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JESSIE JOSEPH TAFFERO,
Appellant.

-vs-

STATE OF FLORIDA,
Appellee.

VOLUME II.

IN THE SUPREME COURT OF FLORIDA;
TALLAHASSEE, FLORIDA.

JESSIE JOSEPH TAFERO, : CASE NO. 76-1275 CFA "FUTCH"
Appellant. : APPEAL NO.
-vs- :
STATE OF FLORIDA, :
Appellee. :
_____ :

RECORD-ON-APPEAL FROM THE CIRCUIT
COURT OF THE SEVENTEENTH JUDICIAL
CIRCUIT IN AND FOR BROWARD COUNTY,
FLORIDA - CRIMINAL DIVISION

m VOLUME II. PAGES 201 to 393

GREENE & COOPER P.A. and
WEINER, ROBBINS, TUNKEY & ROSS P.A.,
Attorneys for Appellant.

JOY B. SHEARER,
Assistant Attorney General.

FLORIDA PAROLE & PROBATION
COMMISSION

RE: JESSE J. TAFERO,
DOC # 0202850

TRANSCRIPT OF PROCEEDINGS before the Florida
Parole & Probation Commission, at the Florida Department
of Corrections State Prison, Starke, Bradford County,
Florida, on the 24th day of September, 1982, as reported
by Janet M. Ross, Court Reporter and a Notary Public in
and for the State of Florida at Large.

MEMBERS OF THE COMMISSION:

CHARLES J. SCRIVEN, Commissioner

PETER PETERSEN, Staff Member

APPEARANCES:

ELIZABETH J. du Fresne, du Fresne & du Fresne
1782 One Biscayne Tower, Miami, Florida, 33113
Appearing on behalf the Inmate Tafero

* * *

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P R O C E E D I N G S

1
2 Friday, September 24, 1982 1:20 o'clock p.m.

3 COMMISSIONER SCRIVEN: I'm Commissioner Scriven.
4 Today's date is September 24, 1982.

5 Counselor, when did you get notice of this
6 hearing for today, approximately?

7 MS. du FRESNE: It is at least a month. Mr.
8 Peterson has been very kind at rescheduling this on at
9 least one occasion for me because of conflicts in my
10 schedule. A good three or four months ago we started
11 trying to set this.

12 COMMISSIONER SCRIVEN: Are you prepared otherwise
13 to proceed with the hearing today?

14 MS. du FRESNE: Yes, sir, I am.

15 COMMISSIONER SCRIVEN: You had sufficient time
16 in which to prepare for this?

17 MA. du FRESNE: Plenty of time, yes, sir. And my
18 client and I have had an opportunity to meet at length
19 and discuss today's hearing.

20 COMMISSIONER SCRIVEN: Okay. Would you please give
21 your name for the record?

22 MS. du FRESNE: Elizabeth du Fresne from du Fresne
23 and du Fresne, P. A., 1782 One Biscayne Tower, Miami,
24 Florida, representing Jesse J. Tafero.

25 COMMISSIONER SCRIVEN: Mr. Tafero and counselor,

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1 I'm Commissioner Scriven. I'm here at the request of
2 the Governor and members of the Cabinet to conduct
3 this hearing to determine whether the imposed sentence
4 should be commuted to life imprisonment.

5 We will record and transcribe this hearing and it
6 will be given back to the Governor and members of the
7 Cabinet for review. I'm not here to determine whether
8 guilt or innocence. This is not a part of this hearing.
9 But it is simply to give you the opportunity to make
10 whatever statements, through your attorney, as to
11 whether the imposed death sentence should be commuted
12 to life.

13 This is a very informal hearing. My interruptions
14 or part in it will be simply to clarify any statements
15 that you might make. You may proceed at this time.

16 MS. du FRESNE: Thank you. In preparation for
17 today's hearing I talked with Mr. Tafero and explained
18 to him that today we would not be retrying and legal
19 issues that would be coming in any form whatsoever and
20 that what we were trying to do was, through this state-
21 ment, make the kind of statement to the Cabinet that
22 he would want to make if he was physically present on
23 November the 9th when they consider the matter. So
24 I'm going to ask Mr. Tafero a series of questions.

25 EXAMINATION

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1 having been produced as a witness, testified as follows:

2 BY MS. du FRESNE:

3 Q As I told you, Jesse, ahead of time, when I ask
4 these questions feel free -- it's not like we're in a
5 courtroom. Don't limit your answer to yes or no. Feel free
6 to speak fully and as though we had the Governor and the
7 Cabinet with us, because this is your opportunity to talk to
8 them. And that's really what we want to accomplish today.

9 COMMISSIONER SCRIVE: We have no time restrictions
10 now.

11 MS. du FRESNE: Yes, sir..If you'll excuse me, I'm
12 going to take off my jacket. I'm a little warm today.
13 Thank's, Jesse.

14 BY MS. du FRESNE:

15 Q Mr. Tafero, would you state your name and your
16 age, please?

17 A My name is Jesse Joseph Tafero. I'm 35 years old

18 Q And where were you born?

19 A Jersey City, New Jersey.

20 Q And did you grow up there in Jersey City?

21 A We lived in Jersey City until I was about 11 years
22 old. We moved to Florida because of my health. I'm an asthma-
23 tic and the doctor told us to come to Florida, it would be
24 better for my asthma. It's cleared up quite a bit since
25 we've been here.

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Q How many people are there in your family?

1 A I'm the only child.

2 Q And are your mama and daddy still living?

3 A Yes, they are.

4 Q And where do they live, sir?

5 A They live in Miami.

6 Q And how old are they, sir?

7 A My mother, she never really tells me her age. I
8 presume my mom's in her 60s. My dad, I just found out is 81
9 years old.

10 Q And what is the state of their health, sir?

11 A My mother is in generally decent health. My father
12 is a very, very sick individual. He has emphysema and he had
13 his prostate removed. And he's just very, very sick in just
14 a lot of ways. He's just very old.

15 Q Has he had a number of hospitalizations recently?

16 A Yes, ma'am. In fact, he's hospitalized right
17 now. He was just hospitalized last week.

18 Q Do you still keep close contact with your parents?

19 A I'm very close with my family. There's only, you
20 know, the three of us. I've always--I write to my parents
21 every week.

22 Q In addition to your mom and dad, who else would
23 you say you consider your family?

24 A Sonya. Sonya Jacobs and my daughter, Christina,
25 my step-son Eric.

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1 Q And did you serve some time in prison?

2 A I served almost six years in prison and I was
3 paroled.

4 Q Were you here at Florida State Prison at that
5 time?

6 A I was in Florida State Prison here in the east unit
7 for probably close to nine months and then I went to Belle
8 Glade, which is a medium custody institution. I started
9 a college program down there through the University Without
10 Walls program for the men in prison. It's a college credit
11 program.

12 Q Do you yourself have a college degree?

13 A I don't have a college degree. I finished close
14 to two years. I'm only lacking a few credits from
15 completing it.

16 COMMISSIONER SCRIVEN: Excuse me, counselor.

17 What do you mean when you say you "started?"

18 THE WITNESS: Well, there was a program called the
19 University Without Walls. And what it consists of
20 basically -- it was put out by the Miami Dade Junior
21 College. And I had met Esther Cauliflower and Mr. --
22 what's his name?

23 BY MS. du FRESNE:

24 Q Mack Smith?

25 A Mack Smith.

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1 Q He's in charge of the life lab program --

2 A Right.

3 Q -- and the extension programs of Miami Dade
4 Community College?

5 A And I had talked to him. At that time there
6 wasn't any college programs really available to inmates. It was
7 back in the early '70s. And I was very interested in the
8 program. And we discussed the possibilities of starting
9 it at this prison.

10 But what it consists of is tapes by certain
11 doctors. And it is a tape-recorded college credit course.
12 And it's a feedback type of arrangement between five or
13 six people that have taken the credit. And there's tests
14 and all these things. To make a long story short, I went
15 to Belle Glade and initiated the program there. I was
16 probably responsible for 20, 30, 40 inmates receiving
17 college credit through the university.

18 COMMISSIONER SCRIVEN: In a very practical way,
19 how did you do this? How did you do it?

20 THE WITNESS: Well, once a week or twice a week
21 we would have the sessions at the school building in
22 Belle Glade where we would listen to the tape. We
23 would discuss the information on the tape.

24 COMMISSIONER SCRIVEN: Perhaps I am not being
25 clear. You say you started the program.

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1 THE WITNESS: Right.

2 COMMISSIONER SCRIVEN: How did you start the
3 program?

4 THE WITNESS: Well, I talked to the people at
5 Miami Dade Junior College, Mack Smith and Esther
6 Cauliflower, who are the initiators of the program
7 at Miami Dade.

