cabin.

21 Q. At the cabin. And they proceeded past the cabin, is that
22 correct?

23 A. Yes.

24 Q. And all of a sudden Scott turned around and pushed you
25 down and turned back and shot Chris Gailey, is that

1 correct?

2 A. Yes.

3 Q. And you fell to the ground and covered your ears with
4 your hands, is that correct?

5 A. Yes.

6 Q. And you heard several shots, is that correct?

7 A. Yes.

8 Q. Okay. And there hadn't been any argument between Scott
9 Allen and Chris Gailey that day, had there?

10 A. No.

11 Q. You'd never actually seen any argument between them,
12 either down there at the cabin or over at Whippoorwill,
13 had you?

14 A. No, not that I recall, no.

15 Q. And Scott didn't even normally have a gun in his
16 possession, did he?

17 A. No.

18 Q. And any time that Scott needed something Chris Gailey
19 would provide it for him, wouldn't he?

20 A. Yes.

21 Q. But you didn't particularly like Chris Gailey, did you?

22 A. He unnerved me.

23 Q. He unnerved you?

24 A. Yes.

25 Q. You never considered him your friend?

1 A. No.

2 Q. Now you said yesterday that when you started walking back
3 after Chris Gailey had been shot, after about seven or
4 eight hours, you heard Chris Gailey empty his gun, is
5 that correct?

6 A. I heard a gun being emptied.

7 Q. Okay. When you say emptied, are you saying you heard
8 multiple shots at that time?

9 A. Yes.

10 Q. More than one?

11 A. Yes.

12 Q. You said just now you heard a gun being emptied, but
13 yesterday you said it was Chris emptying the gun.

14 A. Well, it sounded like a .45 to me. It was definitely not
15 a shotgun that was being -- that I was hearing. And I
16 don't believe there was anybody else out there.

17 Q. Okay. But you heard multiple shots?

18 A. Yes.

19 Q. Okay. And Scott was with you?

20 A. Yes.

21 Q. Okay. Now you never told Chris Poole about hearing any
22 shots as you were walking out of the woods, did you?

23 A. I don't know.

24 Q. Did you ever tell any of the officers about hearing shots
25 as you were walking out of the woods?

1 A. Yes.

2 Q. You did? Who did you tell?

3 A. I don't know.

4 Q. Do you remember who you talked to other than Mr. Poole
5 sitting back there?

6 A. Pete Blue, but I don't remember the men's name I talked
7 to in Charlotte, and I know I talked to John Reid.

8 Q. Did you see both those statements that you gave back in
9 August here today?

10 A. Yes, I did.

11 Q. Was there anything in there about you hearing shots from
12 Chris Gailey as you walked out of the woods?

13 A. I don't know.

14 Q. You don't know? Did you read them all the way through?

15 A. Yes.

16 Q. But you don't remember if there was anything in there
17 about that?

18 A. No, it's a very long document.

19 Q. Now you testified today that after you had reread that
20 Scott supposedly told you to say something about this
21 incident, is that correct?

22 A. Yes.

23 Q. And one of the those things you testified to was that --
24 What did you say? Let me ask you that.

1 out, that we were walking and that somebody jumped out
2 and started shooting, and that Chris and this -- the
3 other person were shooting at him and so he shot Chris in
4 self defense.

5 Q. Okay.

6 A. And the he told me to say that Dustin, whatever his last
7 name is, had reason to want to harm Chris.

8 Q. Okay. Now, did you also make a statement at any time
9 that prior to leaving from the woods Scott Allen said why
10 did he turn on me like that?

11 A. Yes.

12 Q. And when you gave that statement you referred to Scott
13 talking about Chris Gailey, is that correct?

14 A. Yes.

15 Q. You said earlier that you knew what a .45 sounded like I
16 take it, is that correct?

17 A. Yes.

18 Q. You heard a .45 shot before?

19 A. Yes.

20 Q. Okay. Did you hear a .45 being shot that evening?

21 A. I believe it -- That's what it sounded like to me. And
22 it was definitely not a gun that you have to cock every
23 time you shoot it.

24 Q. You never saw Scott with a .45, did you, that day?

25 A. I don't remember, no.

1 Q. You don't remember?

2 A. No. I don't remember. That day, no, I didn't see him,
3 but I don't remember if I ever saw him with a .45 on any
4 other day.

5 Q. Okay. You said earlier you wanted Scott to take care of
6 you, is that correct?

7 A. Yes.

8 Q. And I've asked you about if Scott ever had any problems
9 with Chris, and you said no, but that you didn't
10 particularly care for him, is that correct?

11 A. Yes.

12 Q. You even testified about he called you the B-word, is
13 that correct?

14 A. Yes.

15 Q. And you testified that Scott supposedly made some
16 statement about he won't call you the B-word anymore, is
17 that correct?

