

NEW HAMPSHIRE
✓ SUPREME COURT

Jan 5 4 06 PM '94

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

1993 TERM
DECEMBER SESSION

No. 92-516

The State of New Hampshire

v.

Jason Carroll

APPENDIX TO
BRIEF FOR THE STATE OF NEW HAMPSHIRE

THE STATE OF NEW HAMPSHIRE

Jeffrey R. Howard
Attorney General

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(15 minutes)

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L-88-144
~~XXXXXXXXXXXXXXXXXXXX~~
1049

I Jason Caswell on the night of July 28, 1988 was parked at Meishe muffler ~~below~~, when Tony Papp pulled up in a green subvan, I then asked Tony whose car it was, he said ^{About} it belonged to a girl who worked at the mall. ^{8:30} Tony then asked me if I would follow him to the mall so he could drop off ~~to~~ the car so that Person could have it when she got out of work.

Tony messed around in the car for a minute or two then stopped out of the car putting the keys under the seat. He then closed up the car, putting his bag into the back of my truck he then asked if I would give him a ride to Webster house on Webster street so he could be picked up for work. I then proceeded back to ~~the~~ st. to Meishe muffler

I was aware that Duwayne Bartlett who worked with ~~me~~ ¹⁹⁸⁴ at Hi-Tech on the night of July 28, 1988 that he lived in the Webster House

Jason Caswell

Witness:
Sgt. Roland Perry
Sgt. Neal J. Scott
Dana J. Finn

NOV 24 1988
3:15 P.M.

~~XXXXXXXXXX~~

1050

On the night of July 28 1989 before dropping
 Tony off at Duwayne Bartlett's home on Webster
 street he asked me if I would drop off his bag
 at his house, the bag was a light blue-green
 type color, I went to the place where he had
 lived, I took the bag to the house knocked on
 the door and handed it to the woman who lives
 there and I had told her Tony asked if I would
 drop this off. I then left.

Jason Caswell

3:25 PM NOV 24, 1989

Witnessed: Sgt R. Lamy
 U.S. Scott
 Diana J. Finer

(#1)

3

I-88-144

36 Ad

11-24-89

1600 HRS -

Statement of Jason Currell
March, Armony

On July 26, 1988 at about 7pm Tony
Hendy & myself ^{went to} ~~the~~ the Manchester
Mall ~~at about 7pm~~ ^{and we} with a
woman who I didn't know at the time.

On July 27, 1988 at Tony Hendy asked me
to play the part of "Bob" to a woman.
Tony told me it was a "joke". I
agreed to do ^{the} on Elm St, in Manchester.

I introduced myself as "Bob" and requested
her to go to another location where
she was to meet some other people who
would give her the money she was owed.
I didn't know where this location
was. Tony got into the green Subvan with
the woman and I followed ~~to~~ in my
Pick up. We traveled directly to a
Sand pit in Bedford. We did
this via Rt 101 to Wallace Road to
North Amherst Rd. and turn right
off the other road to the pit. Before
going into the pit area Tony drove
the green Subvan into the woods. We
all got out, Tony & the woman got
out and went to two other people
in the pit. One of these people had a
Blazer. I stayed at my truck.
I watched ~~them~~ Tony & the woman
walk into the pit and then turned my
back to take a leak. Then I watched
them and heard the talking get louder.

(#2)

4

I-88-144

Addendum #36AB

I Now got into my truck and
checked the ~~radio~~ tape deck, the ~~tape~~
was ~~there~~ already on and the motor
was running. I looked up and
saw the man with the beard with
a knife. I estimate my distance from
them was 75 feet. the guy with the
beard had a knife in his hand
somewhat hidden ^{in the woman's hand} back is to him and
he stabbed her in the back. I saw
her fall to the ground and the guy
has the knife in his hand. I left
the area immediately. ~~I went home.~~
~~I stayed home the rest of the night.~~
~~I have not seen Tony [unclear] since that~~
~~night you have I heard from him.~~

I went to ^{METRO} Market Muggler and
parked. At approx. 8:30pm Tony
returned in the same green Buick and
asked me to follow him to the Mall to
drop the car off. I did this and
Tony parked the car in the same general
area we had met in. Tony did something
in the car and returned with his bag
to my pickup. I ~~then~~ took Tony to the
'Webster House' ~~in~~ New Dancer Apartments. Tony
got and asked me to drop his bag
off at his home on Central Street.

STATE OF NEW HAMPSHIRE
Dept. of Safety - Div. State Police
STATEMENT FORM

I-88-144
~~1051~~
1051

Date, NOV. 24, 1989 time, 1730 HRS. place, MANCHESTER Armory

I, Jason Canall give the following voluntary statement
to, Sgt. NEAL J. SCOT who has identified himself as a member
of the New Hampshire State Police. He has advised me of the following:

- 1. I have the right to remain silent;
- 2. Anything I say can and will be used against me in a court of law;
- 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- 4. If I cannot afford a lawyer, one will be appointed for me; and
- 5. If I decide to answer questions now without a lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? YES
- 2. Understanding these rights are you willing to answer questions? YES

witness, Neal J. Scott

Signature Jason Canall

witness, Dana J. Finn

I Jason Canall age 19 of 275 Chestnut Hill Rd, New Boston make the following statement. The following statement is a repeat of an earlier statement I gave to Sgt Neil Scott of New Hampshire State Police & Detective Dana Finn of the Bedford P.D.

On July 27, 1988 Tony Pusey asked me if I would play the role of "Bob" on a job to a woman I didn't know. I agreed to do this thinking it was a job.

We agreed to meet on Elm St at midnight on the following day between 5:00 - 6:30 p.m. July 28, 1988 I met with Tony at that location and from there we traveled to the mall. We arrived there at about 7:00 p.m. we parked there in front of Sears. Tony stood in front of Sears looking for the woman, he saw her parked in with other cars in a parked area.

HSK

on Nov. 24, 1989 time 1730 HRS. place Manchester Ammery

I, Jason Canwell give the following voluntary statement to Sgt. Neal J. Scott who has identified himself as a member of the New Hampshire State Police He has advised me of the following:

- 1. I have the right to remain silent; 2. Anything I say can and will be used against me in a court of law; 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning; 4. If I cannot afford a lawyer, one will be appointed for me; and 5. If I decide to answer questions now without a lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? 2. Understanding these rights are you willing to answer questions?

witness, witness,

Signature:

Jason Canwell

and he approaches her. He then brings her back to the truck, and I introduce myself as "Bob". He was a white female pregnant with sandy colored hair. Tony made the request of moving to another location where she would meet and get the money that was owed. From the ^{truck} Tony got into the Bulwark I followed in my truck, we went straight to the pit using Rte 101, Wallace road a North Amherst rd to the pit, I followed because I did not know where this place was. When we arrived Tony drove the Bulwark into the woods, we all got out I stayed by my truck, Tony and the Pregnant woman walked down to the Pit from the bulwark where there was a man with a Black beard and another person bigger and taller than Tony. They were all talking I then turned my back to take a leak. I then watched them from my truck and heard the talking get

MS DF

[REDACTED] 108

CASE NO. I-88-144

STATE OF NEW HAMPSHIRE UNIFORM STATEMENT FORM

te. Nov. 24, 1989 time, 1730 hrs place, Manchester Army

I, Jason Carroll give the following voluntary statement to, Sgt. Neal J. Sutt who has identified himself as a member of the N.H. State Police He has advised me of the following:

- 1. I have the right to remain silent;
- 2. Anything I say can and will be used against me in a court of law;
- 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- 4. If I cannot afford a lawyer, one will be appointed for me; and
- 5. If I decide to answer questions now without a lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? _____
- 2. Understanding these rights are you willing to answer questions? _____

witness, _____

Signature: _____

witness, _____

Jason Carroll

I then got into my truck to listen to the tape which was already playing and the truck motor was running and the driver side window was down. I looked up and saw the man with a beard who had a knife in his hand somewhat hidden by his body. I was also around 75 feet from them. The pregnant woman had her back turned to the man with the knife, she was looking around in the woods. The man with the beard stalked her in the bush, he then looked like he was going to stalk her again. I left the area immediately. I went to Meiner on Elm st. I arrived about 8:00pm and parked. Around 8:30pm Tony arrives in a Green Buick and he asks me if I would follow him to the mall to drop off the car in the same vicinity. Tony was doing something in the car, he then got out carrying

MS DF

CASE NO. I-98 144

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STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

[REDACTED] 1054

te. Nov. 24, 1989 time, 1730 hrs. place, Manchester Army
by Juan Carroll give the following voluntary statement
to Sgt. Neal J. Scott who has identified himself as a member
of the N.H. State Police He has advised me of the following:

1. I have the right to remain silent;
2. Anything I say can and will be used against me in a court of law;
3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
4. If I cannot afford a lawyer, one will be appointed for me; and
5. If I decide to answer questions now without a lawyer present, I still have the right to stop answering at any time.

WAIVER

1. Do you understand each of these rights? _____
2. Understanding these rights are you willing to answer questions? _____

witness, _____
witness, _____

Signature: _____

his bag which he put in the back of my truck. He then wanted me to take him to the Webster House on Webster street. The whole trip I was to avoid to say anything or do anything. When we arrived he asked if I would drop off his bag to his house on Webster, where he was staying, as I was leaving he was standing outside of the Webster House. I went directly to Central str. I went to the third floor and rang the door bell, a woman approached. I told her Tony wanted me to drop off this bag. The woman was about 45 to 50 with brown, blackish hair and she received the bag from me. After I dropped off the bag and I went directly home, and stayed home. Juan Carroll

Neal J. Scott
[Signature]

NOV 24 1986
6:25 p.m.

CASE NO.

STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

9

1010

to Nov 25 1989 time, 5 PM place, Bedford P.D.

I, JASON CARROLL give the following voluntary statement

to, Sgt. R. Lamy & Sgt. Neal Scott who has identified himself as a member
of the NH State Police Department. He has advised me of the following:

- gc 1. I have the right to remain silent;
- gc 2. Anything I say can and will be used against me in a court of law;
- gc 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- gc 4. If I cannot afford a lawyer, one will be appointed for me; and
- gc 5. If I decide to answer questions now without my lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? Yes
- 2. Understanding these rights are you willing to answer questions? Yes

Signature: Jason Carroll

witness, Neal Scott

witness, Kevin Carroll

on the night of July 27, 1988 I was approached by Tony Phay, he had asked me if I would play a role of "Pat" for the sum of \$2000 dollars. I agreed to do so & then told me she had to murder (Charon Johnson) I had asked why he then told me she had caught her husband raping his daughter, and that she caught him doing some other criminal things. Tony then asked me if I would meet him at Minute Muffler on Elm street, July 28, 1988 between the hours of 6:00pm & 6:30pm. July 28, 1988 I was parked at minute muffler at 6:00pm. Tony walked down to meet me, he arrived at about 6:15 - 6:30 p.m. we then departed to the mall, we then arrived at the mall at about 7:00 p.m., Tony then stepped out of my touch and then started walking towards main road stood in front of the Shopping Center for about 10 minutes, Tony then started towards the parking lot to a green Buick, he then

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STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

~~XXXXXXXXXXXX~~ 8
1011

to NOV 25 1989 time, 5PM place, Bedford PD

of JASON CARROLL give the following voluntary statement

to Sgt. R. Long & Sgt. Neal Scott who has identified himself as a member

of the NH State Police Department. He has advised me of the following:

- gc 1. I have the right to remain silent;
- gc 2. Anything I say can and will be used against me in a court of law;
- gc 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- gc 4. If I cannot afford a lawyer, one will be appointed for me; and
- gc 5. If I decide to answer questions now without my lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? Yes
- 2. Understanding these rights are you willing to answer questions? Yes

Signature: Jason Carroll

witness, Neal Scott
witness, Ken Carroll

starts to walk over towards my truck with a woman
she had short brown hair, and a white blouse on with
some kind of design on it. I introduced myself as "Bob" Tony
started talking to her saying lets go to the place where
you will be getting your money. Tony then instructed
me to follow him in my truck as he was driving
the subway. We then left the mall and headed down
route 101 to to Wallace rd and then left on north
avenue we then traveled about 1/2 to a mile down
the road to a pit Tony pulled the car into the woods
and I pulled my truck off to the side. Tony and the
woman stepped out of the car, I stepped out of the
truck and we all walked down to the pit.
Blason started asking why are we here and at that time
Ken Johnson stepped out of the wood line, blason
then said "what are you doing here". Ken Johnson then
said and called her a "Cunt, that's not my baby" into the

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STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

1012

to Nov 25 1989 time, 5pm place, Bedford Rd

JASON CARROLL

give the following voluntary statement

to, Sgt Roland Perry & Sgt N. Scott who has identified himself as a member
of the NH State Police Department. He has advised me of the following:

- sc 1. I have the right to remain silent;
- sc 2. Anything I say can and will be used against me in a court of law;
- sc 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- sc 4. If I cannot afford a lawyer, one will be appointed for me; and
- sc 5. If I decide to answer questions now without my lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? yes
- 2. Understanding these rights are you willing to answer questions? yes

Signature: Jason Carroll

witness, Neddy Scott

witness, Kan Carroll

fuck have you been cheating on me with "urlo goldmann urlo" then then looked at me and said "stake her or I'll kill you too" I then pulled a knife from my pocket
then stabbed her in the back and in the chest a few times, Johnson then took the knife and proceeded to
stake her in the chest maybe 4 or 5 times, and then Tony
was handed the knife and he went eye-shit on her he threw the knife on the ground and Tony began to
strangle her, I picked up the knife and put it back into my pocket, I then watched Tony take off her blouse
and begin screaming around ^{sc} her tits, he then began to take off her singi while he ^{sc} still
begins to stake her again and Johnson is screaming "die bitch die" Tony then gets up and puts the
blouse in his bag, Johnson then said something to Tony,
Johnson then threatens me if you tell anyone I will have you killed, picks up the Pistol back and walks down

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STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

1013

to Nov 25 1989 time, 5PM place, Befra B

JASON CARROLL

give the following voluntary statement

to Sgt R. Lamy & Sgt N. Scott who has identified himself as a member

of the NH State Police Department. He has advised me of the following:

- sc 1. I have the right to remain silent;
- sc 2. Anything I say can and will be used against me in a court of law;
- sc 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- sc 4. If I cannot afford a lawyer, one will be appointed for me; and
- sc 5. If I decide to answer questions now without my lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? Yes
- 2. Understanding these rights are you willing to answer questions? Yes

Signature: Jason Carroll

witness, Wesley Scott

witness, Kan Carroll

the card, Tony says follow me to the mall, he picks up his bag and gets into the car. I followed in my truck, we proceeded back down the way we came. We got to the mall and Tony parked the car back where Sharon had first parked it. Tony then stepped out of the car taking the keys and putting it into his pocket. From the mall parking lot I proceeded back down as Willow, Tony then asked me if I would drop him off at the Webster home on Webster street when he could be picked up for work and he took his bag with the blower with him. Later on that night when Tony got out of work he found me down town at minute, he then said the car had to be moved to the other side of the mall. We arrived at the mall, Tony then got into the car and proceeded to the back parking lot of Boney. I followed in my truck. Tony parked the car got out locked the door

STATE OF NEW HAMPSHIRE
UNIFORM STATEMENT FORM

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on NOV 25 1989 time, 5 PM place, Bedford PD

I, JASON CARROLL give the following voluntary statement

to, Sgt R Lamy & Sgt N Scott who has identified himself as a member
of the NH State Police Department. He has advised me of the following:

- Qc 1. I have the right to remain silent;
- Qc 2. Anything I say can and will be used against me in a court of law;
- Qc 3. I have the right to talk to a lawyer for advice before any questioning and to have one with me during questioning;
- Qc 4. If I cannot afford a lawyer, one will be appointed for me; and
- Qc 5. If I decide to answer questions now without my lawyer present, I still have the right to stop answering at any time.

WAIVER

- 1. Do you understand each of these rights? yes
- 2. Understanding these rights are you willing to answer questions? yes

Signature: Jason Carroll

witness, Neel J Scott

witness, Kam Carroll

and put the keys back into his pockets. He asked if I would take him home to the house where he was staying, I did this. I dropped Tony off, I went home July 30, 1988. I was parked at minute. At about 7:30 - 8:30 P.M. Tony showed up with \$2000 cash and hands it to me, He also said if I tell anyone I would wind up like her. He left.

The money I got from Tony was in \$20 and \$50 dollar bills. I spent the money on \$400 on clothes

\$500 on a stereo system for my truck.

\$100 on spending money on food, clothes, cigarettes, gas.

I saw Tony at minute muffler a few days later when he was getting the shit kicked out of him, from that visit on after that night I heard he was going to North Carolina. JEC November 25, 1989 6:20 p.m.

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M67

NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT

CASE NO.	2. INVESTIGATION TPR	3. ID	4. TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

Jason CARROLL Interview -- 11-25-89

RL: Unless you infer your willingness then...

LM: Receives incoming phone call.

KC: You have got alot going for you JASON. Come through clean with them on this whole damn story. You have still got a life ahead of you. You still got a good career ahead of you (INA) . You can't go back to July of last year and undo what you have done.

JC: I know.

KC: It is over and it is done with. So now this is all you have got, will you tell these three men every last detail? Everything.

RL: You don't look willing to tell the truth, you don't look as if you've concluded, you have got to let it go. That breaking point.

JC: I have got to let it go.

RL: Well, let it go.

KC: They are not gonna... (INA).

RL: You have got to tell it.

JC: That night... how do I start.

RL: How did it start, how did the whole deal start?

JC: The whole fucking thing started when I was supposed to be a practical joker as "BOB" to this, some woman by the name of Sharon JOHNSON, which you guys know. OK.