8 COMMISSIONER SCRIVEN: I see.

9 THE WITNESS: What they did was contact
10 Tallahassee in some manner and told them about the
11 program and Tallahassee was evidently interested.

12 COMMISSIONER SCRIVEN: I see.

13 THE WITNESS: And this is how it was started. I
14 went to Belle Glade. One of the many reasons -- I just
15 presume now -- that I went to Belle Glade is because
16 tape recorders weren't allowed in these units. And
17 it was a program that, you know, of course, had to have
18 a tape recorder. So I went to Belle Glade.

19 COMMISSIONER SCRIVEN: You contacted Mack Smith,
20 Smith in turn contacted Tallahassee?

21 THE WITNESS: Tallahassee.

22 COMMISSIONER SCRIVEN: Tallahassee. And this is
23 how the program got started?

24 THE WITNESS: As far as my knowledge. I don't
25 have the complete background of, you know, who they

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1 went to to see and everything. And I think T.P.
2 Jones was one of the heads of the education back then.
3 And Mr. Jones had a lot to do with it.

4 BY MS. du FRESNE:

5 Q When you got to Belle Glade did they already have
6 an ongoing University Without Walls at that time?

7 A No. I started there for Miami Dade Junior College.

8 Q What was the first thing for the first class?
9 How did you get the tapes? What did you do? I think those
10 are the kind of practical questions --

11 A Mr. Smith and Esther Cauliflower came and they
12 gave me the list of tapes. For each course there were
13 approximately nine or ten tapes that had to be heard. And
14 tests were given on the tapes through the university. They
15 would give me all the papers, I would in turn pass out the
16 tests, turn them in to the university and have them done.
17 And I was also coordinating the program there at Belle
18 Glade. And we had college classes four nights a week back
19 then. And I was working in the school. I was the editor of
20 the paper down there at the time, the correctional paper.

21 Q Did you on a regular basis write to Mrs.
22 Cauliflower and Mr. Smith in keeping them appraised of what
23 was happening?

24 A Of course.

25 Q And how many people you had enrolled?

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1 A Of course.

2 Q You took care of those kind of administrative
3 details?

4 A I took care of all the administrative details
5 as far as making out the paper work, sending them through the
6 proper, you know, channels so the college credit would
7 come through. They were, you know, full credit, full credit,
8 three credit hours for each course. They were courses in
9 sociology, human relations, things like this.

10 Q How did people learn about this program? How
11 would you get students?

12 A Well, at the time it was quite easy, to tell you
13 the truth, because there were a lot of men that were very
14 interested in college and education in general. And at
15 that time I was working in the school also and I was
16 teaching men how to read and write. And I was working
17 with people that were illiterate and teaching them how to
18 write, penmanship, and teaching them how to read, and
19 things like that. I enjoy that.

20 Q When you say you were working with people who
21 were illiterate, that didn't read and write, do you know
22 of any instances while you were there in Belle Glade of
23 people who could not read and write who could read and
24 write after you worked with them?

25 A It's been so -- it's been 90 many years I really
(*number 11 omitted by mistake; no text is missing.)

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1 don't remember too many of the names. But that was one of my
2 job assignments at the time. And I worked in the school
3 with the visual, audiovisual equipment and all those things.
4 And there was -- I worked in a classroom with approximately
5 20 men. And I worked individually with at least 10 of them
6 during the day every day.

7 Q Was this work that you enjoyed or was it just an
8 assignment?

9 A No, I enjoyed that type of work, you know, working
10 with people and helping them better themselves.

11 Q About how long did you work with the University
12 Without Walls program in Belle Glade?

13 A Approximately nine months. I was paroled. I
14 was paroled from Belle Glade and I was in the program right
15 up to the day I was paroled.

16 Q And that's 1973?

17 A Yes, ma'am.

18 Q Following Belle Glade and your parole, what
19 happened next with your life?

20 A When I got out?

21 Q Yes.

22 A I went to work for Spitzer Dodge, which is a
23 Dodge dealership on Northwest 7th Avenue in Miami. And I
24 was working at \$100 draw, which means that I had to sell
25 enough cars to get my draw or you don't get any money. And

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1 at the time -- it was in August, July, August of 1973.

2 And the new cars were just coming out and nobody was buying
3 any cars back then. And I was doing -- it was really hard
4 to make ends meet.

5 I was bringing home only \$60 a week. And getting
6 out of prison, \$60 a week isn't too much. I don't think
7 I have to elaborate; but I tried to make ends meet and I
8 worked steadily. I did some art work. I sold -- I'm a
9 painter and I was doing portraits, you know, for \$10 apiece.
10 And I tried to supplement my income a little bit, get my
11 clothes and just the things that I didn't have when I got out.

12 Q Were you living with your folks or somebody else?

13 A I was living with my mother and father at that
14 time.

15 Q Is that how you made ends meet on 60 bucks a
16 week?

17 A Luckily. If it wasn't for them, I probably -- it
18 would have been much harder on \$60 a week.

19 Q Okay. How long did you work for Spitzer Dodge?

20 A I worked for Spitzer about eight months, I
21 imagine.

22 Q Okay. And --

23 A I've been working since I've been young. I've
24 been working since I have been 16 years old.

25 Q What kind of things have you worked at, Jess?

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1 A I worked at -- I was a clothing salesman outside.
2 I sold clothing in Miami. And I worked at Howard's Mens
3 Store, I worked at the Mustang Shop, I worked at Dorwin's
4 Ivy Shop (spelled phonetically), I worked at The Robe.

5 Q These are all in Miami?

6 A They are all in Miami. And I worked regularly,
7 you know, during the whole time. I worked for a man
8 called Irving Setler over on Miami Beach on Lincoln Road.
9 And he had a store called Dorwin's Ivy Shop. And he put
10 me to work. My parents -- my dad started getting sick very
11 early on and I wanted to help them out a little bit and I
12 quit school. It wasn't very smart, but I quit school when
13 I was 16 years old in the ninth grade. And I needed to go
14 to work. And I worked at Dorwin's Ivy Shop. And he was
15 paying me -- at that point I was making \$70, \$75, \$80 a week, or
16 something like that, which was a good income for a young
17 man back then. I was only 15, 16 years old.

18 Q Prior to going out on your own and getting a job
19 and working in these various clothing stores that you've
20 described, did you go to public or private schools in
21 Miami?

22 A I went to parochial school. I went to St. Rose
23 of Lima for, up until the sixth grade. And then I went to
24 Edison High School and Horace Mann Junior High School,
25 which is Miami.

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1 Q And what were your studies like? How did you
2 perform academically?

3 A I was a very, very good academically up until about
4 the seventh grade and then I was just -- when I say very
5 good, I was an A and B student up until about the seventh
6 grade, then my grades went down to B, C.

7 Q And you said you went to parochial school. Are
8 you Catholic?

9 A I was brought up as a Catholic.

10 Q You were brought up as a Catholic. Are both your
11 parents or one of your parents Catholic?

12 A Well, my father is a Catholic, yes.

13 Q As a youngsters, did religion play a major part
14 in your life?

15 A As a youngster I was fairly religious. Well,
16 in parochial school, you know, you are fairly religious.
17 You know, they go to mass every, every month for Good
18 Friday. All the Good -- all the Fridays we used to go to
19 mass and, you know, catechism class. I was, of course,
20 was very religious back then.

21 Q I'm not going to jump you quite yet to your
22 current religious status, but instead get you back to 16
23 and getting out and working. Was there any extensive
24 period of time -- when I say extensive, more than a month,
25 in which you were unemployed from the time you left school

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1 A I'm sure there was because I -- at that time, too,
2 as a young man I liked -- I enjoyed surfing with the
3 fellows. And this was a big rage back then. And I used
4 to go surfing and all the teenage stuff. I was a pretty
5 normal teenager.

6 Q When you were employed, were you ever fired from
7 any of your jobs?

8 A I was never fired.

9 Q When you left jobs it was by your own choice?

10 A It was my choice, usually for a better position
11 with another firm.

12 Q Were you still working in clothing stores at the
13 time you were arrested for the incident that led to your
14 incarceration that you described to us earlier?

15 A No, I wasn't.

16 Q You were not. What were you doing at that time?

17 A I was supporting myself as an artist.

18 Q And how were you doing that? That's a hard thing
19 to do. It's not one of those things --

20 A It is a very hard thing to do. I was pretty
21 lucky. I have a knack at doing portraits and things like
22 this. And in the art business you can always make a buck
23 doing portraits. And what I used to do is I'd go down to
24 the beach and set up my easel and put a little sign there
25 for portraits and I'd do portraits on the spot or else

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1 take --

2 Q Have you continued since that time on forward to
3 be interested in art as a continuing part of your life?

4 A Yes, ma'am.

5 Q I'm just going to show you as just examples of
6 things the Stark Reality II, Florida State Prison magazine
7 of June - July, 1977, and January - February 1979, and ask you
8 if those covers are covers that you did?