18 A. Yes.

19 Q. And I take it you mean by that that would be Scott
20 looking after you, wouldn't it?

21 A. I'm sorry?

22 Q. Was that Scott looking after you, is that what you think?

23 A. Do I think that that's --

24 Q. Yes, ma'am.

25 A. -- why, because he was looking after me?

1 Q. Yes.

2 A. No.

3 Q. Okay. Do you remember who all you saw when you got down
4 to Shallotte?

5 A. I remember Spider, his wife, Bobby Peralta, Jeffrey Page,
6 and John Blackwelder.

7 Q. Okay. Now, before you got to Shallotte, did you ever
8 have an occasion to go back to the trailer on
9 Whippoorwill Drive and pick up Mr. Gailey's vehicle?

10 A. No.

11 Q. Did you see Mr. Johnson at any time when you returned at
12 the address on Whippoorwill Drive?

13 A. I saw him asleep in a chair.

14 Q. He never talked with you?

15 A. No.

16 Q. You never asked where the keys were to Mr. Gailey's
17 vehicle with Mr. Johnson?

18 A. No.

19 Q. He never refused to give you those keys?

20 A. No.

21 Q. Mr. Gailey had been staying there with Mr. Johnson before
22 you ever stayed there, hadn't he?

23 A. Yes.

24 Q. And Mr. Gailey actually lived there some before you and
25 Scott ever went there, is that correct?

1 A. Yes.

2 Q. You would agree that Mr. Gailey was particular about his
3 vehicle?

4 A. Yes.

5 Q. Never let anybody else drive it?

6 A. He had let me drive it one time.

7 Q. He had let you drive it?

8 A. Yes.

9 Q. Anyone else?

10 A. Not that I can recall.

11 Q. You never saw him let any of his friends drive it, but he
12 let you drive it, is that correct?

13 A. Yes. But there was a reason for that.

14 Q. Had to do with drugs?

15 A. No. It had to do with the fact that he had had a couple
16 of beers and he got pulled over, and they wouldn't let
17 him drive away from where he got pulled over.

18 Q. Is that the only time he ever let you drive?

19 A. I'm sorry?

20 Q. Was that the only time he ever let you drive it?

21 A. Yes.

22 Q. Okay. Now, you testified that you went back to the
23 trailer again, is that correct?

24 A. Yes.

25 Q. At Whippoorwill Cove. And you went inside for the

- 1 purpose of getting Mr. Gailey's wallet, is that correct?
- 2 A. Yes. His wallet and Scott and my belongings.
- 3 Q. Okay. And it was not for the purpose of getting the
- 4 key's to Mr. Gailey's vehicle?
- 5 A. No.
- 6 Q. Did you see anybody else in there in the trailer when you
- 7 went in?
- 8 A. I don't remember. But I do remember that I saw Robert
- 9 Johnson, and he was asleep in the chair.
- 10 Q. Okay. Now, is this about the time everything gets sort
- 11 of breaking down for you, I believe are the words you
- 12 used?
- 13 A. After I took the Zanax is down at Spider's, that's when
- 14 things really broke down, but I was already very upset at
- 15 that point. And I also believe I was in shock.
- 16 Q. So you didn't take the Zanax there at the trailer at
- 17 Whippoorwill Cove?
- 18 A. No.
- 19 Q. So you waited until you got down at Spider's?
- 20 A. Yes.
- 21 Q. And did you get those from Spider?
- 22 A. I don't remember.
- 23 Q. You don't remember where you got them from?
- 24 A. No.
- 25 Q. Were you using anything else when you went down there to

1 Shallotte, any other type of drugs or drink any alcohol?

2 A. I may have smoked some marijuana. I don't remember.

3 Q. That wouldn't cause you to get that way, would it?

4 A. Marijuana?

5 Q. Yes.

6 A. No.

7 Q. Did y'all stop anywhere on the way to Shallotte?

8 A. I believe we stopped at a store, but I don't -- I can't
9 truthfully testify that we did.

10 Q. Okay. And how long were you there at Shallotte?

11 A. I don't know.

12 Q. You don't know?

13 A. No.

14 Q. Did you ever leave Shallotte?

15 A. Yes.

16 Q. Where did you go?

17 A. To Albemarle.

18 Q. Who did you go with?

19 A. Scott.

20 Q. When was that?

21 A. I don't know how long after we got there we left, but I
22 know we left.

23 Q. Was it the same day?

24 A. I don't know.

25 Q. Do you recall spending the night at Shallotte?

- 1 A. No.
- 2 Q. You don't recall ever sleeping down there at Spider's
3 trailer?
- 4 A. I -- On that particular occasion, I don't remember.
- 5 Q. You don't remember?
- 6 A. No.
- 7 Q. But you remember coming back to Albemarle with Scott?
- 8 A. Yes.
- 9 Q. In Mr. Gailey's truck?
- 10 A. Yes.
- 11 Q. Where did you go?
- 12 A. To get some cocaine.
- 13 Q. Where did you go?
- 14 A. Just to some people I knew in Albemarle that sold it.
- 15 Q. Who are these people you knew in Albemarle?
- 16 A. Just a girl I know.
- 17 Q. Well, give me her name.
- 18 A. Her name was Linda.
- 19 Q. Okay. And did you pay for it?
- 20 A. Yes.
- 21 Q. You had some money on you, didn't you?
- 22 A. Yes.
- 23 Q. And how much did you get?
- 24 A. How much cocaine?
- 25 Q. Yes.