RL: You tell us. Where did you meet, who approached you, what was said?

JC: TONY approached me, and asked me if I would play the role as BOB.

RL: Why? Why, why would you do such a rediculous thing and without a reason?

JC: Because I thought it was a joke, he told me it was a joke and I should lay on this woman.

RL: You never said you'd get paid, you know that, so TONY must have said something at some time in this story.

Neal Scott

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NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT

CASE NO.	2. INVESTIGATION TPR.	3. ID	4 TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
I-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

JC: He told me he was giving me \$500.00. He told me that, I don't know why the amount was so much, he told me that when he came up the next night between 6:00 and 6:30. We went out and I had met them, and we traveled to the Mall to meet Sharon JOHNSON. She had pulled up almost 10 minutes later and agreed to meet BOB in front of the Mall. TONY was already out of my truck and standing in front of the Mall, to meet the woman. I guess he could see her, he went over to her and they both came back over to me and I introduced myself as BOB.

RL: Bob who?

JC: BOB.

RL: Did she ask any questions?

JC: No, she didn't.

RL: She must have said something, she is a very bright girl.

JC: I noticed she was a bright girl.

RL: Come on JASON.

JC: After he introduced us, he said he has the money, and we were gonna take you to another location.

RL: What money have you got? Explain that to us.

JC: I just didn't know right there what money for what reason.

RL: Who said he had the money?

JC: TONY said that he had the money.

RL: Any amount mentioned, think clearly. If there was an amount mentioned, thing clearly. Does he look to you as if he wants to tell the truth right now or ~~does~~ he look like he is still fighting inside for something alot deeper.

KC: Try to remember something.

JC: There was no amount.

RL: OK. Go ahead.

JC: Now we had talked about going to another location, where some other people had the money. She asked who the people were. He just said, I know them, they are good friends and I did not know who the people were. I didn't know who we were going to (INA)

Neal J. Scott

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NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT

CASE NO.	2. INVESTIGATION TPR.	3. ID	4. TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
I-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

RL: Did he talk about her husband at this point?

JC: No. He didn't talk about her husband. I asked him where we were going, and he just said follow me. So he got Sharon JOHNSON and went back to the car and he drove off and I got in my truck, and followed the people down Rt. 101. We went down this road to wherever. We arrived there and we pulled the car into the woods. I parked my truck on the side of the road (INA)

RL: You have to tell us what kind of a car her husband was driving and all that cause I know you know.

JC: INA.

RL: Go ahead. Where was his car?

JC: I don't know, I didn't see any other vehicles around. When we got there, we walked down into the pit.

RL: Who is walking down?

JC: (INA) me, TONY and SHARON.

RL: Now she, at this point is a woman.

JC: I know she is a woman. She asked what we were doing down there, but I said (INA)

RL: Are you sure? If the truth is, that you guys at this point forced her to walk into the pit.

JC: No. No. No.

RL: She went along with it?

JC: She went along with it...

RL: How do you explain she went along with it?

JC: Because she thought she was getting her money. I think she had known TONY or something, and I guess she had got to trust him.

RL: Yeah. Go ahead.

JC: OK. We walked into the pit. JOHNSON walked down to the man with the black beard and she just kind of looked at him and they started fighting. What are you doing here? And he started yelling and screaming at her.

RL: Tell me some of the things he said, these are crucial.

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NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT

1 CASE NO	2 INVESTIGATION TPR	3 ID	4 TOWN OF CRIME	5 TN CD	6 DATE OF REPORT
I-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

JC: He called her a bitch, a cunt, a whore, and that wasn't his baby. Why would she want to go out and cheat on him.

RL: He said it wasn't his baby?

JC: He said it wasn't his baby.

RL: Who's baby did he say it was?

JC: He just said it was some other guy she had been fuckin around with. Who have you been fucking around with on me? What to fuck are you doing? Why do you want to do this to me?

RL: What was she saying?

JC: She said, I'm not fucking around, I'm not cheating on you. Why are you saying this. She turned her back and he pulled out a knife.

RL: She turned her back to what?

JC: She turned her back to ...

RL: She turned her back to who?

JC: To the wood line.

RL: Why?

JC: To turn around to leave.

RL: What is PFAFF saying during this time?

JC: He was watching, he was watching. He was standing still watching.

RL: I want to know what weapons you had, you know, you can tell us the part you did.

JC: She looked as if she was going to discipline him. TONY had brought her down there, which is why she was standing toward the back. All of a sudden I looked up and he stabbed her in the back. She starts to fall and she comes toward me and I just smacked her away from me and from there, TONY takes off her shirt and as (INA) JOHNSON is still stabbing her, he is playing with her tits, so call it whatever you want to call this shit.

RL: Yeah.

JC: That was...

RL: You said you stabbed her, you left that out.

Page 4 of 25 Pages	signed <i>Neal J. Scott</i> <i>Sgt R Lamy</i>	date 8/16/90
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NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT

1. CASE NO.	2. INVESTIGATION TPR	3. ID	4. TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
I-88-144	Sgt. Roland Lamy	160	Bedford	0606	January 22, 1990

JC: I did not stab her.

RL: Well you said you did a minute ago.

JC: I did not stab her, JOHNSON stabbed her.

RL: You said you whacked her once...

JC: I whacked her once with my hand, not a knife. Not a knife.

RL: Who else stabbed her besides JOHNSON?

JC: TONY stabbed her.

RL: You must have had two knives then.

JC: One. JOHNSON has the knife at that point.

RL: Did he say something to her?

JC: He just started stabbing her, like a lion on a piece of meat. You know what I'm saying? Same instinct.

RL: You sure? You didn't have two knives (INA) ? What was she doing at this time?

JC: She was yelling for help.

RL: Like what?

JC: Help, somebody help me. And I looked at her and I slapped her on the ground. I seen the knife go up into here and she was bleeding and she was also getting beat by TONY, I seen him stabbing her.

KC: Don't stop now.

RL: ~~What was~~ JOHNSON doing, and what were you doing? You make it like you are such an angel, (INA) . The jury will tear you apart, your not telling a school kid. They'll tear you apart if your not telling the truth here.

JC: I'm telling the truth Sergeant, but I don't want to go through no more bull shit. I just want to get this over with and out of my life. I was standing at the time and watching this go on, and I don't know if I was, I don't know what I was thinking, no fuckin idea.

RL: What was JOHNSON saying to PFAFF as he was beating her on the ground like that?

JC: He was watching in amazement. He was watching in amazement.

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KC: (INA)

RL: Say what your afraid of here for Christ's sake JASON.

JC: I can't believe we killed the bitch. And after that JOHNSON stabbed her in the back and as she was falling toward me, I smacked her out of my way so she wouldn't land on me. (INA)

RL: Heading back where? Where did TONY get the knife out from?

JC: (INA)

RL: How many times did JOHNSON stab her at this point? You don't have to count the exact number, there were front and rear stabs, right?

JC: Yes that's right, once in the back and I don't know how many in the chest.

RL: That doesn't make much sense now does it, because it's not truthful.

JC: It is the truth.

RL: No, it isn't, no it isn't.

JC: It is.

RL: How many times, you said initially someone stabbed her in the back.

JC: Initially, JOHNSON stabbed her in the back.

RL: And then TONY stabbed her in the back?

JC: That's correct.

RL: One?

JC: One stab.

RL: And then your saying that they...

JC: She just fell over, now she was falling.

RL: OK. Are you saying that JOHNSON... begins to stab her. Well how is he standing, is he on top of her?

JC: No, he is not on top of her.

RL: Where is he stabbing her from?

Neal Scott

Signed *Sgt. R. Lamy*

date 8/16/90

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JC: Stabbed her in the back, right in back of here.

RL: What kind of knife did he use?

JC: It was almost like a pre-cut knife.

NS: How many bladed edges?

JC: It was like...

KC: Was it my knife I had at home?

RL: What kind of knife?

JC: It was between a swiss and a buck.

NS: Was it a folding knife?

JC: It was a folding knife.

RL: OK. But, you can help us out more then this, where is the shirt and where is the knife?

JC: Where it is now?

RL: Yeah, I want to know.

JC: I don't know.

RL: I want to know, think... I want to know... who moved the car? Why did the car show up Saturday morning at 3:00 in the morning or 2:00 in the morning at the parking lot at Sears? And you can answer that.

JC: Why did that?

RL: Your going to have to tell us more then this, your not really, you have got to, I told you before when you tell the truth, you have to want to tell the truth.

JC: I want so much to get this over with.

RL: Yet your not doing nothing...

JC: It is not that easy...

RL: No, cause your holding some back.

KC: You have been holding it for a year. JASON if you had the friggin knife in your hand and you stabbed her then tell us

Neal Scott

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RL: Yeah, I think he is hiding...

KC: If you went back with TONY and you guys moved the car later on that night, tell him.

JC: We went back later on that night, and I dropped him off before he went to work. And he had the keys with him when he got out of the car, I stayed out late that night and I met him at Mienneke, I met him at Mienneke, I don't know how he got down to Mienneke after work. From there we went back to the Mall in my car and that is when we moved the car to the side.

RL: What side?

JC: The automotive side.

RL: In the back?

JC: In the back.

RL: OK. Why did you do that? That is what I want to know, why? Truthfully, why?

JC: I guess JOHNSON told TONY to put the car there for some reason. I don't know the reason why. I do not know the reason why. Whether it was to be picked up or what, I do not know, I do not know that.

RL: The keys weren't in when it was found, it was locked.

JC: Right.

RL: What happened to the keys?

JC: TONY kept them with him.

RL: And where did you guys meet?

JC: We didn't meet, I took him home after that to a place on Central Street. Then I went home.

RL: Your not telling us everything about that.

JC: Yes I am.

RL: No your not.

JC: Yes I am.

RL: No your not.

Neal K. Scott

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LM: What did TONY do with the keys?

JC: He put them in his pocket.

LM: (INA)

JC: I don't know, I don't know LEO, I didn't see him to much after that. I seen him a couple of times when he got his fucking head kicked in. I seen him that one time.

RL: You must have talked about this, where did you get your money, when did you get your money in this new version?

JC: Later on.

RL: Later on when?

JC: About a week later.

RL: By whom?

JC: TONY.

RL: A week later? Did you ever meet JOHNSON?

JC: I seen him that night.

RL: How do you know that was Ken JOHNSON, how do you know that that was her husband?

JC: I assumed, cause he said you were cheating on me, and she was saying she was not, I assumed that.

RL: So, truthfully, you can recognize the guy can't you?

JC: I can recognize him, I can recognize PFAFF.

RL: Yeah.

LM: What about the fourth man?

JC: There was no fourth man.

LM: Are you sure?

RL: Why did you make that up, tell me that?

JC: Why did I make that up, the whole thing was to keep you guys off my back. You know, you go find out who he was.

Neal Scott

9	25	signed	date
		<i>Neal Scott</i>	2/16/90

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RL: But now, you, in this room. Right? You were five minds, it took four minds (INA)

JC: Five.

RL: One mind is not thinking of what the four of us are and that is, you still haven't told us the truth, you still haven't told us the truth. You know why, because there is a little weak point in there. You are reasoning a pattern of giving us something that you feel is probably other then the truth. You still didn't tell the truth. The only reason you cannot be telling the truth, if in fact you are more involved in this thing, and your not telling us the truth, you don't want to incriminate yourself beyond more then what you already have. What is it gonna take, on tape now listen to me clearly, one day in the future, this tape which can never be destroyed or altered, will be played before a jury of people that will have understood, listen to me clearly, that will have understood the horror of the type of killing that Sharon JOHNSON was subjected to. They will hear a voice that we will identify as Jason CARROLL. A person that we are looking to, to help us bring forth those people who actually did this entire, ugly, unforgiveable, horrendous act and they will have to conclude that Jason CARROLL has the decency to express any remorse and that expression must come forth by a willingness to be truthful. Why in God's name did you tell us this much and still leave out the truth, the essence of the truth. I have not seen the breaking point in you. What in God's name is the matter with you, your mother is sitting right here, the Captain of Detectives of Bedford Police Department is here, Sgt. SCOTT is here and I'm here. What is it going to take?

JC: I was threatened. I was told if I was to open my mouth, I would be dead.

RL: By who?

JC: JOHNSON.

RL: How did that occur?

JC: How did that occur, I was gonna leave, I was gonna get in my truck and fuckin go.

RL: How were you threatened?

JC: Murdered, same as what happened that same night. The same fucking night. We were told, if you dare go to anybody, if you ever dare to go to the cops, I will murder you, you will be dead, dead like she is.

RL: In March of 1989, we brought Tony PFAFF to the Wayfarer in Bedford, we know he had access to several phones. I have a hard time believing he didn't call you if any of this is true. If any of this is true, I find it hard to believe he didn't call you.

Neal Scott

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JC: I did not talk to him.

RL: I also know you still haven't told us the whole truth, and I know and I'll accept I know your afraid to tell the whole truth.

JC: (INA)

RL: In March of 89 you were at Ft. Dix. He couldn't have called you.

JC: Your right, thatswhy I haven't talked to him.

RL: OK. We'll believe that. Yeah, I do believe that. Well I don't believe you told the truth, and you know you haven't told the truth, cause your afraid. There is nothing JOHNSON can do to you. He is in Scituate, Rhode Island working in a restaurant with his sister. We have day to day accountability of where he is, and he is not going to approach you, not unless you know something we don't. And if your afraid, and you tell us what your afraid of, including Mr. JOHNSON, we can take care of protecting you. We can't take care of protecting something we don't understand.

KC: JASON, is someone out there now? Now that JOHNSON has...

JC: Well, see thats just it, I don't know Ma, cause those nights with that fuckin van, I don't know if he had informed anybody or not. I don't know, I don't know if he did or he didn't.

KC: There was a few nights, (INA)

RL: And again, keep in mind JOHNSON has no resources, no money, Ken JOHNSON has no money whatsoever. Again we are putting the cart before the horse. Protection for your safety is commensurate on you convincing us that you want to be truthful. You haven't done that to me.

JC: **Sergeant**, I am trying to be so fucking truthful.

RL: Buy why don't you just skip trying and why don't you just be truthful.

JC: I'm just to scared.

RL: You did tell us that you were whacking yourself, that your hitting yourself with a knife, I mean God Almighty.

KC: JASON.

RL: Come on JASON. If you got paid \$500.00 by Ken JOHNSON, you knew alot more then what you told us, how much did he pay you, why would he do that? If in fact that is the amount you got? And if in fact that is not the accurate amount you got.

Neal Scott

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JC: Thats right, it is not the accurate amount.

KC: How much did you get?

JC: I got about 2 grand.

KC: What did you do with that 2 grand?

RL: Tell us that. Make something believable.

KC: What did you spend it on? Cause I know you didn't make that much money at work.

JC: Marijuana.

KC: On marijuana.

RL: JASON, the jury, the jury is listening to you. You sound like a criminal, not a guy that has made a terrible mistake.

JC: Sergeant, it is not so easy, I hope you do understand that.

RL: I understand it, but I don't know what else you want us to do.

JC: It is not gonna be just to spit it out, I can't, I want to so much.

KC: Then do it.

JC: I can't Ma.

KC: Why can't you, what are you holding back?

JC: I am fucking scared.

KC: Of ~~course~~ your friggin scared, these guys are gonna help you, we are not gonna sit and jump on your ass, and shoot you down.

JC: But I feel like I'm getting jumped on my ass down now.

KC: We want the truth out of you, nobody is gonna be able to help you any way until you come forth with all the information that they need. Do you think I am gonna love you any less.

JC: I don't know Ma.

KC: Your my kid, of course not.

JC: I don't know.

Neal J. Scott

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KC: I'm gonna stand by you through this. You are the link that they need to put JOHNSON and PFAFF behind friggin bars.

JC: I don't know ma, but I can't.

KC: If you put a knife, if you put a knife in that woman, I want to know. You stabbed her, didn't you?

JC: Yes I did, Ma.

KC: How many times did you stab her?

JC: I stabbed her a few times.

KC: Alright.

RL: Who else stabbed her? Who else stabbed her?

JC: JOHNSON and PFAFF stabbed her.

RL: How many times a piece? Don't give us no funny stories.

JC: I don't know that.

RL: Look, if you know, you know, if you don't, you don't.

JC: I don't know Sergeant, look I don't know. I do not know, I know I stabbed her two times.

KC: Who stabbed her first?

RL: Who stabbed her in the back first?

JC: JOHNSON.

RL: Truthfully.

KC: Who stabbed her in the back, who stabbed her first?

JC: I did.

RL: Thats exactly... and you know where that knife and shirt are, I know you know where the shirt and knife are, I know you know that, as God as my judge, I know you know that.

KC: Did you bring them to the house?

JC: Yes, I brought them to the house.

KC: And where are they now?

Neal A. Scott

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RL: You do that for us and I will believe you and we will get off your back.

KC: Where are they now? Tell me.

RL: He knows where they are.

KC: Where are they JASON?

RL: He knows.

KC: Tell me where they are. Tell me where they are.

JC: They were destroyed Ma.

RL: No.

KC: Where?

JC: Yes they are Sergeant.

KC: Where?

JC: I put them out behind in the pits.

KC: What pits?

JC: Manchester airport, they were destroyed, burned.

KC: Were they burned?

JC: They were burned.

RL: The knife was burned?

JC: The shirt was burned.

RL: What kind of shirt was it?

JC: It was a blouse.

KC: What kind of blouse?

JC: It was a whitish colored blouse with some funky ass design on it. I do not know.

RL: Could it have been a shirt with some funky design on it? You know like a sweatshirt type with a funky design on it?

KC: Was it a regular blouse?

Neal F. Scott

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RL: He knows where the shirt is, he knows where the knife is to. It was your knife wasn't it?

JC: I don't know Sergeant.