9 A Yes, ma'am, those are two covers that I did for
10 the paper.

11 MS. du FRESNE: If we might give these and ask
12 that they be attached to today's statement --

13 THE WITNESS: They were just some pen and ink,
14 pen and ink work I did.

15 BY MS. du FRESNE:

16 Q Okay... Jess, is there anything else about the
17 period of time up through the time you were working as an
18 artist and ultimately the incident that led to your incar-
19 ceration that you'd like to go into to sort of give a
20 picture of who you were and what you were during that
21 period of your life.?

22 A Well, what I was was a very strong family man.
23 I had never had a family of my own. And when --

24 Q When I say incarceration, I'm talking about the
25 first incarceration.

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1 A My first incarceration?

2 Q Right. I'm going to jump --

3 A Up until then -- well, in my teens right then I
4 was working as a clothing salesman back then, and I don't
5 remember if I was employed or not right before I was
6 arrested back in 1967, but I remember I was working when I
7 was out on bond waiting to go to court. I was working at--
8 the Slack Shack was the name of the place in North Miami
9 Beach.

10 Q Have you ever been scared of working?

11 A No, I don't mind a good day's work.

12 Q Okay. Jesse, I know you have attacked, in the courts,
13 the conviction that led to your incarceration, and that's
14 part of the legal picture that is presented. Is there
15 anything about that incident and the incarceration -- not
16 rearguing the legalities, but anything about it that you
17 think in presenting to the Cabinet who you are -- they're
18 going to look and they're going to see a record. What
19 about that in summary would you like to say to them?

20 A In summary I would just say that I am not guilty
21 of these crimes. I have never shot anyone. I have never
22 shot at anyone.

23 Q I'm sorry, I wasn't summarizing this one. I'm going --
24 I'm still back on your first incarceration. I wasn't as
25 clear as I could be.

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A My first incarceration. Okay.

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Q Was there anything about that incarceration, the incidents leading to it -- when I'm talking about your record, I'm looking at the past before we get to where we currently are.

Is there anything about that that you want to tell the Cabinet other than the legal realities of that, that it happened? What else about it? Did it affect your life? What happened in the incident and incarceration that followed?

A Well, the -- after doing -- I did almost close to six years. And of course the time made a big impression on me. I think that when I did make parole that I was ready for parole. I think that I had learned many lessons from my being incarcerated and meeting people in prison, just seeing what it was not to have your freedom, because sometimes you don't think about freedom until you lose it.

And I had a tendency to run around with a lot of the fellows. I wanted to be one of the guys. And that meant, meant a lot to me. And my perspectives changed a lot on that.

Q Your values were different when you came out?

A I was very -- I was -- looking, you know, in retrospect, I was very immature back then when I was 17, 18, 19, 20 years old, in those years. I was just out for fun and being looked up to, to the guys I was running around with and, you know. I've made a few mistakes in my life, you

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1 know.

2 Q After you got out of prison how much -- how old
3 were you when you got out of prison in '73?

4 A I was 26.

5 Q 26. Okay. You are 26 years old and you've just
6 gotten out of prison and you worked for Spitzer Dodge for
7 eight months or so. Do you meet Sonya while you are working
8 for Spitzer Dodge or afterwards?

9 A While I was working for Spitzer.

10 Q While you were working with Spitzer Dodge. And
11 from that time forward she was your lady?

12 A We were inseparable all the time we stayed
13 together.

14 Q And did you all ever formally marry?

15 A Well, I was on parole and I could not marry. I
16 don't think I was allowed to marry. I wanted to have a
17 child and I had Sonya go off the pill so we could have a
18 child. And we did. And I'm very happy we did.

19 Q And did Sonya already have a child when you met
20 her?

21 A Yes. Sonya was married previously to a man named --
22 last name, Linder. She was divorced, and she had a son,
23 Eric, who at that point was five and a half years old. And
24 I took him as my son. I treated him -- and I loved him and
25 took care of him and fed him and taught him how to read

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1 and taught him his times tables on my lap and, you know,
2 brought him up as my son. I love him. He's a good boy.

3 Q And when Sonya went off the pill and had a baby,
4 what kind of baby did she have?

5 A A little girl. Her name is Christina Kathleen
6 and she is seven years old now.

7 Q Do you see Christina or Eric?

8 A I was seeing them at least five, six times a year.
9 They were living in North Carolina with Mr. and Mrs. Jacobs,
10 which is Sonya's mother and father. But they were just
11 killed in a plane crash in New Orleans on July 9th, this
12 year.

13 MR. PETERSEN: Parents or the children?

14 THE WITNESS: My son's -- parents. So it's made
15 things a little bit rough, you know. The children
16 now are staying with Sonya's brother in North Carolina.
17 And there's all, just a myriad of legalities and things
18 going on concerning a lot of family matters and all
19 different things, and money matters. Everyone is broke
20 right now and everything is in probate. And they just
21 -- they haven't been able to come down in the last few
22 months. You know, I expect them maybe in the next few
23 weeks. I don't know. Things could change. I'm looking
24 forward -- I miss the kids so bad, you know. I've never
25 been a father before, you know. Do you have

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1 children? I like kids. I can' help it, I love them.

2 BY MS du FRESNE:

3 Q You had described yourself in relating to your
4 mother and your father as a family man. Did you extend that
5 to include Sonya and the two children?

6 A Definitely. Of course. They are my family.

7 Q I'm going to show you a picture of yourself
8 holding a baby. Who is that?

9 A That's -- this is my daughter the day I brought
10 her home from the hospital.

11 Q That's Christina. And would you describe yourself
12 as a proud daddy at that time?

13 A I think so.

14 MS.du FRESNE: If you please, we would like that
15 added also as an exhibit. It is also the only copy
16 that Jess has of that picture. And if we could have
17 it returned after it is presented to the Cabinet, we
18 would appreciate that. Can we make a request for
19 such?

20 MR. PETERSEN: Counselor, what I would recommend
21 as a form, traditionally--that is, for the information
22 or photographs that are presented to the Cabinet, I
23 believe, have been in the form of a memorandum, as
24 referred to in the rules.

25 MS.du FRESNE: Okay. I am, of course, going to

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1 submit such a memorandum. I am not terribly experienced
2 in these things, as I have not tried to hide from any-
3 one, including my client. And I did not know if
4 photos and the like were more traditionally attached
5 to the statement or to the memorandum. I'll be happy
6 to attach them to the memorandum. We have no
7 preference as to which they're attached to, obviously.

8 MR. PETERSEN: I will be glad to talk to you
9 after the interview and give you further information
10 about some of the technical aspects of submitting
11 information and stuff like that.

12 MS. du FRESNE: I'd appreciate that. I did a great
13 many of these hearings back in the early '70s, but I
14 have not done any in recent years and appreciate any
15 guidance. Thank you.

16 BY MS. du FRESNE:

17 Q Jesse, after you worked at Spitzer Dodge, did an
18 incident occur that had impact on your future as far as
19 your status with your parole officer and the like? Maybe
20 that question is too vague. I'll break that down. You
21 look a little blank. I'm sorry.

22 A Right.

23 Q Did there come a time when you no longer regularly
24 reported to your parole officer?

25 A Yes.

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1 A I -- well, I was arrested in Jordan Marsh for an
2 alleged shoplifting, alleged shoplifting incident. You
3 know, since then the court has thrown that charge out
4 against me with prejudice against the State. And --

5 Q As a result of that arrest did you do anything?

6 A As a result of that arrest I became frightened.
7 I became frightened that I wasn't going to have an oppor-
8 tunity to take it to court and win the case; I was just
9 going to go down there and just get grabbed and thrown
10 back in prison.

11 Q And what did you do as a result of that fright?

12 A I left.

13 Q You left. You left Dade County?

14 A No, I stayed in Dade County for most of the
15 time and I worked. I changed my identity. And I just
16 worked -- a normal life. I just kept living my life. I
17 just didn't live it -- I lived my life as on parole, but,
18 you know, not on parole.

19 Q But in secret?

20 A But in secret.

21 Q Did that cause -- how did you feel about that?

22 A It's really hard to describe. I would have
23 much rather had been able to go to my parole officer and
24 talk to him. I was just very afraid. I was just afraid
25 that I wasn't going to be given any opportunity to speak.