1 A. Oh, I don't remember. It was quite a bit.

2 Q. Did you use it?

3 A. No.

4 Q. You didn't use any of it?

5 A. No.

6 Q. Where did you go after you got the cocaine?

7 A. I don't know.

8 Q. You don't know?

9 A. No.

10 Q. You have no recollection until when, Vanessa?

11 A. I cannot, I can't truthfully testify because I was in and
12 out, and I was very upset. The next point I can
13 truthfully testify about is when I woke up at Lilly
14 Efird's house.

15 Q. Do you remember what day that was?

16 A. No.

17 Q. You don't know how you got to Lilly Efird's house?

18 A. No.

19 Q. Scott Allen wasn't at Lilly Efird's house, was he?

20 A. I'm sorry?

21 Q. Scott Allen wasn't at Lilly Efird's house, was he?

22 A. No.

23 Q. Did you see Lilly Efird there?

24 A. Yes.

25 Q. When was the next time you used cocaine?

1 A. Shortly before I turned myself in, a few days, a week
2 maybe.

3 Q. Where was that?

4 A. In Charlotte.

5 Q. After you returned there with these friends from
6 Colorado?

7 A. Yes.

8 Q. How much did you use there?

9 A. I don't recall.

10 Q. You don't recall?

11 A. No.

12 Q. Where'd you get it?

13 A. I'm sorry?

14 Q. Where'd you get it?

15 MR. YATES: I object, Your Honor. I don't know
16 that that's relevant.

17 THE COURT: Overruled.

18 A. I mean I don't know. I guess from the people that sell
19 it.

20 Q. (BY MR. OLDHAM) Was that people you were with?

21 A. No.

22 Q. So you had some money and you went and bought yourself
23 some more cocaine at that time, is that correct?

24 A. Yes.

25 Q. But you don't remember how much you bought or how much

1 you used?

2 A. It was maybe a gram. I don't know.

3 Q. And it was only after you came back from Charlotte and
4 had used that cocaine again that you decided to go to the
5 police, is that correct?

6 A. Yes.

7 Q. When you were down in Shallote, you mentioned there was
8 four people down there, Robert Peralta, Jeff, is that
9 right, Brantley?

10 A. Yes.

11 Q. And who else was there?

12 A. Jeffrey Page, and John Blackwelder, and also Mr.
13 Brantley's wife.

14 Q. Did you know any of those people?

15 A. Yes. I know all of them.

16 Q. Now, how long had you known Mr. Brantley?

17 A. Since I was fourteen years old.

18 Q. The same time you'd known, is that Jeff we're talking
19 about?

20 A. Yes, Jeff and his wife. I met them both at the same
21 time.

22 Q. Same time. And how long had you known Mr. Peralta, as
23 long as you'd known Mrs. Efird?

24 A. Yes.

25 Q. Okay. And how about Jeff Page, how long had you known

1 him?

2 A. Maybe six or seven years. I don't know.

3 Q. All these were your friends?

4 A. Yes..

5 MR. OLDHAM: That's all the questions I have,
6 Your Honor.

7 THE COURT: Any redirect?

8 MS. ALLEN: Yes, Your Honor.

9 *****

10 *****

11 **REDIRECT EXAMINATION of MS. VANESSA SMITH by MS. ALLEN:**

12 Q. (BY MS. ALLEN) Ms. Smith, I believe you gave two
13 statements to Detective Poole, is that correct?

14 A. Yes.

15 Q. And was the first of those statements on August 10th, 1999
16 at the Charlotte Police Department?

17 A. Yes.

18 Q. And was the second statement on August 11th, 1999 after
19 you had been brought over to the Montgomery County Jail?

20 A. Yes.

21 Q. And you recall that Jeff Brantley and John Blackwelder
22 and Robert Peralta and Jeff Page were there at Jeff
23 Brantley's house, correct?

24 A. Yes.

25 Q. Do you remember anything else about Jeff Brantley -- I

1 mean -- I'm sorry. Do you remember anything else about
2 Jeffrey Page being there?

3 A. I remember that -- I believe he was the one that gave me
4 the Zanax.

5 Q. Okay. And Mr. Oldham brought out that one of the things
6 that Scott said to you when you were walking out of the
7 woods was why did he turn on me like that?

8 A. Yes.

9 Q. And what were your thoughts there in the woods when he
10 said that?

11 A. I couldn't understand why he said that.

12 Q. Why couldn't you understand that?

13 A. Because Chris didn't turn on him.

14 Q. So what do you mean when you say Chris didn't turn on
15 him?

16 A. Chris didn't do anything to him.

17 Q. So why did he say, why did he make a statement like that,
18 why did he turn on me like that?

19 A. I don't know.

20 MS. ALLEN: Your Honor, the State has no
21 further questions of this witness at this time, but we
22 would reserve the right to recall her.

23 THE COURT: Any recross at this time, Mr.
24 Oldham?

25 MR. OLDHAM: No, Your Honor. Thank you.