RL: Where is it though?

JC: (INA) . I don't know Sergeant.

KC: When did you do that?

JC: (INA)

LM: You say we, what do you mean by that?

JC: He just walked off and got in his car and he left. If you tell this to anybody, you'll be just like her.

RL: Why did you leave? (INA) you do know that.

JC: (INA)

RL: That's very important to us. (INA) with the way that this investigation, it is important that we understand that you knew you were going to be killing Sharon JOHNSON. You see the thing that doesn't make any sense and I know you are still lying, that if you didn't know she was going to be killed, you just told us on tape that you're the first one that stabbed her, now since you allegedly drove by yourself, between the Manchester Mall and the sand pit, then why on earth would you stab her in the back for if you knew. Why on earth would you stab her in the back for if you knew. Why on earth are you trying to jerk us off at this point in front of your own mother about a matter of this serious consequence. What to hell is the matter with you?

KC: Did you get some kind to pay her. Did they give you some money first to go through with this and then the rest of it was a pay off?

RL: Or better still, what is the truth? You have got to want to grow up and tell the truth. Remember you are alive and Sharon JOHNSON and her baby are dead. Ken JOHNSON is on the street in Warwick laughing in our face with his lawyer, Scoop LEAHY, and coaching him on how to avoid proper police homicide investigative technique. And that is a fact of life. That is what we and the police department have to put up with today.

KC: JASON you have got this much out, lets get the rest of it out. Lets get it out now. You want something to drink, I'll get you something to drink.

RL: Your not telling the truth still.

Neal Scott

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KC: Come on out with it, all of it.

JC: At the time Ma, I was mixed up with drugs. Crazy doing fucked up shit, when I was first told about it, we were all in a bar. They said I was gonna be given some money for it, it was supposed to be a joke.

RL: But for you to let a person die, you had to know more. What's the matter with you? Is something wrong with you, a jury is listening to this. They will be looking at you on the stand, a judge is listening to this and a jury, they are the people hired to make the decisions. And your setting there. What you haven't got is the willingness to be truthful cause your scared.

JC: You God Damned right I'm scared.

RL: I'll tell you something else, if your scared of this, I'm wondering what else that you got yourself involved in, that this could be leading up to. See, our reason to continue now, and the point of this is strictly to be involved far more then the killing of Sharon JOHNSON if in fact this is true. Other then that you could explain to me why it is your scared to tell the truth.

KC: Were you involved in some other shit before then and the time you left to go to Ft. Dix?

JC: No

RL: Well there is something else, there is something else that is prohibiting you of telling the truth.

KC: (INA) I haven't worked on this case, alright, but I have seen the work and the hours that these men have put into this.

RL: You want to tell the truth JASON, don't you?

KC: Start over JASON. Start over from the first time Tony PFAFF approached you on playing BOB.

RL: Listen to me now, okay, for the second time in two days, I will again issue you the miranda warning. It is 3:34 p.m. and I am warning you that one, you have the right to remain silent, two, anything you say can and will be used against you in a court of law, three, you have the right to talk to a lawyer and have him present with you while your being questioned, four, if you cannot afford to hire a lawyer one will be appointed for you before any questioning, and five, if you decide to answer any questions now without a lawyer present, you still have the right to stop answering at any time, do you understand these rights as I have explained them to you?

JC: Yes, I do.

Neal J. Scott

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RL: Understand these rights, are you willing to answer questions?

JC: I am willing to answer questions.

RL: Now.

JC: It is not that easy to answer...

RL: Your mother is here in a dual role as your mother and a professional, she is also a witness to what is going on in here. It doesn't make sense to her and it doesn't make sense to us. Do you understand that you have to want to be truthful?

JC: Yes, I do understand that I have to want to be truthful, I want to be truthful... I want to be truthful.

LM: Okay, okay. That is all we want.

KC: JASON, JASON.. look at me, we know your scared we understand that, so we're going to protect you, your on the verge. We got this much out of you, lets have the rest of it.

RL: It can't get any worse, come on and tell the truth.

KC: The longer you put off telling the truth, the harder it is gonna be, and the worse it is gonna be on yourself because you still have a chance to save your ass, I don't want to see you go to prison...

JC: I don't want to go to prison either Ma.

KC: Tell us every God Damned thing you know.

RL: If PFAFF is not involved in it, then say so.

JC: PFAFF is involved to his God Damned eyeballs.

RL: If JOHNSON is not involved in it then say so.

JC: He is involved in it up to his eyeballs.

RL: And if there is someone else, which I think might be the case here, say so.

JC: I don't know, I know that night, it was me, JOHNSON and PFAFF.

RL: Fine.

JC: That's what I'm saying, there was me, JOHNSON and PFAFF. Fine.

RL: Alright, what is it your not telling us?

Neal L. Scott

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Side Two of Tape

LM: We're back on at 3:34

INA:

JC: I am so afraid of JOHNSON, since he has made that threat. I am afraid if he, that he is gonna get somebody, after a couple nights with that fucking van, I am afraid that somebody is gonna come after me.

RL: Look, I understand that, we already told you, if you get to the bottom dollar here and tell the truth, we will then discuss your safety with your mother here and we will take care of it. Lets not put the cart before the horse. Lets find out what you are afraid of telling us.

KC: Did you rape SHARON?

JC: No, I didn't.

RL: No?

KC: Did TONY, did JOHNSON?

RL: What I want to know is there something else that you can think of, did you pick up JOHNSON some place or something?

KC: Did you? Did you meet JOHNSON somewhere? If you did tell us now.

RL: I think he is (INA) for him to be under this spell someone from JOHNSON has contacted this guy recently.

KC: Who has been in contact with you?

JC: Nobody.

RL: What's the truth?

JC: Nobody, has been in touch with me.

RL: What is it your not telling us. We are being patient with you.

KC: Was this your idea?

JC: No, this scam was not my idea. I was not knowing what was going on at first.

LM: When did you learn what was going on?

JC: When I was offered money.

LM: When were you offered money?

JC: July 27, 1988.

Neal J. Scott

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LM: By who?

JC: Tony PFAFF.

LM: To do what?

JC: Help in the murder of Sharon JOHNSON.

RL: Why did you feel she needed to be murdered?

JC: I wasn't briefed on that.

KC: What did TONY tell you? Come on. Come on JASON this is crucial. What did Tony PFAFF tell you, why did SHARON have to be murdered?

JC: Because she knew something that KEN had done.

LM: What had he done, raped his daughter?

RL: What, truthfully. You tell us what he did.

KC: What did JOHNSON do?

RL: What did Sharon JOHNSON see JOHNSON do?

JC: She had seen JOHNSON rape her daughter.

RL: Her daughter, or his daughter?

JC: His daughter.

RL: LISA?

JC: INA

KC: And?

JC: TONY (INA).

KC: Okay.

JC: And I also felt that she was trying to keep TONY away from her daughter. JOHNSON (INA) . She was a witness that JOHNSON had raped her and I guess she had stumbled on to some other things.

RL: That is what you were told, right?

JC: That is what I was told.

NS: What were the other things they stumbled on to?

Neal Scott

signed

date

2/1/90

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JC: I, I don't know, I don't know what she stumbled upon, I was told that she had to be murdered, knocked off, killed because she had witnessed a rape of his daughter, and she had stumbled on some other shit that JOHNSON had done. I was then offered money to play the role of "BOB". To help carry this out.

RL: Are you gonna tell us what your not telling us, still I haven't heard it. I haven't heard a release on your part.

KC: Come on. Lets have it. All of it. JASON, don't hold it back, I want to hear it.

LM: JASON.

KC: What else? Come on. JASON say it.

LM: JASON.

JC: INA.

KC: Then what happened?

JC: I can't say it.

KC: You can, let me hear it. I want to hear it. Come on. I want to hear it. JASON.

RL: The jury wants to hear it.

KC: Lets hear it, come on and tell them. Come on..

JC: JOHNSON wanted her murdered.

KC: **There is** more. Come on.

JC: **Because** she saw him raping his daughter.

KC: What else?

JC: She had seen him doing other things that wasn't right.

KC: What other things.

JC: I guess he had murdered somebody else, or was involved with a murder of somebody else.

KC: TONY told you this?

JC: Yes.

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I-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

RL: That is not enough: of a reason for you to want to get involved in a murder, your still lying to us. Jesus Christ, how long can you keep this up?

KC: Come on, come on lets have it. The rest of it.

JC: I don't know Mama, I don't know any more.

KC: Yes you do.

JC: No, I don't.

KC: Yes, you do. Come on.

RL: You haven't explained why it is you said that you left the Mall and you didn't know she was gonna be whacked, and yet your the first one to hit her on the back, why?

KC: Why?

JC: Because I got fuckin paid to do it.

RL: Ah, horseshit. Horseshit. Come on for Christ's sake.

KC: INA JASON, I know you, I know you. What happened out there. Why did you hit her first. What happened?

JC: Cause I was told I had to do it or I wouldn't get my money.

KC: Come on, more. More. I want more.

JC: I needed the money.

KC: For what?

JC: To ~~pay~~ off my truck, to get my truck fixed. I wanted so much to be like the other kids, to have a nice truck. I was fleeced out on fuckin drugs, and I had a job, and I didn't want to do the job that I was doing. TONY came to me that night and asked me if I would play the role of "BOB" and he would give me some money to do it. I asked what I had to do, and he said help me murder Sharon JOHNSON. I asked why. He told me that she had stumbled in onto him raping his daughter, and had stumbled on him murdering someone else.

KC: How long ago was this murder supposed to have been?

JC: I don't know.

KC: Continue.

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CASE NO.	2. INVESTIGATION TPR	3. ID	4. TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

JC: From that, he told me to meet him (INA) parking lot, then he walked out, (INA). (INA) and introduce myself as BOB, and I said (INA) at another location and she said where, (INA). I didn't know where I was going (INA) to a side road, to (INA) the three of us got out, I got out of my truck, TONY got out of the car with Sharon JOHNSON and we walked down, TONY said there is some other people here that are gonna give you your money. We walked down to the pit and JOHNSON comes out and she said what to fuck are you doing here. And he said what do you think, I'm gonna kill you, and she turned around...

KC: Go on, don't stop now. Come on.

JC: He had threatened to kill me if I didn't do it right here with a knife.

KC: Say it. Say it.

JC: He tried to kill me Ma.

KC: Say it. What happened next.

JC: (INA) I pulled out a knife and I stabbed her in the back.

KC: And then?

RL: Where did you get the knife from?

JC: I had it in the truck.

RL: Where is it now?

JC: I got rid of it.

RL: Where?

JC: I threw it in the river.

RL: Horseshit.

JC: That is not horseshit.

RL: That is an on going story of every mother fucker that killed somebody.

JC: It is not. I threw it in the fucking Merrimack.

KC: (INA) . I don't buy it either.

RL: Horseshit. It is at your house, or you got it. And you know where that shirt is to.

Neal Scott

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JC: I do not know where the shirt is.

RL: Where is that knife?

KC: Where is the knife? Come on, is it a small brown pocket knife?

JC: Yes, it is ma.

KC: I have the knife.

RL: Is that knife the only knife used in this killing? We knew it was a small knife.

JC: It was.

RL: Is that what you were afraid to tell us?

JC: Yes, it is, I have been looking for that mother fuckin thing for so long.

RL: Where is it, how come you have had it, has he asked you for it?

KC: INA.

RL: Ask him why?

JC: Because I was keeping it with me, ma, I didn't dare get rid of it. I didn't want to get rid of it. It kept bringing back the memories.

RL: A second ago, you said you had been looking for it all the time.

JC: I have, I have been looking for a couple of weeks cause I had lost it.

KC: Did you leave it in your front pocket.

JC: I did today, (INA) I usually used it when I was at work.

RL: That's the murder weapon right?

JC: That is the murder weapon.

RL: So help you God?

JC: So help me God, it is the murder weapon.

RL: Have we coerced you or anything? Have we intimidated you or threatened you, to tell this story, answer that?

JC: INA.

Neal Scott

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-88-144	Sgt. Roland Lamy Sgt. Neal Scott	160 348	Bedford	0606	January 22, 1990

RL: Tell the truth. Relax kid, your gonna crack up. Alright we are gonna open windows and let some air in. Relax. (INA) just relax and don't think for a minute. What do you think Captain?

JC: I just want to go home. I want to go home. I want to go home.

RL: INA.

JC: I want to go home.

RL: Shirt. We need that shirt.

KC: JASON, where is the shirt?

RL: JASON, you want to do something for the jury, tell us where that shirt is, lets just go get the shirt, lets finish this out, the last thing I need to get, then we can start rebuilding again. Help us find that shirt please. Please help us find the shirt.

JC: I don't know where the shirt is at, I swear to God, I swear on the fuckin Holy Bible...

RL: Who took it off?

JC: TONY took the fuckin shirt off. He put it in his bag. He put it in his bag.

RL: Did you take that bag to Donald ROY?

JC: I took it to Donald ROY'S house, (INA).

RL: Sit down and relax and (INA) okay?

JC: I **can't** relax, I get involved with these two guys, that I did not want to **get** involved with (INA) and I did this to my mom, oh my God.

RL: INA.

JC: I want to go home.

RL: Relax will ya, just relax, (INA).

JC: I love you so much and I love daddy so much, and I wouldn't hurt you for anything in the world, I really can't believe this.

RL: Who took the rings off of her hand, you haven't told us anything about that. Why didn't you tell us about that?

JC: I didn't know the rings were on her hands.

Neal Scott

NEW HAMPSHIRE STATE POLICE
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1. ASE NO.	2. INVESTIGATION TPR	3. ID	4. TOWN OF CRIME	5. TN CD	6. DATE OF REPORT
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RL: Well, they were on her hands, who took them off? You were there, think clearly, think clearly now, they were found on the ground, who took them off and why were they off? Do you have a picture of that, we can show him that?

JC: TONY took the rings off and put them back.

RL: How come you didn't tell us that?

JC: INA.

RL: Were you scared, or do you remember, why were they off, if he wanted to pawn them off, why did he take them off and didn't take them with him? Why?

JC: We were in a hurry to get out of there. I guess he must have forgot them.

RL: I'm looking for a phone number.

LM: For who?

RL: Peter BEESON, (INA)

JC: Oh, oh, oh, oh, oh.

KC: INA.

JC: INA.

INA

End of [redacted]

Neal Scott
signed

date

truck and went to the Mall, to meet the woman. I guess when he had seen her, he went over to her and they both came back over to me and I introduced myself as Bob.

LAMY: Bob who?

CARROLL: Bob.

LAMY: Did she ask any questions?

CARROLL: No, she didn't.

LAMY: She must have said something, she is a very bright girl.

CARROLL: I noticed she was a bright girl.

LAMY: Come on Jason.

CARROLL: So then Tony says he has the money, and we were gonna take you to another location.

LAMY: What money have you got? Explain that to us.

CARROLL: I just didn't know right there what money for what reason.

LAMY: Well, who said he had the money?

CARROLL: Tony said that he had the money.

LAMY: Any amount mentioned? Think clearly. If there was an amount mentioned, think clearly. Does he look to you like he wants to tell the truth right now or does he look like he is still fighting inside for something a lot deeper?

K/CARROLL: Try to remember something.

CARROLL: There was no, there was no amount.

LAMY: OK. Go ahead.

CARROLL: Now we had talked about going to another location, where some other people had the money. She asked who the people were. Tony just said I know them, they are good friends and I did not know who the people were. I didn't know who we were going to
(INA)

LAMY: Any talk about her husband at this point?

CARROLL: No. He didn't talk about her husband. I asked him where we were going, and he said follow me. So he got, him and Sharon Johnson went back to the car and he drove off and I got in my truck and I followed the people down Rt. 101. We went through
(INA), through to where ever. We arrived there and we pulled the car into the woods. I parked my truck on the side of the road...

LAMY: You've got to tell the truth.

CARROLL: I know.

LAMY: You have to tell us what kind of a car her husband was driving and all that cause I know you know.

CARROLL: (INA)

LAMY: Go ahead. Where was his car?

CARROLL: I don't know, I didn't see any other vehicles around.

LAMY: OK.

CARROLL: When we got there, we walked down into the pit.

LAMY: Who is walking down?

CARROLL: Me, Tony and Sharon.

LAMY: Now she, at this point is a woman.

CARROLL: I know she is a woman. She asked what we were doing down there, so I said if (INA)

LAMY: Are you sure? If, if, if, if the truth is, that you guys at this point forced her to walk into the pit?

CARROLL: No, no, no.

LAMY: She went along with it?

CARROLL: She went along with it.

LAMY: How, why, how do you explain she just went along with it?

CARROLL: Because she thought she was getting her money. I guess she had known Tony ...

LAMY: Yeah.

CARROLL: ... or something, and I guess she had got to trust him.

LAMY: OK.

CARROLL: You see what I'm saying?

LAMY: Yeah. Go ahead.

CARROLL: OK. We walked into the pit. Johnson walked down, the man with the black beard, and she just kind of

looked at him and they started fighting. What are you doing here? And he started yelling and screaming at her.

- LAMY: Tell me some of the things he said, these are crucial.
- CARROLL: He called her a bitch, a cunt, a whore, and that wasn't his baby. Um, Why would she want to go out and cheat on him.
- LAMY: He said that wasn't, he said it wasn't his baby?
- CARROLL: He said it wasn't his baby.
- LAMY: Whose baby did he say it was?
- CARROLL: He just said it was some other guy she had been fucking around with. Who have you been fucking around with on me. What the fuck are you doing. Why do you want to do this to me?
- LAMY: What was she saying?
- CARROLL: I'm not, she said I'm not fucking around. I'm not, I'm not cheating on you. Why, why are you saying this? And she turned her back and he pulled out a knife.
- LAMY: What a minute. She turned her back to what?
- CARROLL: She turned her back to...
- LAMY: She turned her back to who?
- CARROLL: To the wood line.
- LAMY: Why?