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1 I just had a vision of just getting grabbed and handcuffed
2 and thrown in the paddy wagon and back up here without
3 being able to bring this case to court or anything else.
4 I just thought I would automatically be violated on my
5 parole. I didn't really know what the procedures were and
6 I was just too afraid to take a chance. I don't know.
7 I was wrong in doing that. But that is just how I felt at
8 the time. I didn't want to come back to prison for some-
9 thing that really wasn't of any major consequence, you
10 know, in my life or any major criminal action or anything
11 on my part.

12 Q Did you and Sonya and the children stay together
13 during those years that you were in secret?

14 A All the time. I've never -- Sonya and I have
15 always been together.

16 Q Did you continue to talk to and see your mom
17 and dad?

18 A Yes, as often as I could, I would go and see
19 them.

20 Q Did you and Sonya establish a method by which
21 Eric went to school?

22 A Oh, of course. Eric always went to school plus
23 I tutored him at home at night. He's always been in
24 school.

25 Q And during that period of time what were your sources

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1 on income?

2 A Again I was working as an artist. I did some
3 construction work, also. And that was my main source of
4 income. I wasn't in any illegal activities or anything
5 like that. I didn't want to go back to prison. I didn't
6 want to put myself in a position to come back to prison
7 again.

8 So I tried to work and do things right even when
9 I was -- I --

10 Q When you say you continued as an artist, did you
11 have any particular kind of art works besides the portraits
12 that you did during this period of time?

13 A I did landscapes. I did seascapes. I did what-
14 ever anyone wanted or needed. I have a talent. I'm very
15 fortunate. I'm not a great painter, don't get me wrong.
16 But I paint fairly well, and most people enjoy my paintings
17 and are satisfied with my paintings. I've sold to some
18 municipalities in Florida, mayor's offices and things.

19 Q Did you ever sell to any lawyers?

20 A I've sold to lawyers.

21 Q What kind of things did you do for law offices,
22 for instance?

23 A Well, for law offices, the lawyers seem to want
24 things that had to do with prison. And I did paintings of
25 prison things. I think I have a picture I brought.

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1 Q Can I help?

2 A I think so. Here. It was right on top. Gee,
3 that's good. That's one of them that I did for an attorney
4 there that's -- this is in pastels. This is just a sketch
5 of my own that I did. That's an unfinished -- unfinished
6 there. I was --

7 Q Of some law books and the like?

8 A And I think there's another one here. That's one
9 of my paintings that's up on the wall there. That's my
10 mother and her sister there.

11 Q Have you always been able to draw since you were
12 a kid?

13 A I've been interested in art since as far back
14 as I can remember. I took some formal training for a
15 while with a woman who was, had just retired from the
16 New York Institute of Art. And I took private lessons off
17 of her in watercolor techniques. In watercolors -- I don't
18 know if you are interested in this. Watercolors are a fairly
19 hard medium to work with. They're much easier to do small
20 watercolors. But when you start doing large watercolors, it
21 takes certain professional knowledge that you have to have.
22 And I went to this woman. Her and her husband were both
23 very professional artists. And I took lessons from her
24 twice a week for many months.

25

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1 Q What during the period of time that you were
2 living "in secret?"

3 A Yes. Yes, it was.

4 Q Was that in Florida or elsewhere?

5 A This was elsewhere.

6 Q Was this in North Carolina?

7 A In North Carolina, yes, ma'am.

8 Q Where Sonya's family is from?

9 A Yes.

10 Q Did you spend some time in North Carolina?

11 A I spent close to a year in North Carolina. I
12 worked at Herb's. Herb, by the way, is Mr. Jacobs. He
13 had a textile company and I worked with him sometimes up
14 there at the plant. I also did -- I started to design
15 clothes. I have been a clothing salesman. This was in
16 Miami. I started to design clothes, some women's clothes.
17 And I was selling them to a lot of the specialty shops
18 on Miami Beach. I had Sonya and two other girls that would
19 -- I would cut out the materials. I would design all the
20 things and would make them. The girls would model them.
21 I would take the girls with me. We would go into the shops
22 and sell the things right there. I'd ask them if they'd
23 put in orders. I did fairly well, fairly well doing that,
24 too. I always made ends meet somehow. With a family,
25 you know, with two children, you know, it's -- had to keep

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1
2
3 Q If we could, let's move to the incident that
brought you into the courtroom that brought you to death
row.

4 A All right.

5 Q I am not interested today in going through the
6 entire incident. A summary of that will be presented to
7 the Cabinet. And as you know, Walter Rhodes' statement
8 will be presented to the Cabinet on your behalf. But I
9 am going to ask you a couple of things that were left
10 unclear by the testimony in the trial and that seems to
11 me something the Cabinet needs to hear about.

12 Two law enforcement officers, one on duty and
13 one his friend who was riding with him, were killed in that
14 rest area in Broward County off I-95. Did you have in
15 your possession at the time they were shot any weapon
16 whatsoever?

17 A Did I have in my possession?

18 Q When the shooting occurred, did you have any
19 weapon of any kind on you?

20 A No, ma'am.

21 Q Did you have a gun on you?

22 A No, ma'am.

23 Q Who in fact shot those two law enforcement
24 officers?

25 A Walter Rhodes.

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1 Q When the time came later in the courtroom to
2 discuss that, this matter with the jurors -- and you and
3 Sonya had two separate trials and Walter Rhodes plea
4 bargained for three concurrent life sentences for second
5 degree murder -- Did you testify at Sonya's trial?

6 A Yes, I did.

7 Q And who did you say shot those two individuals
8 at Sonya's trial?

9 A Walter Rhodes.

10 Q Have you ever made any statement to any person
11 at any time that anyone other than Walter Rhodes shot
12 those two men?

13 A No, ma'am.

14 Q Did you, Sonya, or Walter Rhodes have any
15 intention whatsoever to commit any crime whatsoever when
16 you were asleep on the side of the road in a rest area in
17 Broward County, Florida?

18 A No.

19 Q What were you doing there on the side of the
20 road in a rest area in an old, raggedy car?

21 A The car was -- we had borrowed a car from someone.
22 And the car was such a wreck. It was a terrible car. The
23 headlights and everything was juggling like this (indicating).
24 And we pulled into the rest area early that morning because
25 the car was -- it was messed up.

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1 Q And was this real early in the morning?

2 A Early in the morning, 2:00, 3:00 o'clock in the
3 morning.

4 Q And where were you going?

5 A On the way -- I was on the way to Palm Beach.
6 From there I was going to go back to North Carolina.

7 Q And when you pulled in and the car was acting up,
8 what did the -- who all was in the car?

9 A I was in the car, Walter Rhodes was in the car,
10 Sonya was in the car, Christina, my daughter, who was nine
11 months old at the time, she was being breast-fed at the
12 time, she was in the car and Eric was in the car. That's
13 my stepson.

14 Q It was 2:00 or 3:00 in the morning and you're on
15 the side of the road. What did you all do?

16 A Went to rest and rested.

17 Q You went to sleep?

18 A Right.

19 Q You figured you would deal with the problem
20 when you woke up?

21 A Deal with the car in the morning. It was too
22 late to be out on the street with a ramble -- rambly car
23 like that.

24 Q Were you -- when was the first time -- what was
25 happening when you woke up in that car on the side of the

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1 road?

2 A When I woke up, the Highway Patrol trooper had
3 Walter Rhodes' door open. He was in the driver's seat. And he
4 had taken a weapon from him.

5 Q You're just awake and this had happened?

6 A I just woke up and I looked and saw what was
7 happening. And I closed my eyes. And I didn't even want
8 to think that this was even taking place.

9 Q What happened next?

10 A What happened next?

11 Q Yeah.

12 A Well, the troopers started asking Walter some
13 questions and things.

14 Q Did you continue to sit in the car?

15 A For a while I sat in the car.

16 Q Did you ultimately get out of the car?

17 A Yes, I did ultimately get out of the car.

18 Q What did you do after you got out of the car?

19 A I -- after I got out of the car the Highway
20 Patrolman, you know, patted me down and asked me where we
21 were going. I told him we were going to West Palm Beach.
22 He says, "Where do you live?" I said, "I live in Miami
23 and I live in North Carolina." And he says, "How come, you
24 know, you live in Miami and you live in North Carolina
25 both?" And I told him, "Yes."

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1 And he says, "You're on the way to West Palm
2 Beach?" And I said, "Yes."

3 Q And what happened next?

4 A What happened next?

5 Q After you had this conversation with the Highway
6 Patrolman.

7 A He started looking in the car. He looked in the
8 -- he opened the car, started looking in there. Sonya was
9 in the back seat with Eric and Christina at the time. And
10 he started going through the car and pushed the seat back and
11 had took Sonya's purse and started looking through it. I
12 asked him, "Are you supposed to do that?" And he didn't
13 say anything at first, you know. And he kept going through
14 things like that.