CARROLL: To turn around to leave, um, to ah...

LAMY: What's Pfaff saying during this time?

CARROLL: He was watching, he was watching. He was standing still watching.

LAMY: Did you guys ah, I want to know what weapons you had, you know, you can tell us the part you did.

CARROLL: She liked like she was going (INA). Tony had brought her down there, which is why she was standing toward the back. Johnson then looked up and he stabbed her in the back. As she starts to fall, she comes toward me and I just smacked her to get her away from me and from there, Tony takes off her shirt and as Johnson is still stabbing her, he is playing with her tits, so call it what ever you want to call this shit.

LAMY: Yeah.

CARROLL: And, and, that was...

LAMY: Now, you said you stabbed her, you left that out.

CARROLL: I did not stab her.

LAMY: Well you said you did a minute ago.

CARROLL: No, I did not stab her, Johnson stabbed her.

LAMY: You said you whacked her once...

CARROLL: I whacked her once with my hand, not a knife. Not a knife.

LAMY: Who else stabbed her besides Johnson?

CARROLL: Tony stabbed her.

LAMY: You must have had two knives then.

CARROLL: One. Johnson has the knife at that point.

LAMY: Did he say something to her?

CARROLL: He didn't say shit. He just started stabbing her, like, he looked like, like a lion on a piece of meat. You know what I'm saying? Same instinct.

LAMY: What was she doing all this time?

CARROLL: She was yelling for help.

LAMY: Like what?

CARROLL: Help, somebody help me. And I says, and I looked at her and I smacked her on the ground. And I seen the knife go up into here and she was bleeding and she was also getting beat by Tony. I seen him stabbing her. And...

K/CARROLL: Don't stop now.

LAMY: What was Johnson doing, and what were you doing? You make it like you are such an angel...

CARROLL: I'm not making myself like an angel.

LAMY: The jury will tear you apart. They will, they'll tear you apart if you're not telling the truth here.

CARROLL: I'm telling the truth Sergeant. I don't want to go through no more bullshit. I just want to get this over and out of my life. I was standing at the time and watching this go on, and I don't know if I

was, I don't know, I don't know what I was thinking, no fucking idea.

LAMY: What was Johnson saying to Pfaff as he was beating her on the ground like that?

CARROLL: He was watching in amazement, he was watching, watching in amazement.

K/CARROLL: Was he laughing or anything?

LAMY: Say what you're afraid of here, for Christ's sake Jason.

CARROLL: I can't believe we killed the bitch. An after that she was just ... Johnson, Johnson stabbing her, just stabbing her in the back and as she was falling, she was falling toward me, I smacked her out of my way so she wouldn't land on me. (INA)

LAMY: Heading back where? Where did Tony get the knife out from?

CARROLL: From Johnson.

LAMY: How many times did Johnson stab her at this point? You don't have to count the exact number, I mean there were front and rear stabs, right?

CARROLL: Yes that's right, once in the back and I don't know how many in the chest.

LAMY: That doesn't make sense does it, because it's not the truth.

CARROLL: It is the truth.

LAMY: No, it isn't.

CARROLL: It is.

LAMY: No, it isn't.

CARROLL: It is.

LAMY: How many times, you said initially someone stabbed her in the back?

CARROLL: Initially Johnson stabbed her in the back.

LAMY: And then after Tony stabbed her in the back?

CARROLL: That's correct.

LAMY: One?

CARROLL: One stab.

LAMY: And then you're saying that they...

CARROLL: She just flipped over, now she was falling.

LAMY: OK. Are you saying that Johnson then...

CARROLL: Began to stab her.

LAMY: Well, how is he standing, is he on top of her?

(INA)

LAMY: What kind of knife did he use?

CARROLL: It was like, it was like, like a pre-cut knife.

SCOTT: How many bladed edges?

CARROLL: It was like...

K/CARROLL: Like my knife I had at home?

LAMY: What kind of knife?

CARROLL: It was between a swiss and a, and a buck.

SCOTT: Was it a folding knife?

CARROLL: It was a folding knife.

LAMY: OK. But, OK, you can help us out more than this. Where is the shirt and where is the knife?

CARROLL: Where is it now?

LAMY: Yeah, I want to know.

CARROLL: I don't know.

LAMY: I want to know, think ... I want to know.

CARROLL: I really don't ...

LAMY: Where, who moved the car? Why did the car show up Saturday morning at 3:00 in the morning or 2:00 in the morning at the parking lot at Sears? And you can answer that.

CARROLL: Why did that?

LAMY: I mean, you're going to have to tell us more than this. You're not really, you have got to, I told you before when you tell the truth, you have to want to tell the truth.

CARROLL: I want so much to get this over with.

LAMY: Yet, you're not doing it.

CARROLL: It's not that easy, it's not that easy.

LAMY: No, cause you're holding something back, you got to make yourself ...

K/CARROLL: You have been holding it for a year. Jason, if you had the friggin knife in your hand and you stabbed her then tell us.

LAMY: Yeah, I think he is hiding...

K/CARROLL: If you went back with Tony and you guys moved the car later on that night, tell him.

CARROLL: We went back later on that night, and Tony, after I dropped him off before he went to work. And he had the keys with him when he got out of the car. I stayed out late that night and I met him at Meineke, I met him at Meineke, I don't know how he got down to Meineke after work. From there we went back to the Mall, not in his car, and we moved that one off to the side.

LAMY: What side?

CARROLL: To the automotive side.

LAMY: In that back?

CARROLL: In the back.

LAMY: OK. Why did you do that? That is what I want to understand, why? Truthfully, why?

CARROLL: I guess Johnson had told Tony to put the car there for some reason. I don't know the reason why. I do not know the reason why. Whether it was to be picked up or, or what, I do not know, I do not know that.

LAMY: The keys weren't in when it was found, it was locked.

CARROLL: Right.

LAMY: What happened to the keys?

CARROLL: Tony kept them with him.

LAMY: And where did you guys meet anybody after ...

CARROLL: We didn't meet, I took him home after that to a place on Central Street. And then I went home.

LAMY: You're not telling us everything about that.

CARROLL: Yes I am.

LAMY: No you're not.

CARROLL: Yes, I am.

LAMY: No, you're not.

MORENCY: What did Tony do with the keys?

CARROLL: He put them in his pocket.

MORENCY: (INA) Could he mentioned them ... to anybody?

CARROLL: I don't know, I don't know Leo, I didn't see him too much after that. I seen him a couple of times when he got his fucking head kicked in. I seen him that one time.

LAMY: You must have talked about this. Where did you get your money, when did you get your money in this ah, in this ah new version?

CARROLL: Later on.

LAMY: Later on when?

CARROLL: About a week later.

LAMY: By whom?

CARROLL: By Tony.

LAMY: A week later? Did you ever meet Johnson?

CARROLL: I seen him that night.

LAMY: How do you know that was Ken Johnson, how do you know that that was her husband?

CARROLL: I assumed, cause he said you were cheating on me, and she was saying she was not. I, I assumed that.

LAMY: So, truthfully, you can recognize this guy can't you?

CARROLL: I can recognize him, I can recognize Pfaff.

LAMY: Yeah.

MORENCY: What about the fourth man?

CARROLL: There was not fourth man.

MORENCY: Are you sure?

LAMY: Why did you make that up, tell me that?

CARROLL: Why did I make that up? The whole thing was to keep you guys off my back. You know, you go find out who he was.

LAMY: But now, you, in this room. Right? There are five minds, it took four minds (INA). One mind is not thinking of what the four of us are and that is, you still haven't told us the truth, you still haven't told us the truth. You know why, because there is a little weak point in there. You are reasoning a pattern of giving us something that you feel is probably other then the truth. You're

still not telling the truth. The only reason you cannot be telling the truth, if in fact you are more involved in this thing, and you're not telling us the truth, you don't want to incriminate yourself beyond what you already have. What is it gonna take, on tape now listen to me clearly, one day in the future, this tape which can never be destroyed or altered, will be played before a jury of people that will have understood, listen to me clearly, that will have understood the horror of the type of killing that Sharon L.C. was subjected to. They will hear a voice that we will identify as Jason Carroll. A person that we are looking to, to help us bring forth those people who actually did this entire, ugly, unforgiveable, horrendous act and they will have to conclude if Jason Carroll has the decency to express any remorse and that expression must come forth by a willingness to be truthful. Why in God's name would you tell us this much and still leave out the truth, the essence of the truth? I have not seen the breaking point in you. What in God's name is the matter with you, your mother's sitting right here, the Captain of Detectives of Bedford Police Department is here, Sergeant Scott is here and I'm here. What is it going to take?

CARROLL: I was threatened. I was told if I was to open my mouth, I would be dead.

LAMY: By who?

CARROLL: Johnson.

LAMY: How did that occur?

CARROLL: After it occurred, I was gonna leave, I was gonna get in my truck and fuckin go.

LAMY: How were you threatened? How were you threatened?

CARROLL: Murdered, same as ...

LAMY: When?

CARROLL: ... that same night. The same fucking night. We were told, if you dare go to anybody, if you ever dare to go to the cops, I will murder you, you will be dead, dead like she is.

LAMY: In March of 1989, we brought Tony Pfaff to the Wayfarer in Bedford.

CARROLL: Right.

LAMY: We know he had access to several phones. I have a hard time believing he didn't call you if any of this is true. If any of this is true, I find it hard to believe he didn't call you.

CARROLL: I did, I have not talked to him.

LAMY: I also know you still haven't told us the whole truth, and I know and I'll accept you're fighting a great fight to tell the whole truth. I know you're afraid.

CARROLL: (INA)

LAMY: Yeah, in March of 89 you were at Fort Dix. He couldn't have called you.

CARROLL: You're right, that's why I haven't talked to him.

LAMY: OK. We'll believe that. That I do believe that. Well I don't believe you told the truth, and you know you haven't told the truth, 'cause you're afraid. There is nothing Johnson can do to you. He is in Scituate, Rhode Island working in a restaurant with his sister. We have day to day accountability of where he is, he's not going to approach you, not unless you know something we don't. And if you're afraid, and you tell us what you're afraid of, including Mr. Johnson, we can take care of protecting you. We can't take care of protecting something we don't understand.

K/CARROLL: Jason, is someone out there now? Now that Johnson has ...

CARROLL: Well, see that's just it, I don't know Ma, cause those nights with that fuckin van, I don't know if he has informed anybody or not. I don't know ...

K/CARROLL: There were a few nights.

CARROLL: I don't know if he did or he didn't.

K/CARROLL: (INA) ... when he comes home, in the past couple nights when he came home and (INA)

LAMY: And again, keep in mind Johnson has no resources, no money, Ken Johnson has no money whatsoever.
(INA) Again we are putting the cart before the horse. Protection for your safety is commensurate on you convincing us that you want to be truthful. You haven't done that to me.

CARROLL: Sergeant, I am trying to be so fucking truthful.

LAMY: But why don't you just skip trying and why don't you just be truthful.

CARROLL: I'm just too scared.
(INA)

LAMY: You did tell us that you were whacking yourself, I mean that you're hitting yourself with a knife, I mean God Almighty.

K/CARROLL: Jason.

LAMY: Come on Jason. And if you got paid \$500.00 by Ken Johnson, you did a lot more then what you told us, (INA), why would he do that? If in fact that is the amount you got? And if in fact that is not the accurate amount you got.

CARROLL: That's right, it is not the accurate amount. I got ...

K/CARROLL: How much did you get?

CARROLL: I got about two grand.

K/CARROLL: Two grand, what did you do with that two grand?

LAMY: Tell us that. Make something believable.

K/CARROLL: On what? What did you spend it on? Cause I know you didn't make that much money at work.

CARROLL: Marijuana.

K/CARROLL: On marijuana.

LAMY: Jason, the jury, the jury is listening to you. You sound like a criminal, not a guy that has made a terrible mistake.

CARROLL: Sergeant, it is not that easy, I hope you do understand that.

LAMY: I understand it, but I don't know what else you want us to do.

CARROLL: It is not gonna be easy like this, just to spit it out, I can't, I want to so much.

K/CARROLL: Then do it.

CARROLL: I can't Ma.

K/CARROLL: Why can't you, what are you holding back?

CARROLL: I can't, I am fucking scared.

K/CARROLL: Of course your friggin scared, these guys are gonna help you, we are not gonna sit and jump on your ass, and shoot you down.

CARROLL: But I feel like I'm getting jumped on my ass down now.

K/CARROLL: We want the truth out of you, nobody is gonna be able to help you any more until you come forth with

all the information that they need. Do you think I am gonna love you any less.

CARROLL: I don't know Ma.

K/CARROLL: You're my kid, of course not.

CARROLL: I don't know.

K/CARROLL: And I'm gonna stand by you through this. You are the link that they need to put Johnson and Pfaff behind friggin bars.

CARROLL: I know Ma, but I can't.

K/CARROLL: If you put a knife, if you put a knife in that woman, I want to know.

CARROLL: Yes I did, Ma.

K/CARROLL: How many times did you stab her?

CARROLL: I stabbed her a few times.

K/CARROLL: Alright.

LAMY: Who else stabbed her? Who else stabbed her?

CARROLL: Johnson, Johnson and Pfaff stabbed her.

LAMY: How many times a piece? Don't give us no funny stories.

CARROLL: I don't know that.

LAMY: Look, if you know, you know, if you don't, you don't.

CARROLL: I don't know Sergeant, look I don't know. I do not know, I know I stabbed her two times.

K/CARROLL: Who stabbed her first?

LAMY: Who stabbed her in the back first?

CARROLL: Johnson.

LAMY: Truthfully.

K/CARROLL: Who stabbed her in the back, who stabbed her first?

CARROLL: I did.

LAMY: That's exactly ... and you know where that knife and shirt are, I know you know where the shirt and knife are, I know you know that, as God is my judge, I know you know that.

K/CARROLL: Did you bring them to the house?

CARROLL: Yes, I brought them to the house.

K/CARROLL: And where are they now?

LAMY: You do that for us and I'll believe you and we will get off your back.

K/CARROLL: Where are they now? Tell me.

LAMY: He knows where they are.

K/CARROLL: Where are they Jason?

LAMY: He knows.

K/CARROLL: Tell me where they are. Tell me where they are.

CARROLL: They were destroyed Ma.

LAMY: No.

K/CARROLL: Where?

CARROLL: Yes they are Sergeant.

K/CARROLL: Where?

CARROLL: I brought, I put them out behind in the pits.

K/CARROLL: What pits?

CARROLL: Manchester airport, they were destroyed, burned.

K/CARROLL: Were they burned?

CARROLL: They were burned.

LAMY: The knife was burned?

CARROLL: The shirt was burned.

LAMY: What kind of shirt was it?

CARROLL: It was a, a blouse, it was a blouse.

K/CARROLL: What kind of blouse?

CARROLL: It was a, it was a whitish colored blouse with some funky ass design on it. I do not know.

LAMY: Could it have been a shirt with some funky design on it? You know like a sweatshirt type with a funky design on it?

K/CARROLL: What is a regular blouse or a maternity blouse?

LAMY: He knows where the shirt is, he knows where the knife is too. It was your knife wasn't it?

CARROLL: No.

LAMY: Whose knife was it?

CARROLL: (INA) Johnson's knife.

LAMY: Where is it though?

CARROLL: (INA). I don't know Sergeant. (INA)

K/CARROLL: When did you do that?

CARROLL: Right before I took Tony ...

MORENCY: You say we, who's we?

CARROLL: Me and Tony.

MORENCY: Where was Ken (INA)?

CARROLL: He left, he had walked off and got in his car (INA) he left. After he had threatened me.

LAMY: What did he tell you?

CARROLL: If you dare say anything to anybody, you'll be just like her.

LAMY: Why did you really do this to her (INA) pick her up again didn't you?

CARROLL: No I didn't.

LAMY: You didn't know that?

CARROLL: No I didn't know that.

LAMY: That's very important to us. It's very important to us. (INA) With the way that this investigation and interview, it is important that we understand that you knew you were going to be killing Sharon Johnson. You see the thing that doesn't make any sense and I know you are still lying, that if you didn't know she was going to be killed, you just told us on tape that a jury is going to hear, that you're the first one that stabbed her, now since you allegedly drove by yourself, between the sand pit, between the Manchester Mall and the sand pit, then why on earth would you stab her in the back for unless you knew? Why on earth would you stab

her in the back for if you knew? Why on earth are you trying to jerk us off at this point in front of your own mother about a matter of this serious consequence. What the hell is the matter with you?

K/CARROLL: Did you get some kind of payment. Did they give you some money first to go through with this and then the rest of it was pay off?

LAMY: Or better still, what is the truth? You have to want to grow up and tell the truth. Remember you are alive, Sharon Johnson and her baby are dead. Ken Johnson is on the street in Warwick laughing in our face with his lawyer, Scoop Leahy, coaching him how to avoid proper police homicide investigative technique. And that's a fact of life. That is what we and the police department have to put us with today.

K/CARROLL: Jason you have got this much out, lets get the rest of it out and lets get it out now. You want something to drink, I'll get you something to drink.

LAMY: You're not telling us the truth still.

K/CARROLL: Come on out with it, all of it.

CARROLL: At the time Ma, I was mixed up with drugs. Crazy I was doing fucked up shit, when I was first told about it, we were all in a bar. They said I was gonna be given some money for it, it was supposed to be a joke.

LAMY: But for you to let a person die, you had to know more. (INA) What's the matter with you? Is there something wrong with you, a jury is listening to this. And you got to look at, you standing, sitting on a stand, a judge is going to be listening to this, and a jury. They are the people hired to make the decisions. And you're sitting there. What you haven't got is the willingness to be truthful 'cause your scared.

CARROLL: You're God Dammed right I'm scared.

LAMY: And you're scared, I'll tell you something else ...

CARROLL: I'm still so scared.

LAMY: Let me tell you something else, if your scared of this, I'm wondering what else that you got yourself involved in, that this could be leading up to. See, our reason to continue now, and the point of continuing now, and the point of this is strictly to be involved in far more then just the killing of Sharon Johnson if in fact that's true. Other than that you could explain to me why it is you're scared to tell the truth.

K/CARROLL: Were you involved in some other shit that happened between then and the time you left to go to Fort Dix?

CARROLL: No.

LAMY: Well there is something else, there is something else that is prohibiting you of telling the truth.

K/CARROLL: (INA)

LAMY: It doesn't make sense.

K/CARROLL: I haven't worked on this case, alright. I'm not a detective, I'm just a patrolman, but I have seen the work and the hours that these men have put into this.

LAMY: Jason, do you want to tell the truth Jason, or don't you?

K/CARROLL: Start over Jason. Start over from the first time Tony Pfaff approached you on playing Bob.

LAMY: Listen to me now, okay, for the second time in two days, I will again issue you the miranda warning. It is 3:34 p.m. and I am warning you that one, you have the right to remain silent, two, anything you say can and will be used against you in a court of law, three, you have the right to talk to a lawyer and have him present with you while you're being questioned, four, if you cannot afford to hire a lawyer one will be appointed for you before any questioning, and five, if you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time, do you understand these rights a I have explained them to you?

CARROLL: Yes, I do.

LAMY: Understand these rights, are you willing to answer questions?

CARROLL: I am willing to answer questions.

LAMY: Now.

CARROLL: It is not that easy to answer ...

LAMY: Your mother is here in a dual role as a mother ...

CARROLL: And a professional.

LAMY: And a professional, she is also a witness to what is going on in here. It doesn't make sense to her and it doesn't make sense to us. Do you understand that you have to want to be truthful?

CARROLL: Yes, I do understand that I have to want to be truthful, I want to be truthful. I want to be truthful.

MORENCY: Okay, okay. That is all we want.

K/CARROLL: Jason, Jason...

CARROLL: I want to be truthful.

K/CARROLL: Jason, look at me, (INA) we know you're scared we understand that, so were going to protect you.

LAMY: He's close to it, he's close to it.

K/CARROLL: Yeah, you are, you're on the verge. We got this much out of you, let's have the rest of it. Let's have the truth.

LAMY: It can't get any worse, come on and tell the truth.

K/CARROLL: The longer ...

CARROLL: I know Ma.

K/CARROLL: ... you put off telling the truth, the harder it is gonna be, and the worse it is gonna be on yourself because you still have a chance to save your ass, my dear. I don't want to see you go to prison...

CARROLL: I don't want to go to prison either Ma.

K/CARROLL: Tell us every God Damned thing you know.

LAMY: If Pfaff's not involved in it, say so.

CARROLL: Pfaff is to, he is involved to his God Damned eyeballs.

LAMY: If Johnson's not involved in it then say so.

CARROLL: He is involved in it up to his eyeballs.

LAMY: And if there is someone else, which I think might be the case here, say so.

CARROLL: There was, I don't know, I know the night, at the pit, it was me, Johnson and Pfaff.

LAMY: Fine. (INA)

CARROLL: That's what I'm saying, there was me, Johnson and Pfaff at the pit. That was it.

LAMY: Now what is it you're not telling us? Hold it we're going to switch tapes at this time.

Side Two of Tape

MORENCY: We're back on at 3:34.

(INA)

CARROLL: I am very afraid of someone coming up to me.

K/CARROLL: Who?

CARROLL: Johnson. I am so afraid of Johnson, since he has made that threat. I am afraid that he is gonna get somebody, after a couple nights with that fucking van, I am afraid that somebody is gonna come after me.

LAMY: Look, I understand that, we already told you, if you get to the bottom dollar here and tell us the truth, we will then discuss your safety with your mother here and we will take care of it. Let's not put the cart before the horse. Let's find out what you are afraid of, of telling us.

K/CARROLL: Did you rape Sharon?

CARROLL: No, I didn't.

K/CARROLL: Did Tony?

CARROLL: No, he didn't.

K/CARROLL: Did Johnson?

LAMY: What I want to know is there something else that you can think of, did you pick up Johnson some place or something? You met him, there's just something about it....

K/CARROLL: Did you? Did you meet Johnson somewhere? If you did tell me now.

LAMY: And I think he is ... (INA) But for him to be under this spell he's met or someone from Johnson has contacted this guy recently.

K/CARROLL: Who has been in touch with you?

CARROLL: Nobody.

LAMY: What's the truth?

CARROLL: Nobody has been in touch with me.

LAMY: What is it you're not telling us? We are being patient with you.

MORENCY: Was this your idea?

CARROLL: No, this was not my idea. I had, I was not knowing what was going on at first.

MORENCY: When did you learn what was going on?

CARROLL: When I was offered money.

MORENCY: When were you offered money?

CARROLL: July 27, 1988.

MORENCY: By who?

CARROLL: Tony Pfaff.

MORENCY: To do what?

CARROLL: Help in the murder of Sharon Johnson.

LAMY: Why did you feel she needed to be murdered?

CARROLL: I wasn't briefed on that.

K/CARROLL: What did Tony tell you? Come on. Come on Jason this is crucial. What did Tony Pfaff tell you, why did Sharon have to be murdered?

CARROLL: Because she knew something that Ken had done.

MORENCY: What had he done, raped his daughter?

LAMY: Now what, truthfully. You tell us what he did.

K/CARROLL: What did Johnson do?

LAMY: What did Sharon Johnson see Johnson do?

CARROLL: She had seen Johnson rape her daughter.

LAMY: Her daughter, or his daughter?

CARROLL: His daughter.

LAMY: Lisa?

CARROLL: (INA)

K/CARROLL: And?

CARROLL: TONY was seeing her (INA).

K/CARROLL: Okay.

CARROLL: And I also know that she was trying to keep Tony away from her daughter. Johnson (INA). She was a witness that Johnson had raped her and I guess she had stumbled on to some other things.

LAMY: That is what you were told though, right?

CARROLL: That is what I was told.

SCOTT: What were the other things they stumbled on to?

CARROLL: I, I don't know, I don't know what, I don't know what she, she had stumbled on. I was told that she had to be murdered, knocked off, killed because she had witnessed the rape of his daughter, and that she had stumbled on some other shit that Johnson

had done. I was then offered money to play the role of "Bob." To help carry this out. I was ...

LAMY: You gotta tell us what you're not telling us, still I haven't heard it. I haven't heard a release on your part.

K/CARROLL: Come on. Lets have it. All of it. Jason, don't hold it back, I want to hear it.

MORENCY: Jason.

K/CARROLL: What else?

MORENCY: Jason.

K/CARROLL: Come on. Jason it's right there.

CARROLL: I can't Ma. I want to spit it out.

K/CARROLL: Then let's have it.

CARROLL: I can't spit it out.

K/CARROLL: You can.

CARROLL: I can't spit it out.

K/CARROLL: You can, let me hear it. I want to hear it. Come on. I want to hear it. Jason.

LAMY: The jury wants to hear it.

K/CARROLL: Come on, lets hear it, come on and tell them. Come on, come on.

CARROLL: Johnson wanted her murdered.

K/CARROLL: There's more. Come on.

CARROLL: Because (INA) and saw him raping his daughter.

K/CARROLL: What else?

CARROLL: She had seen him doing other things that wasn't right.

K/CARROLL: What other things?

CARROLL: I guess he had murdered somebody else, or was involved with the murder of somebody else.

K/CARROLL: Tony told you this?

CARROLL: Yes.

LAMY: That is not enough of a reason for you to want to get involved in a murder, you're still lying to us. Jesus Christ, how long you gonna keep this up?

K/CARROLL: Come on, come on lets have it. The rest of it.

CARROLL: I don't know any more Mama, I don't know any more.

K/CARROLL: Yes you do.

CARROLL: No, I don't.

K/CARROLL: Yes, you do. Come on.

LAMY: You haven't explained why it is you said that you left the Mall and you didn't know she was gonna be whacked, and yet you're the first one hits her on the back, why?

K/CARROLL: Why?

CARROLL: Because I got fuckin paid to do it.

LAMY: Ah, horseshit. Horseshit.

K/CARROLL: No, no. You're not that ...

LAMY: Come on for Christ's sake.

K/CARROLL: Jason, I know you, I know you. What happened out there. Why did you hit her first. What happened?

CARROLL: Cause I was told I had to do it or I wouldn't get my money.

K/CARROLL: Come on, more. More. I want more.

CARROLL: I needed the money.

K/CARROLL: For what?

CARROLL: To pay off my truck, to get my truck fixed. I wanted so much to be like the other kids, to have a nice truck. I was fleeced out on fuckin drugs, and I had a job, and I didn't want to do the job I was doing. Tony told me that night and asked me if I would play the role of "Bob" and he would give me some money to do it. I asked what I had to do, and he said help me murder Sharon Johnson. I asked why. He told me that she had stumbled onto him raping his daughter, and had stumbled on him murdering someone else.

K/CARROLL: How long ago was this murder supposed to have been?

CARROLL: I don't know.

K/CARROLL: (INA) Continue.

CARROLL: From that, he told me to meet him (INA) parking lot (INA) then he walked out (INA) I introduced myself as Bob, and I said, no I didn't say, Tony said the money he owed is out at another location and she said where, and he goes don't worry, we are going out there. I didn't know where I was going (INA)

we went down (INA) to North Amherst to a side road, to (INA). The three of us got out, I got out of my truck, Tony got out of the car with Sharon Johnson and we walked down, Tony said there's some other people here that are gonna give you your money. We walked down to the pit and Johnson comes out and she said what the fuck are you doing here. And he goes what do you think, I'm gonna kill you, and she turns around...

K/CARROLL: Go on, don't stop now. Come on.

CARROLL: He had threatened to kill me if I didn't do it right there with a knife.

K/CARROLL: Jason say it. Say it.

CARROLL: He had threatened to kill me Ma.

K/CARROLL: Say it. What happened next.

CARROLL: I stabbed her with, I pulled out a knife and I stabbed her in the back.

K/CARROLL: And then?

LAMY: Where did you get the knife from?

CARROLL: I had it in my truck.

LAMY: Where is it now?

CARROLL: I got rid of it.

LAMY: Where?

CARROLL: I threw it in the river.

LAMY: Horseshit.

CARROLL: That is not horseshit.

LAMY: That's the fucking on going story of every mother fucker that killed somebody.

CARROLL: No, it is not. I threw it in the fucking Merrimack.

K/CARROLL: Where's the knife, Jason. I don't buy it either.

LAMY: Horseshit. It's at your house, or you got it. And you know where that shirt is too.

CARROLL: I do not know where the shirt is.

LAMY: You have that knife?

K/CARROLL: Where is the knife? Come on, is it a small brown pocket knife?

CARROLL: Yes, it is Ma.

K/CARROLL: I have the knife.

LAMY: Is that knife the only knife used in this killing? We knew it was a small knife.

CARROLL: Yes it was.

LAMY: Is that what you were afraid to tell us?

CARROLL: Yes, it is, I have been looking for that mother fuckin thing for so long.

LAMY: Where is it, how come you have had it, has he asked you for it?

K/CARROLL: INA.

LAMY: Ask him why?

CARROLL: Because I was keeping it with me, Ma, I didn't, I didn't dare get rid of it. I didn't want to get rid of it. It kept bringing back the memories.

LAMY: A second ago, you said you had been looking for it all the time.

CARROLL: I have, I have been looking for a couple of weeks cause I had lost it.

K/CARROLL: Did you leave it in your front pocket.

CARROLL: I used to carry it with me to work, I use it when I was at work.

LAMY: That's the murder weapon right?

CARROLL: That is the murder weapon.

LAMY: So help you God?

CARROLL: So help me God, it is the murder weapon.

LAMY: Have we coerced you or anything? Have we intimidated you or threatened you, to tell this story, answer that?

CARROLL: INA.

LAMY: Tell the truth. Tell the truth. Relax kid, your gonna crack up. Alright we are gonna open windows and let some air in. Relax. (INA) just relax and don't think for a minute. What do you think Captain?

CARROLL: I just want to go home. I want to go home. I want to go home.

LAMY: INA.

CARROLL: I want to go home.
(INA)

LAMY: Shirt. We need that shirt.

K/CARROLL: Jason, where is the shirt?

LAMY: Jason, you want to do something for the jury, tell us where that shirt is, lets just go get the shirt, lets finish this out, the last thing I need to get, then we can start rebuilding again. Help us find that shirt please. Please help us find the shirt.

CARROLL: I don't know where the shirt is at, I swear to God, I swear on the fuckin Holy Bible...

LAMY: Who took it off?

CARROLL: Tony took the fuckin shirt off. He put it in his bag. He put it in his bag.

LAMY: Did you take that bag to Donald Roy?

CARROLL: I took it to Donald Roy'S house, (INA).

LAMY: Sit down and relax and (INA) okay?

CARROLL: I can't relax, (INA) I get involved with these two guys, that I did not want to get involved with (INA) and I did this to my mom, and my family oh my God.

LAMY: INA.

CARROLL: I want to go home.

LAMY: Relax will ya, just relax, (INA). We got to think a little here.

CARROLL: I love you so much and I love daddy so much, and I wouldn't hurt you for anything in the world, (INA) I really can't believe this. (INA).

LAMY: Who took the rings off of her hand, you haven't told us anything about that. Why didn't you tell us about that?

CARROLL: Because I didn't know the rings were on her hands.

LAMY: Well, they were on her hands, who took them off? You were there, think clearly, think clearly now, they were found on the ground, who took them off and why were they off? Do you have a picture of that, we can show him that?

CARROLL: Tony took the rings off and put them back.

LAMY: How come you didn't tell us that?

CARROLL: INA.

LAMY: Were you scared, or do you remember, why were they off, if he wanted to pawn them off, why did he take them off and didn't take them with him? Why?

CARROLL: We were in a hurry to get out of there. I guess he must forgot them.

LAMY: I'm looking for a phone number.

MORENCY: For who?

LAMY: Peter Beeson, (INA)

MORENCY: Oh, oh, oh, oh, oh.

K/CARROLL: (INA)

CARROLL: (INA)

(INA)

MORENCY: The time is 3:49 p.m.

End of Tape.

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

SUPERIOR COURT

State

v.

Jason Carroll

90-106 - 90-110

**REQUEST FOR FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

NOW COMES Jason Carroll, by and through his attorneys and respectfully requests that the Court enter the following findings of fact and conclusions of law with regard to the evidence addressed in the Suppression Hearing in the above-referenced matter.

I. FINDINGS OF FACT

1. On November 24, 1989, at approximately 1:30 p.m., Jason Carroll was summoned by his Commanding Officer at the National Guard Armory to meet with Sergeant Lamy and Sergeant Scott of the New Hampshire State Police and Detective Dana Finn of the Bedford Police Department, who purportedly wished to speak with Jason concerning Tony Pfaaf, a man Jason had formerly worked with at a prior job at High Tech of Hooksett, New Hampshire.
2. Jason was 19 years old at the time of this interview, had completed ten years of schooling and had obtained a high school equivalency diploma which is basic training in the National Guard.
3. Prior to this interview, Jason had never had a formal interview with police authorities concerning a criminal matter, had never been interrogated as a potential suspect, or material witness, and had never been Mirandized.
4. Jason was interviewed by the three police officers for approximately five (5) hours on November 24, 1988. Shortly after the 1:30 p.m. start of the interview, Jason's mother, Karen Carroll, a Bedford Police Officer, arrived to leave car keys for Jason to drive home from work. Mrs. Carroll spoke briefly with fellow Bedford Police Officer Dana Finn, who advised her that what was going on was a very routine interview concerning an acquaintance of Jason's who might have some involvement in the Sharon Johnson homicide.

5. After approximately two hours of the interview process, Jason Carroll hand wrote a statement stating facts which demonstrated some knowledge of the Sharon Johnson homicide and some assistance to Tony Pfaaf, a suspect in the case.
6. Additional interviewing produced additional statements in which Carroll indicated he had some criminal liability for transporting Pfaaf from the murder scene and assisting him in the concealment of certain evidence.
7. At the end of this interview process, Carroll was upset, emotionally distraught and shaking so severely he could not handwrite his own statement.
8. Carroll was purportedly Mirandized during the course of the interview when he first mentioned facts which led Sergeant Lamy to conclude he was in fact at the murder scene on the night of the homicide.
9. The interview process stopped at approximately 6:30 p.m. when Carroll indicated he wanted to stop and go home.
10. At this point in time, Sergeant Lamy directed Dana Finn to contact Jason's mother, a Bedford Police Officer herself, to come to the armory to pick up her son.
11. There is no evidence to indicate that Karen Carroll's return to the armory was at the request of her son. Rather, it appears Mrs. Carroll was summoned at Sergeant Lamy's direction without request or knowledge of Jason Carroll.
12. Karen Carroll returned to the armory with her husband, Jack Carroll, who was also a National Guardsman and was also employed at this facility.
13. Upon the arrival of the Carroll parents at the armory, they were brought to a room outside of Jason's presence where they were provided with a brief synopsis of the day's events and led to believe that Sergeant Lamy and his staff felt that Jason had important knowledge concerning the Johnson homicide. The meeting was of a very brief duration, after which the parents were led to the room where Jason was.
14. On the way out of the brief meeting with Lamy, Scott, Finn and other police officials who were at the armory at this time, Jack Carroll confronted Sergeant Lamy to inquire whether his son was thought to have any personal involvement. Lamy made certain comments and hand motions that Jack Carroll interpreted to mean that Jason was suspected of direct involvement in the homicide.
15. The Carrolls were advised to take Jason home, calm him down, and "keep an eye on him." The police advised they would contact the Carrolls further to arrange other interview sessions.