15 And I had a conversation with him that he should
16 have a warrant when he's looking through my wife's things
17 like that. And I hadn't -- I wasn't under arrest. He
18 didn't put me under arrest. Sonya wasn't under arrest.

19 Q Did he ask you for any identification?

20 A He asked me who I was and if I had any identifica-
21 tion. I says I didn't have my identification with me.

22 Q You were still on the lam from parole at this
23 time?

24 A But I had identification. But I had identifica-
25 tion but it wasn't in the front seat with me. See, we were

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1 on our way to Palm Beach. We had most of our belongings
2 with us in the car. We were going back up to North
3 Carolina and we had all -- most of the things packed away.
4 There were suitcases and clothes in the trunk. Everything
5 was all filled up. And I didn't have my wallet in my pocket.

6 Q All right. He continues going through Sonya's
7 purse. What do you do?

8 A I was just standing there and I just folded my
9 arms. And I kept asking him about this, Why? You know,
10 you are supposed to have a warrant to look through this
11 stuff. And he started to get aggravated, I guess, that
12 I was asking him about the warrant. And this other
13 man was standing there in a T shirt. I didn't know who
14 he was. I had no idea who this guy was at all.

15 Q There was just another man standing there in a
16 T shirt?

17 A Just another man standing there with his arms
18 folded, looking at me.

19 Q Did the other man have any kind of uniform at
20 all?

21 A He was wearing a T shirt and khaki pants. I
22 didn't know who he was.

23 Q Did there come a time when you and the trooper
24 had any kind of physical touching?

25 A I was asking the trooper about this warrant. I

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1 wasn't asking him nasty. He was being nasty back to me.
2 And I wasn't afraid of being arrested for anything at that
3 time because there was no reason for him to arrest me.
4 And all of a sudden he just -- I don't -- I don't know why,
5 he just pushed me. He pushed me. And I says, you know --
6 he pushed me by my shoulder, pushed me over towards his
7 car. And the other guy in the T shirt comes and grabs me
8 and they push me, both of them now push me up over the car.

9 Q When you say, 'over the car,' the trooper's car?

10 A Over the trooper's car.

11 Q The trooper's car is parked besides this old,
12 raggedy car you're in?

13 A Yes, ma'am.

14 Q Okay. So now, you are over the trooper's car, the
15 hood? Where?

16 A I was right by the windshield close to -- between
17 the windshield and the hood of the car. I had my left arm
18 up behind my back. They had pushed me over the car now.
19 And that's --

20 Q So that's where you are. Who -- are you being
21 held there?

22 A I'm being held there by the guy in the white T
23 shirt now. I don't even know who he is. I don't even --
24 I don't think he was a policeman.

25 Q Okay. And does something happen then?

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1 A There were shots.

2 Q And did you see who fired those shots?

3 A I saw Rhodes with a gun in his hand. I heard the
4 shots. I was over the hood of the car. I was being held
5 down on the hood of the car. And I heard shots. And the
6 first thing were my kids, I was afraid for my kids. And
7 I tried to get up to look around to see what was going on.
8 And all of a sudden -- everything happened so fast I just --
9 you just don't know. Everything happened within a one-
10 second period. The shots went off so fast. It all
11 happened in seconds and everything was over.

12 Q And when it's over there's two dead bodies on
13 the ground?

14 A I was over the hood of the car. I heard three,
15 four shots: boom, boom, boom, like that. And they happened
16 real fast. And two, three more after that: boom, boom, boom,
17 boom, all right in succession. There was no time in
18 between, maybe a quarter of a second in between. And the
19 last thing I remember of being on the hood of the car is
20 that the man that was holding me wasn't there any more.
21 He just wasn't there. I still had my arm up on my back
22 and I felt that there was no pressure on me. And I turned
23 around and Rhodes was running in front of the car tucking
24 a gun in his shirt. And he started screaming at Sonny and
25 I, "Come on. Let's go. Let's go."

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1 And during this thing I had turned around. When I
2 was on the hood of the car I had turned my head around, but
3 I had seen him with the gun in his hand. I had seen him
4 with the gun in his hand. And he told us, "Get in. Let's
5 go. Let's go. Get in the car." I was scared to death,
6 I'll be quite frank with you. And he was yelling, you know,
7 to my kids and Sonny, "Come on. Get in the car. Let's go.
8 Let's go." And I didn't want to get shot. I didn't want
9 to have my kids shot. And I went.

10 Q Did he tell you to do anything on your way to the
11 car?

12 A He told me to pick something up off the ground,
13 some bullet casings or something.

14 Q Did you know why he told you to pick up bullet
15 casing?

16 A I was in shock. I don't even -- everything -- all
17 I can tell you is this: During this whole incident that I
18 just described to you everything was in slow motion, like
19 when you look at something and it's in slow motion. Every-
20 thing was in slow motion to me. I don't know why, but things
21 were just in -- moving like this (indicating). And when I
22 moved I was just -- I felt like a robot. I don't know. I
23 was scared to death. I've never been so scared in my life.

24 Q Did you know why you were getting in the trooper's car?

25 A I didn't know what I was -- I -- it's hard for me to

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1 describe an incident like what happened to me. But I was
2 so scared, I just don't know. Everything was just in slow
3 motion. Everything was like a dream. I just can't put it
4 in words.

5 Q When you got in the car, the trooper's car --
6 here you are in the state trooper's car. Rhodes has said
7 pick up casings.

8 A Right.

9 Q So you picked up casings. You get in the car.
10 Who's where in the car?

11 A We got in the car. Rhodes was in the car first.

12 Q He's in the driver's seat?

13 A He's in the driver's seat of the patrol car and
14 he's yelling out the window at me and Sonny, "Come on.
15 Come on. Get in this car. Let's go. Let's go. Let's
16 go." And Sonny handed me the baby. I took the baby. I
17 put the baby on the front seat of the car. I opened the
18 back door. Sonya got in, Eric got in the back. I got in
19 the front seat of the car.

20 Q And then what happened?

21 A Rhodes handed me a gun, told me to load it. It
22 was warm.

23 Q And did you load it?

24 A I didn't load it at that time.

25 Q You held this gun Rhodes gave you?

A Yes.

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1 Q Okay. Do you still have the baby in the front
2 seat?

3 A The baby is right -- I put the baby right with me.
4 The baby is screaming. The baby is screaming and crying,
5 hysterical. Everybody -- I just can't explain what a
6 terrible thing this whole thing was.

7 Q Okay. And what does Rhodes do next?

8 A He's off down the highway.

9 Q In the state highway patrol car?

10 A Yes, ma'am.

11 Q Okay. And do you continue to drive in that
12 highway patrol car down the road?

13 A Yes.

14 Q And does there come a time when anything else
15 happens?

16 A I want to interject something here.

17 Q Sure. Always interject.

18 A When we were in the patrol car, I didn't want to
19 be in that patrol car. Sonny didn't want to be in that
20 patrol car. I don't even know why the hell we were in
21 that patrol car except out of complete fear. I don't --
22 it's something that it seemed at the time to -- just like a
23 dream. I just can't describe it. I was -- it was like it
24 really wasn't happening. I don't know how to put it into
25 words. It was just like it really wasn't happening.

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41
1 Q You had a feeling of unreality about it?

2 A It was -- the whole morning from the time I heard
3 those shots go off, I was in a state of shock or horror or
4 I don't know what. I never felt like that before. My
5 whole body was so breathless, like breathless and things
6 were in slow motion.

7 I remember turning. I remember turning around,
8 turning around when Rhodes was yelling to get in the car.
9 And I was moving like slow, like in slow motion. I've
10 never experienced anything like that. I guess it was
11 fear. But that is how it was. And it was like that on
12 the whole trip, the whole trip in the patrol car down the
13 street and everything. I was just --

14 Q Did you know the areas that --

15 A I had never been in that area. I didn't know
16 where we were going. I didn't know what was happening.
17 I didn't -- I was just -- I didn't know what was what.

18 Q About how long did you drive--did Rhodes drive
19 the highway patrol car?

20 A It could have been 15 minutes, 30 minutes. I had
21 no conception -- there was no conception of time. I hate
22 to keep elaborating on this thing, but for me to describe
23 this incident is hard because it just wasn't a real
24 incident. My whole body and everything else was sort of
25 not cognizant of what was going on here.

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1 Q Okay. The car is being driven --

2 A The car is being driven down the street fast.

3 Q Okay. Does there come a time when the car is no
4 longer being driven down the street?

5 A Yes.

6 Q What happened?

7 A Rhodes pulled into -- there was a road. I remem-
8 ber being on a road. And there was nothing around. There
9 was nothing around on either side. There was just marsh-
10 lands on both sides of the street.