16. On inquiry by the Carrolls, Sergeant Lamy advised that Jason was not "being arrested at that point in time."

17. Lamy advised that if any difficulties or problems arose, he, Sergeant Scott or the Bedford Police Chief should be contacted immediately.

18. Both of the Carrolls interpreted this conversation to mean they were to keep an eye on Jason and assure that he stayed at the Carroll residence or in his parents' presence, failing which they should notify Lamy, Scott or the Bedford Police Chief.

19. The Carrolls asked Sergeant Lamy if they should get a lawyer for their son at this point but were told it was unnecessary at this point in the investigation.

20. On encountering Jason, both of the Carrolls saw that their son appeared to be distraught, emotionally drained and fatigued.

21. Karen Carroll drove Jason to the family residence. Jason went to bed immediately.

22. On Saturday morning, November 25, 1989, Karen Carroll left the Carroll residence early in the morning with Jason to run some errands.

23. At approximately 9:00 a.m., Sergeant Lamy called the Carroll residence and spoke with Jack Carroll.

24. The stated reason for the call was to check on Jason and arrange for further interviews.

25. Jack Carroll engaged Lamy in conversation concerning Jason's involvement in the case and the likely process and outcome of the investigation. Lamy told Jack Carroll that the focus of the investigation was Ken Johnson, the husband of the murdered Sharon Johnson. Lamy told Jack Carroll that he knew that Jason was not being totally forthcoming concerning what he knew about the homicide and Ken Johnson's involvement. Lamy advised Jack Carroll that if Jason would give the investigators the solid information that Lamy knew Jason had concerning Ken Johnson's involvement, immunity from prosecution for Jason could occur. Lamy urged Jack Carroll to use his efforts to solicit Jason's cooperation.

26. Karen and Jason Carroll returned to the residence at approximately 11:00 a.m.

27. Jack and Karen Carroll had a private conversation in the bathroom concerning the content of Jack's conversation with Lamy and the importance of Jason's cooperation. Karen Carroll did not accept Jack's view that Jason was involved and the conversation turned angry.

28. As a result of Lamy's call, Jack Carroll then confronted Jason in an effort to attempt to persuade Jason to reveal all he knew of the homicide to Sergeant Lamy.

29. Jason responded to Jack's efforts by "blowing up", denying he knew anything at all about the homicide and insisting that his statements to the police on the 24th were untrue and were the product of police coercion.

30. Jason angrily insisted he would take a polygraph or be hypnotized to show he was telling the truth and wanted the police to know that what he agreed to on the 24th was in fact not true.

31. When efforts to reach Sergeant Lamy were unavailing, Lieutenant Leo Morency of the Bedford Police Department was called. He came to the residence immediately and met with the three Carrolls. When advised that Jason was recanting his statements of the 24th, Sergeant Morency immediately commenced a Miranda advisement. Jason Carroll initially indicated he did not understand what "waiver" meant but, after explanation by Morency as to the meaning of the form, indicated he would talk to Morency to recant his statements and set the record straight.

32. Neither Carroll parent mentioned the "immunity" telephone call with Lamy to either Jason or to Lieutenant Morency at this point.

33. As Jason persisted in his denials of involvement, Sergeant Lamy called the Carroll residence and arranged for Jason to be brought to the Bedford Police Department to be questioned further.

34. Jason and Karen Carroll drove to the Bedford Police Department at approximately 1:30 p.m. Between 1:30 p.m. and approximately 3:00 p.m., Jason and Sergeants Lamy and Scott and Sergeant Morency interrogated Jason. Jason insists that his statements of the 24th were untrue and that he had no involvement in or knowledge of the homicide.

35. At approximately 2:50 p.m., Jason Carroll asked to see his mother.

36. Sergeant Lamy left the interrogation room for approximately 15 minutes and had a conversation with Karen Carroll about what was going on and Jason's request to speak with her.

37. Sergeant Lamy advised Karen that Jason persisted in his denials and that the police were having difficulty breaking through the denials. Sergeant Lamy advised that since Jason wanted to see his mother, he would bring her into the interrogation room and enlist her support in "cracking" Jason. Lamy told Mrs. Carroll she will be wearing "two hats" when speaking with Jason; on the one hand she will be his mother, but

on the other hand, she will be there as a police officer. Lamy instructed Karen Carroll to take part in the questioning of her son as she saw fit.

38. Karen Carroll and Sergeant Lamy return to the interview room and confront Jason at approximately 3:05 p.m. A tape is turned on shortly after Karen Carroll's entering into the room and records the subsequent interview. There is no evidence that Jason was Mirandized at this point or at any point at the Bedford Police Department up to the time the tape recording commences.

39. Karen Carroll immediately takes an active role in the interrogation of her son.

40. Throughout the taped interview Karen Carroll states to Jason that his cooperation with the police is necessary to keep him out of trouble, protect him against harm, keep him out of prison and will result in the police helping him.

41. Sergeant Lamy never interrupts, corrects or modifies the inducements Karen Carroll makes to her son to persuade him to admit his involvement.

42. Karen Carroll's tone in her conversations with her son is rough, demanding, threatening, hysterical and badgering.

43. Sergeant Lamy never attempts to control Mrs. Carroll or calm her down. Instead, Lamy matches Mrs. Carroll's style, encourages her to continue and continually uses her presence as a psychological ploy to "breakdown" her son.

44. Jason is not re-advised of his Miranda rights at the Bedford Police Department until 3:34 p.m.

45. After Miranda and during the latter phases of the interview, Jason requests that the process stop.

46. No heed is paid to this request; Sergeant Lamy's questioning continues until Jason executes a written consent to search and hand writes a five (5) page statement.

47. At approximately 7:30 p.m., Jason is allowed to go home with his mother.

48. Jason Carroll is emotionally and physically exhausted upon his return home; is given a valium and goes to bed.

49. During the course of the interview of November 25th, Jason is allowed to believe his mother is present in a dual role: as his mother and as a police officer.

50. On the following Sunday, Karen Carroll brings Jason to State Police Headquarters where additional inculpatory statements are made to Sergeant Scott and Jason, with Scott's assistance, makes diagrams of the homicide scene. There is no evidence of a proper Miranda advisement or waiver.

51. On the way home to Bedford from police headquarters, Karen Carroll explains to Jason explicitly that his continued cooperation will produce immunity and/or favorable treatment for him.

52. On the following Monday, Jason calmly gives an additional taped statement, cooperates with police efforts to confront Tony Pfaaf and remains at the police station for the balance of the day until his "formal" arrest in the early morning hours of Tuesday, November 28, 1989. Throughout the entire weekend, Jason has had no contact with anyone other than his parents and the police.

53. Jason continues his cooperation with police in the early hours of Tuesday, signing an additional statement, consulting to travel to Rhode Island to confront Ken Johnson and, ultimately, confronting Ken Johnson in Rhode Island.

54. Jason Carroll is then formally arraigned and held without bail.

55. During the course of the evening of the 27th of November, 1989, at the Bedford Police Department, Jack and Karen Carroll have several discussions with Sergeant Lamy concerning the promised lenity for their son based on his cooperation.

56. Sergeant Lamy reveals that Jason's involvement in the homicide is too weighty to allow immunity but indicates that Jason's continued cooperation against Ken Johnson, including grand jury and trial testimony will assure that Jason serves a minimal prison sentence in a federal facility where educational and other benefits, including early parole release will occur.

57. Sergeant Lamy counsels the Carroll parents as to the need to "control" Jason's attorneys to assure that the result they and their son want is achieved. Lamy advises how to deal with Jason's attorneys and instructs the Carrolls to keep in close communication with him concerning their contacts with Jason and his attorneys.

58. After Jason's formal arrest, Mr. and Mrs. Carroll continue in contact with Sergeant Lamy and meet with Sergeants Lamy and Scott, at Lamy's request, at the National Guard Armory on December 3, 1989.

59. At the December 3, 1989 meeting, Sergeant Lamy reiterated his instructions on how to "control" Jason's lawyers and the importance of preserving Jason's cooperative attitude.

60. On December 4, 1989, Mrs. Carroll confers with Sergeant Lamy by telephone concerning her imminent first scheduled meeting with Jason's attorneys.

61. Following her encounter with Jason's attorneys and after talking with her son concerning the nature and content of his first meeting with the attorneys, Karen Carroll apprised Sergeant Lamy of the nature and content of both meetings.

62. Mr. and Mrs. Carroll's contacts with Sergeant Lamy continued throughout the week through and including a face to face meeting with Sergeant Lamy at their son's probable cause hearing at the Merrimack District Court.

63. Following the District Court hearing, Sergeant Lamy contacted the Carrolls to set up a meeting at State Police Headquarters. This meeting was held on December 15, 1989.

64. The apparent purpose of the December 15, 1989 meeting was to provide a taped "chronology" of events that would safeguard the admissibility of Jason's confessions.

65. The Carrolls cooperated willingly in this meeting and taping and in creating a restatement of the reality of the weekend of November 24, 1989 that could withstand attack by Jason's attorneys or other attorneys even though they knew that "facts" stated on tape were untrue.

66. The Carrolls were duped into participating in this process by their "trust" in Sergeant Lamy and their belief that this was necessary to assure lenient treatment for their son and a conviction against Ken Johnson on capital murder charges.

67. At this meeting, both on and off the tape, the Carrolls revealed to Sergeant Lamy what their son was saying from his jail cell about the case, his attorneys and his involvement and agreed with Sergeant Lamy to continue this provision of information to him and to continue to secure Jason's cooperation.

68. After December 15, 1989, the Carrolls learned that Jason was being counseled not to testify at the Grand Jury. This information was passed on to Sergeant Lamy; and it was agreed that Karen Carroll would discuss with and persuade her son Jason to write a letter to the Attorney General indicating his willingness to go before the Grand Jury.

69. When the letter was prepared and signed, Sergeant Lamy was notified and arranged for delivery of the letter to the Attorney General's Office.

70. After delivery of the letter, Lamy continued his contact with the Carrolls learning what Jason was hearing from his attorneys and advising how Mr. and Mrs. Carroll could function and advise Jason to function to avoid the legal advice he was receiving and procure more "controllable" lawyers.

71. Prior to the Grand Jury session, Sergeant Lamy arranged a meeting between Mr. and Mrs. Carroll and the Attorneys General prosecuting the case to discuss finalization of a plea bargain to close Jason's case so he could testify against Ken Johnson.

72. When the Carrolls were dissatisfied with the plea offer from the Attorney General, Sergeant Lamy assured them the process would continue and the sentence he had led them to believe their son would receive would happen.

73. Based on Lamy's continued assurances, both Jack and Karen Carroll testified before the Grand Jury advising the Grand Jury, inter alia, of conversations they had had with their son following his arrest and incarceration.

74. After the Grand Jury indictment, Jack and Karen Carroll closed their cooperation with Sergeant Lamy when they realized he would not and could not deliver the promises made to them to secure their son's cooperation.

75. In retrospect, looking back at this time period, Jack and Karen Carroll realized they were manipulated and misled by Sergeant Lamy to influence their son to confess and cooperate with the police.

II. CONCLUSIONS OF LAW

A) For constitutional purposes, Jason Carroll was in custody during his police encounter of November 24, 1989, and, therefore a proper Miranda advisement and a knowing, voluntary and intelligent waiver of rights is a necessary predicate to the admission of any inculpatory statements. State v. Plante, 133 N.H. 384 (1990); State v. Riley, 126 N.H. 257 (1985); State v. Gullick, 118 N.H. (1980).

B) The evidence does not support a finding that the State has met its burden to show a proper advisement and waiver prior to the questioning of Jason Carroll.

C) The purported advisement and waiver of Miranda rights that occurred in the latter part of the interview of November 24, 1989 is ineffective under the circumstances of this case.

D) The statements of November 25, 1989 cannot be considered voluntary under the totality of the circumstances surrounding those confessions. State v. McDermott, 131 N.H. 495 (1989).


E) The State's evidence fails to establish voluntariness with respect to the November 25th statements beyond a reasonable doubt where, as here, the evidence shows a youthful, unsophisticated defendant, express and implied promises of leniency and favorable treatment, coercive activity by the interrogators during the interview, overbearing of the defendant's will by allowing the presence of his mother and inducing, encouraging and allowing her to use intimidating and coercive tactics in questioning her son, ignoring the defendant's requests to terminate questioning and prolonged custodial interrogation. State v. McDermott, supra; State v. Torres, 130 N.H. 340 (1988); State v. Damiano, 124 N.H. 742 (1984).

F) Statements made subsequent to the November 25, 1989 confessions are tainted by the involuntary nature of the prior statements and are further rendered involuntary by the direct and express communication to Jason Carroll that he would receive lenient treatment in exchange for his continued cooperation. State v. McDermott, supra; State v. Phinney, 117 N.H. 145 (1977); State v. Geldart, 111 N.H. 219 (1971).


G) Following the defendant's "formal" arrest, the police knowingly and purposely intruded upon the attorney-client relationship to obtain evidence, to influence the defendant, and to violate his rights to effective assistance of counsel by utilizing the parents of Jason Carroll as agents of the State, in violation of Jason Carroll's rights under Part I, Articles II and IV and XV of the New Hampshire Constitution. Any and all evidence obtained as a result of this activity is to be suppressed. State v. Bruneau, 131 N.H. 104 (1988); State v. Tapply, 124 N.H. 318 (1983).

Respectfully submitted,
Jason Carroll
By His Attorneys,

October 17, 1991

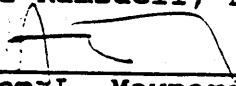


Steven L. Maynard



Clifford R. Kinghorn, Jr.

I hereby certify that a copy of the within was mailed this date to Mark Howard, Esquire and Michael Ramsdell, Esquire.



Steven L. Maynard

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

SUPERIOR COURT

OCTOBER TERM, 1991

90-106 - 110

The State of New Hampshire

v.

Jason Carroll

STATE'S PROPOSED FINDINGS OF FACT AND RULINGS OF LAW
REGARDING ISSUES OF SUPPRESSION AND DISMISSAL

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and respectfully submits the following proposed findings of fact and rulings of law with regard to the suppression and dismissal issues raised by the defense and heard by this Honorable Court at an evidentiary hearing held between September 23 and October 1, 1991.

FINDINGS OF FACT

The stabbed and strangled body of Sharon Johnson, seven months pregnant at the time, was found at a Bedford, New Hampshire, construction site on July 29, 1988. (T.I. 5)¹ The

¹ The transcript citations refer to the volumes in chronological order. For example, "T.I." refers to the September 23 volume; "T.II." refers to the September 24 volume; etc.

ensuing police investigation produced no solid leads until March, 1989, when State Police Sergeant Roland Lamy, who was assigned to the case in January, 1989, contacted Anthony Pfaff by telephone in North Carolina. (T.I. 6-7). Pfaff, a co-defendant in these cases, was the boyfriend of Lisa Johnson and the father of her baby. (T.I. 6). During the telephone interview, Pfaff told Sgt. Lamy that he moved Sharon Johnson's car the day after the murder at Kenneth Johnson's request. (T.I. 7). Following that telephone conversation, Pfaff agreed to cooperate with the police in contacting Kenneth Johnson. This occurred in March, 1989. (T.I. 7).

In the following months, the police sought and obtained further information about Pfaff. (T.I. 7). In the course of the investigation, Sgt. Lamy and State Police Sergeant Neal Scott examined the employment records from Hi-Tech Fire Prevention. (T.I. 7; T.II. 40-41). Those records, first inspected in October, 1989, revealed that Pfaff, Scott McDonald, and Duane Bartlett worked as a crew in the late night of July 28, 1988, the night Sharon Johnson was murdered. (Id.) The records also revealed that the defendant, Jason Carroll, was scheduled to work that night but did not report. (Id.) The police further learned through Scott McDonald that he saw Jason Carroll's truck that night near the Webster House where McDonald met Pfaff for work. (T.II. 22).

Along with Scott McDonald and Duane Bartlett, the police

identified the defendant as a person to speak with about Pfaff. (T.I. 8-9). The officers subsequently learned that the defendant was the son of a Bedford police officer, Karen Carroll, but no further background investigation was performed on him. (T.I. 9-11; T.II 41). Sgt. Lamy and Sgt. Scott informed members of the Bedford Police Department that they wanted to speak to the defendant at some point in the future. (T.I. 10; T.II 168-69). The defendant was not a suspect in the homicide. (T.I. 10).

On November 24, 1989, Sgt. Lamy called Detective Dana Finn of the Bedford Police Department and asked him to call the National Guard Armory and arrange an appointment to speak with Jason Carroll. (T.I. 10-11). The interview was set up, and Sgt. Lamy, Sgt. Scott and Det. Finn arrived at the armory at approximately 1:30 p.m. (T.I. 11). They spoke to Captain Morse and sought permission to speak with the defendant. (T.I. 12). Morse directed the officers to the lunch room, which was approximately eight (8) feet long by fourteen (14) feet wide, and contained a long table with several chairs. (T.I. 12; Def's Ex. C). The entrance door was glass and there were windows on the far wall.

Before entering the room, Captain Morse introduced the officers to the defendant. (T.I. 12). Upon entering the room, the officers told the defendant that if he wanted Captain Morse to stay, he could. Morse and the defendant spoke briefly and

Morse decided that he did not want to stay. (T.I. 13). Sgt. Lamy explained to the defendant that they were there to ask him about his knowledge of Pfaff and the Sharon Johnson homicide. (T.I. 13). Sgt. Lamy informed the defendant that he knew that Carroll had worked with Pfaff at Hi-Tech Fire Prevention. (T.I. 13). The defendant responded that he knew Pfaff and that he was familiar with the homicide through newspapers and discussions with his mother. (T.I. 13).

At a point early in the interview, the defendant's mother entered the lunch room unexpectedly to leave him a set of car keys. (T.I. 14). The officers introduced themselves. (T.I. 14; T.II. 43, 187). She was invited to stay for the interview, but after discussing the matter with the defendant, the defendant stated that he did not need her to stay. (T.I. 14). Karen Carroll left the room shortly thereafter and engaged in a brief discussion with Det. Finn. (T.II. 189). She asked Det. Finn whether the defendant was a suspect and Det. Finn told her that the defendant was simply "another person to be interviewed." (T.II. 189). Karen Carroll stated that there was "no sense in my hanging around here," and she instructed Det. Finn: "If something does come up, give me a call." (T.II. 189).

Later in the interview, the defendant gave a statement concerning the events of July 28, 1988. He stated: (1) he met Pfaff at Meineke Muffler on Elm Street in Manchester; (2) Pfaff was driving a green Subaru that Pfaff said belonged to a

girlfriend; (3) Pfaff asked Carroll to follow him to the Mall of New Hampshire to leave the car, which Carroll agreed to do; (4) he saw Pfaff leave the Subaru in the Sear's parking lot; (5) he drove Pfaff back to the Webster House to be picked up for work; and (6) at Pfaff's request, Carroll delivered a blueish-green bag to an apartment where Pfaff was staying. (T.I. 15-16). Sgt. Lamy asked Carroll to write this statement, which Carroll did. (T.I. 16; State's Ex. 1).

After completing the written statement at 3:15 p.m., the defendant went to the men's room. (T.I. 18; T.II. 44). He left the lunch room on his own; he was not escorted. (Id.). He was gone approximately five (5) minutes and returned to the lunch room on his own. (Id.). Sgt. Scott also went to the men's room after reading the defendant's handwritten statement. (T.II. 45). Sgt. Scott passed the defendant in the hallway. (Id.).

When the defendant returned to the room, Sgt. Lamy pointed out to the defendant that he neglected to include the information regarding the blueish-green bag in his written statement. (T.I. 19). The defendant wrote a second statement concerning the bag. (Id.; State's Ex. 2).

Upon completion of these statements, Sgt. Lamy confronted the defendant with inconsistencies and difficulties that Sgt. Lamy saw in the statements, such as where the vehicle was parked at the Mall and the fact that the defendant did not go to work that night. (T.I. 20). The defendant became emotional and

nervous. (T.I. 20). He shook visibly. (T.II. 181). It was clear to the officers that the defendant knew more. (T.I. 20-21). He was behaving as if he "knew something," and "like he was [re]living what had happened[.]" (T.II. 199).

The defendant then gave another statement concerning his knowledge of the homicide. He told the officers that he was asked by Pfaff to play the character of a man named "Bob"; that he met Sharon Johnson at the Mall; and that he followed Pfaff and the victim to a sandpit. (T.I. 21-22). When the defendant mentioned the sandpit, Sgt. Lamy interrupted him for the purpose of issuing him the Miranda warnings. (T.I. 22). Sgt. Lamy did this as a precautionary measure, because the defendant indicated that he may have some involvement. (Id.). Sgt. Lamy did not consider the defendant in his custody at the time he gave the Miranda warnings. (Id.). Sgt. Lamy read the warnings to the defendant from the State Police Miranda card. (T.I. 23-24). He read each individual right verbatim, and asked the defendant if he understood them. (T.I. 24; T.II 49; State's Ex. 3). The defendant stated that he understood his rights, and he further stated that he was willing to continue to answer questions. (T.I. 24-25; T.II. 49-50, 195). The defendant asked no questions about his rights, nor did he exhibit any confusion about the rights that were explained to him. (Id.).

After he expressed his willingness to continue talking, the defendant went on to describe the events at the sandpit. (T.I. 26). He told that officers that he saw a bearded man join Pfaff

and Sharon Johnson in the pit. (Id.). The man had a knife and stabbed Sharon Johnson in the back. (Id.). The defendant said that he then got into his truck and drove away. (Id.).

Following this most recent version of events, Sgt. Lamy asked the defendant to write out another statement. The defendant said that he was too upset to write, so Sgt. Scott wrote the statement as the defendant narrated. (T.I. 27; T.II 50-51). The defendant subsequently regained his composure and produced his own handwritten statement. (T.I. 28; T.II. 51).

Prior to actually writing his final statement on the 24th, however, the defendant again reviewed his Miranda warnings with Sgt. Scott and Det. Finn. The warnings were reviewed individually, with the defendant initialling each enumerated right. (State's Ex. 5). Moreover, the waiver questions were read to him and he answered in writing that he understood his rights and was willing to continue with the statement. (Id.). Moreover, the defendant asked no questions or exhibited any confusion about the Miranda warnings. (T.II. 52-54).

Following the interview, the defendant's parents were called to come to the armory. (T.II. 191). Upon their arrival, Sgt. Lamy explained to them that the defendant had given statements about his knowledge of the homicide. Sgt. Lamy explained the defendant's statements in general terms. (T.I. 29). He did not indicate to the parents that the defendant was directly involved. (Id.). The parties agreed to meet again on

Monday to discuss the matter further. (T.I. 31). Sgt. Lamy and Sgt. Scott gave the Carrolls their business cards in the event that any problems arose with the defendant over the weekend. (T.II. 55). Sgt. Lamy also told the Carrolls that he would check in with them periodically to let them know where he could be reached. (T.I. 32). The defendant was allowed to leave the armory. (Id.) Neither he nor his parents were given any instructions regarding the defendant's freedom of movement. (T.I. 32).

At no time throughout the officers' contact with the defendant on the 24th was the defendant in any way threatened with arrest, actually arrested, or made any promises with respect to his cooperation. (T.I. 33).

The following morning, Saturday, November 25, 1989, Sgt. Lamy called the defendant's home and spoke with Jack Carroll. (T.I. 33-34). Sgt. Lamy informed Mr. Carroll that he was going to be out for several hours and could be reached through State Police headquarters if necessary. (T.I. 34). Sgt. Lamy also **inquired** about the defendant. Mr. Carroll told Sgt. Lamy that **the defendant** was out with his mother shopping and doing errands. (Id.). The conversation ended. (T.I. 35).

The defendant and his mother returned home later that morning. (T.III. 98). The defendant and his parents sat down to discuss the events of the previous evening. (T.III. 101-02). At a point in the conversation, the defendant became

angry and denied the truth of his statements to the police. (T.III. 102). He attempted to call Sgt. Lamy through headquarters but was unable to reach him. (Id.). The defendant's mother called Captain Leo Morency of the Bedford Police Department on his behalf. (T.III. 103).

As a result of Mrs. Carroll's call, Captain Morency went to the Carroll residence where he spoke to the defendant. (T.III. 17-18). The defendant indicated that he wished to recant his previous statements. (T.III. 19). Before Captain Morency allowed the defendant to go on, he advised the defendant of his Miranda rights. (T.III. 19; 59). The defendant appeared to understand his rights. (T.III. 60). Captain Morency then asked if he wished to waive his rights. (Id.). The defendant asked what it meant to waive. (Id.) Captain Morency explained that it meant that he understood his rights and was willing to continue talking. (T.III. 61). The defendant indicated that he understood Captain Morency's explanation, and that he wished to continue speaking. (Id.).

During the conversation, Sgt. Lamy called the residence in response to the message left at headquarters. (T.I. 35; T.III. 24). He spoke to Captain Morency, who informed Sgt. Lamy that the defendant wished to recant. (T.I. 36). Sgt. Lamy asked Captain Morency to ask the defendant if he would come to the Bedford Police Department to discuss his desire to recant. (Id.). The defendant agreed to go to the police station.

Indeed, because he wished to recant, the defendant wanted to go to the police station. (T.IV. 21, 23; T.VI. 71-72). The defendant drove himself and his mother to the police station. (T.IV. 23).

The defendant met with Sgt. Lamy and Captain Morency at approximately 1:30 p.m. in Captain Morency's office at the station. (T.I. 37). The defendant continued to tell Sgt. Lamy that his statements at the armory were not true. (T.I. 38). Sgt. Lamy confronted him with the incredible posture he was now taking. (Id.). After Sgt. Scott arrived, the defendant began stating that he was afraid to tell the truth. He requested that his mother be in the room. (T.I. 38-39; T.II. 57).

Sgt. Lamy and Sgt. Scott stepped outside of the office and briefly discussed the pros and cons of allowing Mrs. Carroll into the room. (T.II. 57-58). They discussed the fact that she was a police officer, but on the other hand that the defendant had requested his mother. (Id.). In an effort to further the voluntary state of mind of the defendant, the officers elected to grant the defendant's request. (T.I. 39-40; T.II. 58).

Sgt. Lamy went upstairs in the department where Mrs. Carroll was waiting. (T.I. 39-40). Sgt. Lamy explained to her that the defendant had requested her. He further explained that she was in no way acting on behalf of the investigators; that she was in the room as the defendant's mother. Sgt. Lamy specifically instructed her that any questions she wished to ask

were to come from her, and were not on behalf of the police. (T.I. 39-41).

Karen Carroll entered Captain Morency's office at 2:50 p.m. (T.I. 41). The defendant was told that she was there at his request. (Id.). The conversation ensued about the defendant's involvement in the murder. The police activated a tape recorder. The tape recording (State's Ex. 4) and transcript (State's Ex. 5) embody the entirety of the interview on the afternoon of November 25. The defendant admitted, among other things, that: (1) Pfaff asked him to help kill Sharon Johnson in return for money; (2) he was the first to stab Sharon Johnson; (3) the first stab wound was to the back; (4) there was only one stab wound to the back; (5) he and Pfaff each stabbed Sharon Johnson several times in the chest; and (6) he and Pfaff each choked Sharon Johnson.

The interview was emotion-laden. At times, the defendant and his mother supported one another orally and physically. At times, the defendant, his mother, and Sgt. Lamy raised their voices. The emotional aspects of the interview occurred on those occasions when the defendant was preparing to admit significant inculpatory facts, such as being the first to stab Sharon Johnson with the knife in the back. Despite the emotional tenor of these identifiable points in the interview, the defendant at all times was appropriately responsive to questions.

Although the defendant came to the police station voluntarily and was not restrained or arrested, Sgt. Lamy gave the defendant his Miranda warnings during the interview. This was at a point when the defendant was going to repeat his version of the events. The defendant responded clearly and affirmatively when asked whether he understood the warnings. He answered clearly and affirmatively when asked whether he was willing to continue answering questions.

Near the conclusion of the interview, Sergeant Lamy told the defendant to relax. The defendant voiced his frustration by stating that he wanted to go home. The police understood the statement as an expression by the defendant that he wished he was not involved. (T.I. 44-45). The defendant did not request that questioning be terminated. He answered a few more questions posed to him and the interview terminated.

Following the interview, the police produced and explained to the defendant and his mother written consent to search forms. (State's Exs. 9 and 10). The police explained that they **wanted** to search the Carroll residence for the knife that the defendant had described as being the murder weapon, and that Mrs. Carroll had said she possessed in her bedroom bureau drawer. (T.II. 62-64). The defendant and his mother each consented to the search and signed separate consent to search forms, which expressly included language regarding the right to refuse.

Mrs. Carroll accompanied Sgt. Scott and Captain Morency to her home and produced the knife. (T.II. 64-65). She turned the knife over to them. (Id.) While they were at the Carroll's home, the defendant remained at the Bedford Police Department. After his mother and the officers returned, the defendant was shown the knife and he identified it as the murder weapon. (T.II. 65). He then wrote a four page statement. (State's Ex. 6). The Miranda warnings appear on each page of the defendant's statement. The warnings were reviewed with and initialled by the defendant prior to his writing the statement. The defendant exhibited no confusion over the warnings and appeared to understand them. (T.II. 66-67).

The defendant went home with his mother after the events concluded at the police station. (T.II. 67). As had been the case the previous evening, Carroll was not guarded or restrained by his parents. He remained home that night.

The next day, November 26, 1989, Sgt. Scott telephoned the Carroll residence and inquired whether the defendant was willing to go to State Police headquarters in Concord to draw sketch diagrams of the crime scene. (T.II. 68). The defendant agreed, and he and Mrs. Carroll went to Concord. Once with the police, the defendant spent approximately one half hour drawing sketches. (T.II. 72). He exhibited none of the nervousness, anxiety and emotion that had been obvious during the interview on the day before. (See T.II. 70).

The defendant returned home with his mother after completing the sketches. Again, he remained home being neither restrained nor guarded by his parents.

On the following day, Monday, November 27, 1989, the defendant met as planned with police investigators at the Bedford Police Department at approximately 12:30 p.m. (T.I. 51-52). He was interviewed first by Sgt. Lamy, who summarized the events of the weekend. (T.I. 52; T.II. 73). The defendant responded by amending his previous statements to include that (1) he and Pfaff forced Sharon Johnson into her car at the Mall; (2) Kenneth Johnson did not stab Sharon Johnson; (3) he received \$5,000 for the murder; and (4) he and Pfaff travelled to Bow, New Hampshire, in the defendant's truck where Pfaff met with somebody to obtain the money. (T.II. 74-75).

Following those statements, the defendant engaged in an interview with Sgt. Scott, Captain Morency, and Corporal David Eastman of the State Police. The interview was tape recorded and began with the administration of the Miranda warnings. The defendant was explained each right and stated that he understood. He agreed to continue speaking. The tape recording and transcript are marked as State's Exhibits 12 and 13, respectively.

After the interview, the defendant agreed to accompany police investigators to the crime scene where he was to confront Pfaff. (T.I. 54). Pfaff had flown to New Hampshire from North

Carolina to meet with the police. (Id.). The confrontation lasted approximately 5 minutes, during which time the defendant stated, among other things, that he and Pfaff had stabbed and killed Sharon Johnson at the construction site. (T.I. 55).

The defendant returned to the Bedford Police Station after the confrontation. (Id.). He had very little contact with the police for the remainder of the day. (Id.). Later in the evening, he was confronted by Sgt. Lamy about the possibility of Lisa Johnson being involved in the homicide. (T.I. 55-56). The defendant denied that she was involved. (T.I. 56). Thereafter, the defendant was asked by Sergeant Kevin O'Brien how long he intended to conceal the fact that he had participated in the murder of Sharon Johnson. (T.II. 149). The defendant said that "he could'nt have held it in much longer. That he wanted to tell somebody. That it bothered him, what had happened." (T.II. 149-50). When asked why he assisted in the murder, he stated that he would always help a friend and that he would not back down from anything. (T.II. 150).

The defendant was formally arrested at the police station shortly after midnight on November 28. (T.II. 144). He thereafter agreed to accompany police investigators to Rhode Island to confront Kenneth Johnson in a manner similar to the Pfaff confrontation. (T.II. 151; State's Exs. 14, 15, and 16). In Rhode Island, the defendant confronted Kenneth Johnson and recited some of the facts of the crime. When he stated that

Johnson was present at the scene, Johnson demanded that the defendant be removed from the room. (T.I. 57).

In the weeks following the defendant's arrest, the defendant's parents had several contacts with Sgt. Lamy and Sgt. Scott. On many occasions, the Carrolls expressed to Sgt. Lamy and Sgt. Scott their and the defendant's dissatisfaction with the defense attorneys appointed to the case. At no time did Sgt. Lamy seek information concerning the case from the defendant through his parents while the defendant was represented by counsel. Moreover, the Carrolls never provided to Sgt. Lamy any information concerning confidential communications between the defendant and his attorneys, including facts of the crime or defense strategy.

Throughout the course of the entire investigation, and particularly before the defendant made any incriminating statements, the police investigators made no express or implied promises of immunity or leniency to the defendant or to his parents. (T.I. 58).

RULINGS OF LAW

The defendant raises the following claims regarding the suppression of his statements and certain physical evidence: (1) the defendant's statements made on November 24, 1989 at the armory were taken in derogation of Miranda v. Arizona, 384 U.S. 436 (1966); (2) the defendant's incriminatory statements made on November 25, and November 27, 1989, were the product of police

coercion, or were made upon a promise of immunity or leniency, and were therefore involuntary; (3) the defendant's statement of November 25 were taken in derogation of his Miranda rights; (4) the knife seized from the Carroll residence was without a valid consent from either the defendant or Karen Carroll; (5) the statements made and diagrams drawn by the defendant on November 26 were in derogation of his Miranda rights; and (6) the defendant's statements of November 27, 1989 were taken in violation of his Miranda rights.

I. The Defendant Was Not In Custody On November 24, 1989, And Therefore Was Not Entitled To The Miranda Warnings.

A person is entitled to a warning of his rights under Miranda v. Arizona, 384 U.S. 436 (1966), only if he is subjected to custodial interrogation by the police. State v. Portigue, 125 N.H. 338, 343 (1984). A person is in custody for Miranda purposes when there is a "'formal arrest or restraint on freedom of movement' of the degree associated with a formal arrest." Portigue, 125 N.H. at 344 (quoting California v. Beheler, 463 U.S. 1121, 1125 (1983) (per curiam) (quoting Oregon v. Mathiason, 429 U.S. 492, 495 (1977) (per curiam)). In the absence of a formal arrest, there must be "some objective manifestation" of restraint on freedom. Fisher v. Scafati, 439 F.2d 307, 310 (1st Cir.) cert. denied, 403 U.S. 939 (1971). In this case, the police sought to interview the defendant because of his association with co-defendant Pfaff. The interview was arranged at the defendant's place of employment. The officers and the

defendant went to the armory lunch room, with which the defendant was presumably familiar. The defendant's commander was invited to stay, but after speaking with the defendant he elected to leave. The officers told the defendant that they wished to speak to him about Pfaff and the Sharon Johnson homicide. The defendant indicated that he was familiar with both. Shortly after the interview began, the defendant's mother arrived to deliver car keys to him. The police offered to allow her to stay if she wished. The defendant said it was not necessary for her to stay, and she left. At the conclusion of the interview, the defendant went home. Under these circumstances, there is simply no objective manifestation of restraint on the defendant's freedom. He therefore was not in custody and was not entitled to his Miranda warnings.²

Later in the interview the defendant grew nervous and became visibly shaken when confronted with the difficulties in his statement. It is clear from the circumstances and the perception of the officers that his demeanor at this point was not in reaction to any police coercion, but was a natural reaction to the information that he possessed and was about to disclose concerning the brutal homicide. It was "like he was [re]living what had happened[.]" (T.II. 199). His reaction

²The defendant suggests in his pleadings that the officers should have issued Miranda because of the nature and gravity of the offense. Def's. Motion to Suppress, ¶ 94. There is no basis in law for this proposition.

did not, therefore, transform the interview into a custodial setting.