11 Q While you're driving down the road, are you
12 and Rhodes talking?

13 A Rhodes made some statements about, you know, it
14 had to do with he didn't want to go back to prison and all
15 that. It just went in, sort of went in one ear and out the
16 other. I can remember just looking out. I had my hands --
17 I had the baby on my lap. I was holding the baby, trying to
18 calm the baby down. And I just remember looking out the
19 window like I was on a ride, you know, on a --

20 Q Ride down the road?

21 A A ride down the road.

22 Q Okay. So you're riding down this road when you
23 don't see anything and you said Rhodes pulled --

24 A Into a -- there was a big apartment complex. It
25 was the first thing that I saw. And he pulled into the

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1 apartment complex.

2 Q Uh-huh. And what did he do when he got into the
3 apartment complex?

4 A Okay. When he pulled in the apartment complex
5 he said that he's got to get rid of this car. Okay? And he
6 got out of the car. And there was a man walking on the --
7 it was in a parking lot. We pulled into a parking lot. There
8 was a man walking in the parking lot. And Rhodes ran up
9 to him and --

10 Q Could you hear and see what was happening when
11 he ran up to this man? Where were you?

12 A The car was about 70 feet, 70 feet away. And
13 when he got out of the car he said he had to change cars,
14 he had to get out of this car. And he went over to this
15 man and took his car. And I got out of the car and --

16 Q You got out of the trooper's car?

17 A I got out of the trooper's car. I handed Sonny
18 the baby. I opened the back door, I handed Sonny the
19 baby. And it ran through my mind at that time to stay
20 there in the trooper's car, but then -- I just don't know.
21 I just don't know. And Rhodes was yelling, "Come on.
22 Come on. Come on," like this. And Sonya and I just
23 looked at each other. We went. We got in this man's car.
24 Sonny had some belongings with her and handed them to me.

25 I was in the back seat of the car, of this man's

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1 car and Sonya was in the front with the baby and Eric,
2 all in the front seat.

3 Q How long did you drive this man -- when I say,
4 "you," how long did Rhodes drive this man's car down the
5 road?

6 A Rhodes drove the man's car down the road for
7 15 - 15, 20 minutes. During that time a lot of things -- a
8 lot of things took place in the car. It started to come
9 to me what had just happened. I tried to tell the man in
10 the back seat over and over that he's not going to be
11 hurt. I told him over and over that he's not going to be
12 hurt. I was afraid that Rhodes was going to -- Rhodes --
13 this whole situation -- I was scared of Rhodes at that time.
14 I didn't know what he was going to do. I didn't know if
15 he was going to shoot Sonny and I. I didn't know what he
16 was going to do.

17 I had a case in the back of the car, an attache
18 case that Sonya had put in for me. And it had ammunition
19 in it. And that's the first time that I loaded this weapon.
20 And I loaded it in the back seat in the car. And I was
21 going -- I didn't -- all kinds of things ran through my
22 mind. I was going to tell Rhodes to stop the car, let us
23 out. I was going to grab Rhodes. I didn't know what to
24 do. I didn't know what to do.

25 Before I made a decision there was a roadblock.

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1 And Rhodes crashed through the roadblock. I don't know
2 how we were alive. The man that was in the back seat, I
3 protected him. I put him down on the thing. I didn't
4 mistreat him. I tried to reassure him. He was in the same
5 position as we were, you know. And we crashed into all
6 kinds of things. The car was shot at. All the windows came
7 in on us. Everyone was still screaming and yelling and
8 the policemen firing into the car. And when the car stopped
9 they dragged everybody out of the car and arrested us. And
10 that was it.

11 Q Moving on fast forward as contrasted to slow
12 motion to the trial --

13 A Okay.

14 Q You were represented by court appointed counsel;
15 is that right?

16 A Yes.

17 Q This is not a day to try the effectiveness or
18 ineffectiveness of counsel. But I'm going to ask one or
19 two things simply because the Cabinet will need to know
20 that so when they look at the record -- they won't see it.
21 Did you testify at your trial?

22 A No.

23 Q Was that on advice of your counsel?

24 A I just want to say this, not going into this thing:
25 I had an attorney called Robert McCain, who is in federal

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1 prison right now. He was -- he was -- ne was arrested and
2 tried and convicted in federal court for bribing a jury and
3 tampering with justice and all kinds of things. I don't
4 know what all for. But I wanted to bring my testimony to
5 court. I wanted to testify in my own behalf. I wanted to
6 call Sonya in my behalf. I wanted to call Eric in my
7 behalf. And I wanted to speak with Walter Norman Rhodes.

8 And I had witnesses to testify at my trial. I
9 tried to call my witnesses at trial. I put in motions
10 myself to my judge. But my judge was a highway patrolman.
11 I had a highway patrolman for a judge. His name is M.
12 Daniel Futch. He was on the highway patrol for six years.
13 He had just been off the patrol for three years. And I
14 went into court in front of him. And my lawyer wouldn't
15 file to get him off the case. He knew all the witnesses in
16 my case, all the highway patrolmen that would testify and
17 everything. He used to be a highway patrolman. He wore
18 his hat -- he wore his highway patrol hat back and forth
19 to work.

20 And I'm not saying that's wrong, but I'm just
21 saying that in my case at the time, I didn't -- I didn't
22 get a fair trial at all. They wouldn't allow me to call
23 my witnesses. Eric was there. Sonya was there. They kept
24 me incommunicado in jail. They wouldn't let me speak to
25 Sonya. They wouldn't let me hire a lawyer for Eric to get

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1 his testimony. I put in all these things, motions to do
2 it. And my attorney wouldn't do it. Right before trial
3 started I went to my judge and I tried to file a motion.
4 And I did file motions and tell him I wanted to call my
5 witnesses to court and I wanted to call Eric and I wanted
6 to present my defense. And the judge wouldn't even give me
7 a hearing on it.

8 And I had to go to trial with this Robert McCain
9 who didn't defend me. He didn't put on any witnesses. He
10 didn't let me take the stand.

11 Q Did he put on a single defense witness?

12 A No. He never deposed Sonya. He never deposed
13 Eric. These are two eyewitnesses that could free me,
14 that could have freed me then. And he never even would talk
15 to them. I don't know if he was with them, with the prosecution.
16 I don't know what he was doing. But you can't -- if
17 the State won't let you call your witnesses to trial they
18 can convict anybody in court.

19 Q After the jury went out and found you guilty, the
20 next -- that happened one day and the next morning was
21 sentencing?

22 A Yes, ma'am.

23 Q Did you get to testify at the time of the
24 sentencing hearing?

25 A I wasn't asked anything by this judge. He -- my

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1 lawyer -- when they came in for sentencing, my lawyer was
2 sitting next to me, just like you are right here. And he
3 said, "Jesse, did you get a fair trial?" I said, "Of course
4 I didn't get a fair trial." And he stood up and he went
5 into a colloquy with the court. He said, "I just talked to
6 my client. He says he didn't get a fair trial. And we
7 are not begging for mercy."

8 Q Did he present a single word of mitigation?

9 A Nothing. Nothing. I wanted -- I have been
10 trying to call my witnesses, you have to remember, through
11 this whole trial. I had a son. I had a daughter. I had
12 Mr. and Mrs. Herb Jacobs. I had my mother, my father,
13 myself, my family, my co-workers that I worked for, people
14 that knew me outside. I had a lot of things that I wanted
15 to present and they wouldn't let me do it, or my lawyer
16 wouldn't let me do it. I don't know what. I wasn't allowed
17 to do it, is the bottom line.

18 Q Even though you were declared indigent and
19 the court appointed counsel for you, did your family pay
20 Mr. McCain money so that he'd be able to do some of this
21 discovery?

22 A They paid Mr. McCain between \$3,500 and \$5,000.
23 I think my mom still has receipts for some of that money, but
24 most of it was given to him in cash. And this was for the
25 purpose of deposition of -- of going to North Carolina and

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deposition of Eric and deposition of ...
2 tioning other witnesses that had relevant information in
3 my case that could have helped me prove my innocence in
4 this case.

5 Q How old was Eric at the time of this trial?

6 A Eric was nine years old.

7 Q Was he a mature or immature nine year old?

8 A He was a regular nine-year-old boy. And I'm sure
9 that he could have testified to what he knew. And what he
10 knew is that Sonya and I did not commit these crimes.

11 Q Despite your request and your family paying Mr.
12 McCain, did he talk with Eric and get his deposition taken
13 from him or have him flown down? Did Mr. McCain ever
14 contact Eric?

15 A Mr. McCain never contacted Eric, never deposi-
16 tioned Sonya, never depositioned Rhodes, never depositioned
17 any of the eyewitnesses, never depositioned any eye-
18 witnesses, never depositioned any of my witnesses, any
19 witnesses that would testify in my behalf.