Although he was not required to do so, Sgt. Lamy advised the defendant of his Miranda rights when the defendant indicated that he was actually at the scene of the murder. However, the fact that the police issue Miranda warnings as a cautionary measure does not transform an otherwise consensual, non-custodial encounter into a custodial setting. See State v. Damon, 570 A.2d 700, 705-06 (Conn. 1990) (Miranda does not turn non-custodial encounter into seizure or arrest); See also State v. Kennedy, 569 A.2d 4, 8 (R.I. 1990) (advice and information concerning Miranda will not serve as evidence of arrest). If anything, the Miranda warnings reinforced the non-custodial atmosphere by specifically instructing the defendant that he could end the encounter at any time.

Assuming the defendant was entitled to Miranda, he was expressly given his warnings, indicated he understood his rights, and agreed to continue speaking. He asked no questions and exhibited no confusion concerning the rights. He knowingly, intelligently and voluntarily waived his rights beyond a reasonable doubt. State v. Gullick, 118 N.H. 912, 915 (1978). Moreover, before providing a final handwritten statement, the defendant was again advised of his Miranda rights. At that time, he reviewed the rights with Sgt. Scott and signed an express waiver. He again asked no questions and exhibited no

confusion. The officers further testified that he had composed himself to the point where he could write his own statement. He knowingly, intelligently and voluntarily waived his rights a second time, beyond a reasonable doubt. Gullick, 118 N.H. at 915.

II. The Defendant's Statement on November 25 and November 27 Were Not the Product of Police Coercion, or the Product of an Express or Implied Promise of Immunity or Leniency.

A statement is voluntary if it is "the product of an essentially free and unconstrained choice." State v. Damiano, 124 N.H. 742, 747 (1984) (quoting State v. Copeland, 124 N.H. 90, 92 (1983) (further citation omitted)). The confession must be from a mind capable of a conscious choice, and must not be the product of a will overborne by police tactics. Damiano, 124 N.H. at 747. The making of a threat or promise does not, standing alone, transform a voluntary confession into an involuntary one, unless the police exerted such an influence over the defendant that his will was eroded and overborne. State v. McDermott, 131 N.H. 495, 500 (1989); State v. Reynolds, 124 N.H. 428, 434 (1984). Voluntariness must be determined from the totality of the circumstances, including "the characteristics of the accused and the details of the interrogation." Reynolds, 124 N.H. at 434 (quoting Schneckloth v. Bustamonte, 412 U.S. 218, 226 (1973)).

Defendant asserts two bases for his argument: (1) Sgt. Lamy made an implied promise of immunity to the defendant's parents,

who not only acted upon the implied promise, but also communicated the implied promise to their son prior to his statement on November 27; and (2) Karen Carroll was a functional agent of the State on November 25 and with her cooperation the entire police encounter had a coercive effect on the defendant. The defendant's arguments are based solely on the testimony of John and Karen Carroll and their assertions concerning what meaning should be given to certain phrases used during the November 25 interview.

Despite the Carroll's testimony, the defendant's confessions on November 25 and 27, 1989, were not "'extracted by any sort of threats or violence, [or] obtained by any direct or implied promises, however slight, [or] by the exertion of any improper influence.'" McDermott, 131 N.H. at 500 (quoting Copeland, 124 N.H. at 92). Rather, the confession was the "'product of an essentially free and unconstrained choice.'" Id.

According to the Carrolls, the events preceding their son's November 25, 1989 confession included: (1) Sgt. Lamy told Jack Carroll by telephone that morning that there was a possibility of Jason Carroll receiving immunity for his assistance if he cooperated with investigators; (2) while Mr. Carroll did not pass along that information to his son, he did inform his wife of the substance of his conversation with Sgt. Lamy; and (3) Mrs. Carroll accompanied her son when he went to the Bedford Police Department later that day. Karen Carroll

also testified that she so stridently urged her son to confess to his role in Sharon Johnson's murder because of the implied promise of immunity and because Sergeant Lamy told her prior to her involvement in the interview that she was a police officer and not just her son's mother. The Carrolls further testified that the implied promise of immunity was passed on to their son by Karen Carroll on November 26, 1989 during their drive home from State Police headquarters, that being the evening preceeding his confession on November 27, 1989. Jack Carroll testified twice on direct examination, however, that his wife did not tell him that she informed the defendant of the alleged immunity offer. (T.IV. 128, 132).

The Carrolls' testimony as it related to these claims was wholly incredible. Sergeants Lamy and Scott testified directly contrary to each essential aspect of the Carroll's testimony. Even without the testimony of Sergeants Lamy and Scott, the Carrolls' testimony is so inconsistent with their prior statements, so obviously and admittedly biased in favor of the **best** interests of their son, and so illogical that it could not be accepted on its face.

First, the essential aspects of the Carrolls' testimony are contradicted explicitly or by omission not only by their statements made during a tape recorded interview done with Sergeants Lamy and Scott prior to their son being indicted for capital murder, but also by their testimony before the grand

jury. The Carrolls explained the direct changes from their earlier statements to their hearing testimony by claiming that previously they were on the State's "team," but no longer believe that such efforts are in their son's best interest. They explained the contradictions-by-ommission as occurring due to previously not being asked questions with sufficient specificity.

The scenario of events preceeding Jason Carroll's confessions as described by the Carrolls during the suppression hearing defies credulity when examined in light of additional facts that would have to be accepted if the Carrolls' testimony is to be believed. For example, it would have to be accepted that: (1) the Carrolls did not tell their son prior to his confession on November 25 that he might receive immunity if he cooperated with the police; (2) they never mentioned the implied promise of immunity when Captain Morency read their son the Miranda rights that day; (3) they never mentioned the implied promise of immunity when their son recorded his incriminating statements made the previous day; (4) Karen Carroll maintained the presence of mind to always remember the implied promise of immunity during the interview on November 25, yet never mentioned it directly to her son; and (5) Karen Carroll did not mention the implied promise of immunity to her son even after the emotion-laden interview. In order to believe the Carrolls' testimony, it would also have to be accepted that the Carrolls:

(1) did not tell their son's attorney about the implied promise of immunity when they did tell him about an implied promise of leniency the Carrolls claim was made hours after their son's last confession; (2) did not tell members of the Attorney General's Office about the implied promise of immunity when they expressed to members of that office that their son wished to cooperate with the State and delivered a letter written by their son stating that desire; (3) did not mention the implied promise of immunity when testifying before the grand jury that indicted their son for capital murder; and (4) did not tell a family friend, an attorney in New York, about the implied promise of immunity when they did tell him about the alleged implied promise of leniency.

Finally, the defendant might argue that his mother's testimony that she told him on the night of November 26 about the immunity offer is credible because it explains his calm demeanor in his confession on the Monday, November 27. However, as Sgt. Scott testified, the defendant was similarly calm and collected at State Police headquarters the afternoon of the 26th while drawing the diagrams. This was before he was allegedly told about an immunity offer. Thus, the true explanation for the defendant's calm demeanor on November 26 and November 27 is that he had already purged his guilt during the November 24 and November 25 statements.

Based upon the testimony of Sergeants Lamy and Scott, and Jason Carroll's waiver of the Miranda rights at the beginning or during each of his confessions, Copeland, 124 N.H. at 93, Carroll's confessions to the police were voluntary beyond a reasonable doubt.

III. The Defendant Was Not in Custody on November 25 and Therefore Was Not Entitled to His Miranda Warnings; If He Was, However, He Was Given His Rights and Waived Them Beyond a Reasonable Doubt.

The defendant initiated his encounter with the police on November 25 by attempting to contact Sgt. Lamy and by having his mother summon Captain Morency. The defendant invited the police contact in order to attempt to recant his previous statements. While Captain Morency was at the Carroll residence, he issued the Miranda warnings, thus reinforcing with the defendant that he did not have to speak. Instead, the defendant wished to speak, and subsequently agreed to go to the Bedford Police Department to speak to Sgt. Lamy in order to recant. The defendant wanted to go to the police department. Indeed, he drove. The defendant's presence at the police station was entirely consensual and therefore non-custodial.

At no point during his presence at the police station did his contact with the police transform into a custodial setting. The defendant was not restrained in any way; when he requested the presence of his mother in the room, the officers brought her to him. Even though the ensuing interview was at times emotional, at no time did the tenor of the interview transform

it into the functional equivalent of an arrest. Indeed, the defendant was reminded once again of his Miranda warnings during the interview, and he chose to continue speaking.

At one point in the interview, the defendant grew emotional and stated "I want to go home." He repeated the statement. In the context in which the statement was made, the officers correctly understood the statement as an expression of frustration and a wish that he was not involved in the homicide. The interview ended only minutes later.

Even if the statement was a true expression of a desire to end the interview, the most generous construction of the event is that it transformed the interview into a custodial setting. By that time, however, the defendant already had been given his Miranda warnings twice that day: once at his home by Captain Morency, and once in the interview by Sgt. Lamy.

The defendant knowingly, intelligently and voluntarily waived his rights on both occasions. Captain Morency explained each of the rights at the defendant's home, and the defendant indicated that he understood them. Captain Morency then specifically explained, upon request, the concept of waiver. He explained that it meant that the defendant understood his rights and was willing to continue speaking. The defendant indicated that he understood Captain Morency's explanation, and that he wished to continue speaking with the police. His waiver was valid beyond a reasonable doubt. Gullick, 118 N.H. at 915.

Sgt. Lamy issued the identical warnings only a few hours later in Captain Morency's office. This was the second time that day, and the fourth time in two days, that the defendant was issued his Miranda warnings. The defendant stated that he understood his rights and wished to continue speaking. His waiver was valid beyond a reasonable doubt. Gullick, 118 N.H. at 915.

The defendant's handwritten statement given on November 25 following the tape recorded interview was also the product of his continuing non-custodial interaction with the police. However, even if he was in custody, he was given his Miranda warnings in writing, stated that he understood them, and expressly waived his right in writing. Gullick, 118 N.H. at 915. This was the fifth time in two days that the defendant was given and waived his Miranda rights.

IV. The Defendant's and Karen Carroll's Consent to Search the Carroll Residence for the Murder Weapon Were Valid.

Following the defendant's tape recorded confession on November 25, and before his handwritten statement, the police sought his and his mother's consent to search the Carroll residence for the knife described by the defendant in his statement. In the interview, Mrs. Carroll stated that she possessed the knife.

The consent search is a well-recognized exception to the warrant requirement under both the Fourth Amendment to the United States Constitution and Part 1, Article 19 of the New

Hampshire Constitution. Schneckloth v. Bustamonte, 412 U.S. 218 (1973); State v. Osborne, 119 N.H. 427, 433 (1979). In order for a consent search to be valid, the State must prove by a preponderance of the evidence that the consent was given freely, voluntarily and knowingly. Id.

In this instance, the police presented the defendant with a written consent to search form. The form outlined the place to be searched and the item to be taken. (State's Ex. 9). Moreover, the form expressly stated and the police explained that the defendant possessed the right to refuse the consent. Osborne, 119 N.H. at 433 (good policy for police officers to warn person of right to refuse consent). The defendant expressly consented in writing, and exhibited no confusion about what he was doing. His consent was valid by a preponderance of the evidence.

Even if the defendant's consent is held invalid, Karen Carroll executed a consent to search form for the knife which she possessed in her bedroom bureau drawer. The defendant possessed no expectation of privacy in the area to be searched. Therefore, he cannot complain that his constitutional rights were violated. Rakas v. Illinois, 439 U.S. 128 (1978) (no legitimate expectation of privacy in place to be searched). In any event, her consent was valid in that her rights were fully explained to her and she expressly consented in writing.

V. The Defendant Was Not in Custody on November 26, and Was Therefore Not Entitled to the Miranda Warnings Prior to Drawing the Sketch Diagrams.

Prior to leaving the Bedford police station on November 25, the officers spoke to the defendant about preparing diagrams of the scene. The defendant indicated that he was too tired and would do it at another time. In the afternoon of November 26, Sgt. Scott called the Carroll residence and spoke with Mrs. Carroll. Sgt. Scott asked if the defendant was willing to come to State Police headquarters in Concord and attempt to draw diagrams. The defendant agreed to go and he and his mother drove to Concord. At headquarters, he spent approximately one half hour working on various sketches. Once finished, he left headquarters with his mother and drove home. Under these circumstances, he was not in custody and therefore was not entitled to, nor did he receive, his Miranda warnings. Beheler, 463 U.S. at 1125; Mathiason, 429 U.S. at 495.

VI. The Defendant's Statements on November 27, 1989 Were Not Taken in Violation of Miranda.

Prior to leaving headquarters on November 26, the investigators spoke to the defendant about meeting again the following day at the Bedford Police Department. The defendant agreed to do so, and met with investigators at approximately 12:30 p.m. Sgt. Lamy summarized the events of the weekend. The defendant orally amended his previous statements concerning Kenneth Johnson's direct involvement, the amount of money the defendant was paid, and that he and Pfaff forced Sharon Johnson

into the car at knife point. The defendant was not given his Miranda warnings prior to this exercise, but because his encounter with the police was consensual and non-custodial, he was not entitled to the warnings.

At approximately 1:00 p.m., the defendant was interviewed again by investigators to obtain a comprehensive statement. The defendant, though not in custody, was given his Miranda warnings on tape. The tape recording clearly demonstrates that the defendant was informed of each right, indicated that he understood each right, and expressly agreed to waive his rights and continue speaking. He knowingly, intelligently and voluntarily waived his rights beyond a reasonable doubt. Gullick, 118 N.H. at 915.

The remainder of the defendant's statements on November 27, and November 28, 1989 were voluntarily given and therefore admissible: (1) the defendant specifically agreed to confront Pfaff at the construction site with the facts of the crime; (2) the defendant stated to Sgt. O'Brien on the night of the 27th, after telling Sgt. Lamy that Lisa Johnson was not involved, that he could not have withheld his involvement much longer; and (3) the defendant specifically agreed to accompany investigators to Rhode Island to confront Kenneth Johnson with the facts of the crime. His willingness to do so was expressed both in writing and orally on a tape recording. (State's Exs. 14-16). These statements were voluntary beyond a reasonable doubt. State v. Phinney, 117 N.H. 145 (1977).

VII. The State in No Way Interfered With the Attorney-Client Relationship and Therefore Dismissal of the Indictments is Inappropriate.

The defendant seeks dismissal of the indictments against him on the grounds that, after counsel was appointed, the State encouraged the defendant's parents to elicit information from the defendant about the investigation and about his representation.

In order to prevail on his claim, the defendant must make a showing that the State's actions rendered counsel ineffective and that the defendant thereby suffered "demonstrable prejudice." United States v. Morrison, 449 U.S. 361, 365 (1981). The defendant has not alleged these two prongs of the analysis in his motion, and could in no event satisfy the prerequisites in this case.

There was substantial contact between Sergeants Lamy and Scott and the defendant's parents following the appointment of counsel. However, the only discussions regarding the defendant's attorneys concerned the parents' and the defendant's dissatisfaction with the representation he was receiving. At no time did the investigators solicit the parents to obtain information about the case from the defendant. At no time did the police receive information about the case from the defendant through his parents. Moreover, no information was ever solicited by or divulged to the State concerning the defense strategy in the representation of the defendant. The

defendant's attorneys were in no way rendered ineffective by any actions of the State. Morrison, 449 U.S. at 365.

Similarly, the defendant can demonstrate no prejudice. Although he claims he was urged by the State Police, through his parents, to cooperate with the State and to testify to the grand jury, the fact remains that he did not cooperate and did not testify to the grand jury. He cannot show that he made any decision in his own defense that was inspired by advise from the State Police while he was represented by counsel. Absent such a showing, he cannot demonstrate prejudice. Morrison, 449 U.S. 365. The defendant's motion to dismiss must accordingly be denied.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court:

- A. Deny the defendant's motions to suppress statements and evidence;
- B. Deny the defendant's motion to dismiss the indictments; and
- C. Grant such other and further relief as the Court deems just and reasonable.

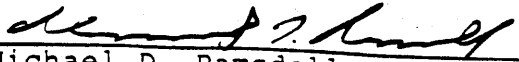
Respectfully submitted,
THE STATE OF NEW HAMPSHIRE

By its attorneys,


John P. Arnold
Attorney General

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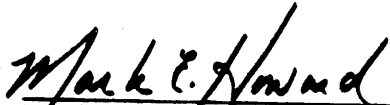
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October 17, 1991

I hereby certify that a copy of the foregoing was mailed this day, postage prepaid, to Clifford Kinghorn, Esquire, counsel for defendant Jason Carroll, and Paul Twomey, Esquire, counsel for defendant Anthony Pfaff.



Mark E. Howard