20 Q And no witnesses of any nature were presented
21 either in your trial --

22 A None.

23 Q -- nor in your sentencing?

24 A None.

25 Q Mr. McCain stated in his one-minute presentation

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1 on sentencing that, "my client, Jesse Tafero, does not feel
2 he got a fair trial. And thus he stands before you and is
3 not willing to say anything."

4 A That's not what I said, though. I didn't say
5 any of that. You have -- you have to understand this.
6 Mr. McCain, at that point I don't know what he was trying
7 to do, you know, whether he was, you know, doing, you
8 know, a publicity thing, that he wanted to make this case,
9 you know, even crazier, crazier. But he got up and he
10 said all these things I didn't say. The only thing that I
11 said that he got up and said was that I didn't have a fair
12 trial. He made up all these things and ad-libbed it to
13 the court.

14 Q Was there any reason at all why you would not
15 want to talk in mitigation of the death penalty upon
16 sentencing?

17 A Of course not. I -- it was my desire from the
18 beginning of this case to the end of the case to bring
19 forth not only my testimony, but the testimony of
20 witnesses that would help me prove my innocence in this
21 case. I tried to do it and I just wasn't allowed to do it.

22 Q And did you later testify in Sonya's trial?

23 A Yes.

24 Q You were perfectly willing to testify?

25 A Of course. I wanted to testify. I wanted to

1 testify. Nobody ever took my deposition.

2 Q When the jury came back after that minute and a
3 half speech from Mr. McCain with a recommendation of death
4 in your case, how did you feel?

5 A Terrible. The judge, you know, I always thought
6 it was, you know, a judge would always say, you know, before
7 sentencing, did you have anything to say. He didn't even
8 ask me that. I was completely shut up. There was -- you
9 know, I don't want to give me version of why these things
10 happened, but I think there was a lot of political
11 pressure on the case to get a conviction, any conviction.

12 Q Was this a highly publicized case, Jesse?

13 A Highly publicized isn't even the word for this
14 case. They tried to make Sonya and I look like Bonnie and
15 Clyde or something. I don't know what, you know, what
16 they were doing. My prosecuting attorney ran for state
17 attorney and won after our convictions. And --

18 Q That's Mike Satz?

19 A Mike Satz. And we -- what I have to say about it
20 is that the State gives you a lawyer that will not bring
21 up your defense when the State knows that you want to bring
22 up your defense, and you have a highway patrolman for a
23 judge in the type of case that I was being tried for and
24 the publicity and everything -- they filled the courtroom
25 with highway patrolmen. My jury was unsequestered. They

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2 Q Was there publicity on Judge Futch attending the
3 funeral of the highway patrolmen?

4 A They had pictures of Judge Futch in the paper
5 crying at the highway patrolman's funeral. He -- you know, you
6 can't have a trial like that. Nobody can get justice like
7 that.

8 Q How did Sonya and you come to be tried in two
9 separate trials?

10 A It was against my judgment. Sonya's attorney
11 and my attorney represented to me that they were co-counsel
12 through the entire events. Even when I testified at
13 Sonya's case they said we are co-counsel. And the judge
14 went along with this, that they are co-counsel. They
15 weren't co-counsel. One was working for Sonya and one
16 was not working for me, but assigned to me. And I was
17 duped. I was duped. I was duped during this whole thing.
18 Anyone could have been convicted. Anyone could have been
19 convicted.

20 Q Was an affidavit introduced into the record
21 stating that Sonya was going to testify against you in
22 order to get a severance of the two trials?

23 A Yes, but that wasn't true.

24 Q But such an affidavit was introduced?

25 A Yes.

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Q And did Sonya ever testify against you?

A No, Sonya could not testify against me. Sonya has nothing bad to say.

Q Are you and Sonya still close today?

A Sonya and I are as close today as we were in 1973.

Q How often do you write to her?

A Every single day.

Q And how often does she write to you?

A Every single day, for all these years.

Q In Sonya's trial, where you testified, did a jury recommend life?

A Yes, they did.

Q And what did Judge Futch order?

A Judge Futch overruled the life sentence that the jury recommended in Sonya's case and sentenced her to death.

Q And were both of your cases appealed to the Florida Supreme Court?

A Yes, ma'am, they were.

Q And was Sonya's case, as far as the sentencing aspect, reversed?

A Yes. Yes, her case was commuted to life.

Q So of the three participants, well, people who were there who were adults that day on that rest center,

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1 there was Rhodes, who plea bargained for three consecutive
2 life sentences, Sonya, who got her sentence commuted by the
3 Florida Supreme Court to life, and you, who were given a
4 death sentence. Do you have anything you feel about those
5 three sentences and how they compare?

6 A Number one, the prosecutor in the case made the
7 plea bargain with the only man who had possible powder
8 burns on his hands that he fired a weapon.

9 Q That was the testimony at the time of trial?

10 A Yes, ma'am. Walter Rhodes --

11 Q Who testified to that? Was there an expert?

12 A Yes, there were paraffin tests.

13 Q That wasn't presented as far as the defense case?
14 Defense didn't put on any case?

15 A Defense didn't put on any case.

16 Q So that was part of the State's case?

17 A Yes, ma'am.

18 Q Walter Rhodes had the only positive --

19 A It was the only positive powder burns that he
20 fired a weapon. And they plea bargained with Walter Norman
21 Rhodes. Two of the other State witnesses, who were truck
22 drivers watching, both testified that when all the shots
23 were fired that I was being held over the hood of the car,
24 did not have a weapon.

25 Q Jesse, since the time that you were sentenced to

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1 death and brought up here, what have you done while you've
2 been on death row?

3 A I've done a lot of thinking. I've done a lot of
4 reading. I've tried to -- unfortunately we are not allowed
5 to take any college courses or anything on death row, but
6 I've tried to better my education as much as I can in a lot
7 of areas that I was attending to in college. I have kept
8 up with my art work. I try to paint. I try to maintain a
9 semblance of sanity in the environment. I try to survive.
10 I've tried to survive. I've tried to survive in a cell
11 24 hours a day and, you know --.

12 Q Have you had any religious or convictions and
13 beliefs that have sustained you during this period of time?

14 A I've been involved in some Zen Buddhism. Being
15 in a cell for all these years, I thought that it is sort of
16 a monk life, monkish environment that many people do
17 purposely. And I tried to take advantage of that to see
18 what it was that many of these other religions experience
19 through forms of meditation.

20 And I have studied Zen for the last many years.
21 Well, half my life. And my meditation has helped me. It
22 has helped keep me tranquil, most times, anyway. And not
23 that I sit around all day long and meditate. Don't get me
24 wrong. But I do meditate, you know, at night sometimes,
25 and sometimes in the morning after breakfast and just start the

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1. day off, do my exercises and try to make the day as
2. pleasant as possible.

3. Q During these years you've been on death row, have
4. you heard either through the news media or through the
5. prison grapevine a number of times that Rhodes was going
6. to change his statement?

7. A I've talked to so many different people that have
8. been incarcerated with Walter Rhodes that have passed through
9. the east unit. I've got letters from people. I've got --
10. he has told everybody in the Florida prison system that he
11. has committed these crimes. It seems-- it would seem from
12. the moment that he was in the prison system he started
13. confessing. And I have -- I don't have any doubts that he
14. has been confessing all along. I mean, there's no doubt
15. about this. I have affidavits.

16. There's been all kinds of articles in the news-
17. papers since 1978 where he's confessed to certain, certain
18. men. People that don't even know -- people have come
19. forward, Mr. Scriven, that don't have no idea of who
20. Jesse Tafero is or anything else that have gotten --
21. contacted my attorneys because Walter Rhodes has confessed
22. to them that he committed these crimes, in detail confessed
23. to them, in detail, that he said that he had to do it, that
24. he was in fear for his life. And I understand these -- you know
25. I can understand, you know, how a man is in fear for his life,

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1 how he can be manipulated by people w. can offer him deals
2 of life, you know. But the plain fact of the matter is, the
3 man has confessed. He pled guilty to second degree murder
4 in the beginning. People that are not guilty don't plead
5 guilty. He pled guilty to the statute of second degree
6 murder. You know, it wasn't like he pled guilty as to not
7 doing anything. He pled guilty to the crime.

8 And still they went ahead and made their
9 publicity or whatever they wanted to at the time. I just
10 don't know. But I am not guilty of this crime. I'm sure
11 you hear that from most of the men who come up here. But
12 I am and Sonya is that one-quarter of a percentage where
13 a mistake is made in this department.

14 Q Walter Rhodes, as I told you today, has sent to
15 the State of Florida, through Mike Satz in Broward County,
16 an affidavit stating that he in fact was the person who
17 pulled the trigger and did this shooting in this incident,
18 and that he lied when he stated under oath that you and
19 Sonya had each shot the individuals. Walter Rhodes is
20 currently in Union Correctional Institution. He has given
21 an affidavit to the State. He has given statements to the
22 news media and he has made a statement under oath to me
23 this morning for a two-hour period in front of a court
24 reporter.

25 Have you done anything whatsoever to pressure,

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1 threaten, bring action against Walter Rhodes or in any way
2 to make him do that which he is doing now?

3 A Of course not. This man pled guilty in the
4 beginning. People don't realize that the whole -- the
5 crux of the matter is he pled guilty to second degree
6 murder and he pled guilty -- that he pled guilty to the
7 statute. He admitted killing these people back then. Only
8 the State -- the only thing I can say, I'm very sorry for
9 Norman Rhodes. I'm very sorry for the poor people, this state
10 trooper and this Canadian constable that died. But I didn't
11 kill them. And I can't bring them back or I would.

12 Q Jesse, is there anything else that I haven't
13 covered today that you feel it's important the Cabinet
14 hear in order that they understand just what happened or
15 who you are, in asking them for their clemency in this case?
16 And take your time. I'm not trying to rush this to an end.
17 I'm trying to make certain I've covered everything you
18 want to get before the Cabinet.

19 A I'm just an ordinary man. I have good points.
20 I have bad points. I'm not a killer. I've made mistakes
21 in my life. I've paid for them.

22 And this charge here, I am not guilty. I am not
23 guilty. There's been a terrible mistake here. And it's
24 been very hard. When I first came here I was bitter. I've
25 given everything a lot of thought. I even understand why.

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1 Norman Rhodes testified under pressure to save his life.
2 Most people would do that. But there's been a mistake in
3 our case. And I'm not guilty of the crime. And I'm just
4 an ordinary man without any money to be able to bring
5 these things to light sooner.

6 And I just pray that the Parole Board and you,
7 Mr. Scriven, have heard me this morning and will recommend
8 that something be done in my case.

9 COMMISSIONER SCRIVEN: You understand the
10 Commission does not make a recommendation. The only
11 thing we will do is present this to the Governor as
12 it has been conducted today.

13 The Governor and the Cabinet -- the Governor, of
14 course, may ask the Commission for a recommendation.
15 That's his prerogative. But the Commission does not
16 make any recommendations at all.

17 THE WITNESS: I didn't know. I didn't know that.

18 COMMISSIONER SCRIVEN: Excuse me. Did you want
19 this to be a part, the affidavit to be a part of --

20 MS. du FRESNE: I think it would probably be
21 more traditional -- it's going to be attached to
22 Walter Rhodes' statement, which I will attach to our
23 memorandum, I think it may be more traditional as a
24 part there.

25 COMMISSIONER SCRIVEN: That's fine. I just

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wanted to know whether --

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MS. du FRESNE: Yes, sir. I did make reference to it. And I understand that it seems silly to have it two places in the record.

May we go off the record for one moment?

(Discussion off the record.)

MS. du FRESNE: So that this will make some sense, the document that Commissioner Scriven has asked me about, the affidavit of Walter Norman Rhodes, Jr., I'm going to ask that it be attached because of some fears about it my client has and wants to express.

BY MS. du FRESNE:

Q And, Jesse, if this -- if you would say what is is that is concerning you about this.

A Mr. Scriven, I just wanted to say this one thing: Walter Norman Rhodes has made statements. I am in very much fear of this statement. I am in fear of this statement. And I'll tell you why, because the State doesn't want to admit mistakes, usually. I don't think they do. I'm afraid that they'll go to this man again, like they did to him before and they'll say okay, Rusty, okay, Walter, we don't want this. We don't want this. You can't say this. You can't say this. We'll let you out. We'll give you a parole. We'll do whatever you want. That's what I -- that's what I have fears of, because I've been through -- I've been

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2 through this before at trial when they plea bargained with
3 this man and make him say what they want him or to what he
4 wanted or whoever wanted it said. I'm just concerned.
5 I'm just concerned that the State could have in its mind
6 to manipulate this man. I just wanted to say that.

7 Q I'll say to you, Jesse, what I said to you when
8 we went off the record for one moment, that I understand
9 that concern on your part. And because of that, this
10 morning when I took Mr. Rhodes' statement, never having
11 spoken to him, met him, written to him or had any contact
12 with him before this morning when I showed up and he didn't
13 know who Elizabeth d'Fresne was, but they brought him
14 out and I said, "I've read your affidavit. Would you
15 mind giving a statement under oath that expands on that? "
16 He said, "No, ma'am, I wouldn't." And I said, "Jesse Tafero
17 is scared that the State's going to come to you and say
18 we don't like this affidavit. Mr. Rhodes, what would you
19 do if they came to you tomorrow?" And he said, "Lady, I
20 wouldn't have nothing to do with them." And I said, "All
21 right."

22 Other than that, I don't know. You've told Mr.
23 Scriven -- go ahead.

24 A Right. It's just that I, you know, I have learned
25 the power of the State and I have learned how easy people
plea bargain. You know, plea bargain, when somebody has

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sentences like 50 years, life sentence, any prosecutor
anywhere can go to somebody and say, well, I don't like this.
I want you to do this. If you do this I'm going to let
you out or I'm going to--you're going to be transferred to
this road prison where you want and all these things.

We're dealing with my life. I'd really appreciate
it if the State wouldn't, wouldn't play with my life. I
just wanted to say that. It concerns me very much because
I know the power of the State. They have total power to
do whatever they want. And it's good, but it can be
misused. And I don't want it misused for the simple
reason that my life is in jeopardy here. I think it would
be wrong.

Q Jess, sometimes people on death row feel like
we've heard this from the Spenkolinks in the world. We
have heard that life, where it means really life in prison,
is really worthless.

Do you feel that if the Governor should choose
to exercise clemency in your case and to commute your
death sentence to life in prison that, in fact, that would
be of value, that it would be a merciful act in your case?

A In my case, of course it would be a merciful act.

Q You want to live?

A Of course I want to live.

Q That, of course, is sometimes not true for some

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7 A I have a very -- I have a very strong like of life.
1 I don't like prison life. I would, you know, much rather
4 live my life free. But life itself is important to me. I
5 try to make the best of life, whatever it is. I'm trying
6 to make the best of it right now. I will continue to do
7 that until hopefully this case can be resolved completely
8 and that I can eventually have my freedom that I do deserve.

9 MS. du FRESNE: We have nothing further unless
10 there's any questions on any matters that you can
11 think of that are traditionally covered that I, for
12 some reason, have forgotten.

13 THE WITNESS: I just want, also, to thank you
14 and the Governor and all the Cabinet for the time and
15 consideration, you know, for having this type of a
16 hearing for clemency.

17 COMMISSIONER SCRIVEN: Is this a copy?

18 MS. du FRESNE: That is a copy. We received that
19 copy. Mark Cooper is my co-counsel on this case. And
20 Michael Satz, as State's Attorney, received the
21 original of this affidavit. He received it on
22 September 13th, 1982.

23 COMMISSIONER SCRIVEN: And what is this affidavit,
24 just for the record, since we're --

25 MS. du FRESNE: The affidavit is the affidavit of

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Walter Norman Rhodes expudiating -- repudiating the --
that's a combination of expunge and repudiating at once,
expudiating -- repudiating the testimony he gave in
the trial of Sonya Linder and Jesse Tafero and stating
that he did in fact commit the shootings of the two
individuals who were murdered. He executed -- he, being
Walter Rhodes, executed this affidavit himself on
September 8, 1982. It was received by Michael Satz,
State's Attorney of Broward County, Seventeenth
Judicial Circuit of Florida, on September 13th, 1982, and
a copy of it was sent on September 14th, the next day, to
Mark Cooper, who is my co-counsel on this case and who
forwarded the same to me.

COMMISSIONER SCRIVEN: Mr. Tafero or counselor,
do you have anything else?

MS. duFRESNE: Nothing further. Thank you.

THE WITNESS: Thank you, sir.

COMMISSIONER SCRIVEN: Any other communication
from this point on will come directly from the
Governor's office. If you have any affidavits,
anything else you would like to forward, you may do so.

COMMISSIONER SCRIVEN: Mr. Petersen, anything
else?

MR. PETERSEN: No, sir.

COMMISSIONER SCRIVEN: That then will conclude the

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1
2 hearing. Thank you, counselor.

3 MS. du FRESNE: Thank you.

4 THE WITNESS: Thank you very much.

5 COMMISSIONER SCRIVEN: Okay.

6 (Whereupon, the proceedings were concluded at
7 3:00 o'clock p.m. on the same day.)
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