

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JIMMY L. JOHNSON

being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ADAMS:

Q. Mr. Johnson, could you tell the jury your name, please?

A. Jimmy L. Johnson.

Q. And where do you live?

A. 678 Park Avenue, Loveland.

Q. I'm sorry?

A. Loveland, Ohio.

Q. Mr. Johnson, do you know Butch Jones?

A. Yes, I do.

Q. Do you know Erlene Metcalff?

A. Yes, ma'am.

Q. Do you live near Erlene?

A. Yes, ma'am.

Q. How near to her do you live?

A. About half a minute away.

Q. Excuse me. Where do you work, sir?

A. J&T Trucking.

Q. And what is your job there?

A. I'm a dump truck driver.

Q. Do you do mechanics work on the side?

1 A. Yes, I do.

2 Q. In September of '94, do you recall working
3 on Mr. Jones' car?

4 A. Yes, ma'am.

5 Q. Do you recall what day that was?

6 A. That was on a Sunday.

7 Q. Was it the day before Labor Day?

8 A. Yes, ma'am, I believe so.

9 Q. So if I give you a date will you know the
10 day?

11 A. No. I wouldn't know the day.

12 (Joint Exhibit No. 1 was marked for
13 identification.)

14 Q. Let me show you what we've marked as Joint
15 Exhibit No. 1. That's a 1994 calendar. We're talking
16 about September now, okay?

17 Labor Day is the first Monday in
18 September. Can you tell me what the date you would have
19 worked on the car would have been?

20 A. It would have been the 4th.

21 Q. You can set that thing down. It was just
22 to help you out.

23 (Witness complied.)

24 Q. Where were you when you worked on Mr.
25 Jones' car?

1 A. I was at Erlene Metcalff's in the
2 driveway.

3 Q. Is that in Loveland?

4 A. Yes, ma'am.

5 Q. Whose tools did you use to work on Mr.
6 Jones' car?

7 A. I used Mr. Jones' tools.

8 Q. How did you -- let me ask you this. When
9 did you come over to Erlene's house?

10 A. I go over to -- that day, I had went by
11 around -- the first trip was I guess about 12.

12 Q. Noon?

13 A. Yeah. That was the first trip.

14 Q. Okay. Was Mr. Jones there when you went
15 on the first trip?

16 A. The first trip, I don't think he were, no,
17 he wasn't.

18 Q. When did you go back?

19 A. I went back around I guess about 1, 2.

20 Q. And is that the time that you worked on
21 Mr.-Jones' car when you went back on the second trip?

22 A. Right.

23 Q. When you went to work on his car, whose
24 tools did you use?

25 A. I used Mr. Jones' tools.

1 Q. I think I asked you that. How did you get
2 his tools?

3 A. Well, he got them out of the trunk and sat
4 them on the ground.

5 Q. Did you see him open his trunk?

6 A. Yes, ma'am.

7 Q. Did you see into his trunk?

8 A. Yes, ma'am.

9 Q. Did you see him lift the tool box from his
10 trunk?

11 A. Yes, ma'am.

12 Q. Was it open?

13 A. No, ma'am.

14 Q. Did he open it?

15 A. No.

16 Q. What did he do when he took the tool box
17 out of his trunk?

18 A. He grabbed the tool box by the handle, by
19 the handle, sat it down on the ground. I opened the tool
20 box up and took all of the tools out of it.

21 Q. And why did you take all of the tools out?

22 A. I like to sort the tools out so that I
23 know what tool is what so I can just pick it up and just
24 use it, which makes the -- makes me finish quicker.

25 Q. It is more efficient?

1 A. Right.

2 Q. Did you on that date go through the top
3 tray of Mr. Jones tool box -- Excuse me. Let me show you
4 Exhibit No. 74. Do you recognize this tool box?

5 A. Yes, I do.

6 Q. Is this Mr. Jones' tool box?

7 A. Yes, it is.

8 Q. The one that you used that day?

9 A. Yes, ma'am.

10 Q. Do you recall this tray being as it was
11 before I lifted it upright here?

12 A. Yes, ma'am.

13 Q. Did you go through the contents that are
14 in this tray?

15 A. Yes, ma'am.

16 Q. How carefully did you go through them?

17 A. That tray there, it has sockets in the top
18 of it.

19 Q. Okay. So how carefully did you go through
20 that tray?

21 A. May I show you?

22 Q. Yes, if it is all right with the Court.

23 MS. ADAMS: Is that all right, Your Honor?

24 THE COURT: Sure, sure.

25 Q. Let me lift it up for you.

1 A. This is the tool box. When I work on a
2 car, in this particular thing, I take everything out of my
3 way and throw it over and move stuff around in it, just
4 like this (demonstrating).

5 Q. Did you take any nuts and bolts out of
6 there?

7 A. Yes, I did.

8 Q. What did you take them out for?

9 A. I needed three Phillips screws.

10 Q. Did you have to look through it
11 extensively to find them?

12 A. Yes, ma'am.

13 Q. Let me show you what's been marked as
14 State's Exhibit 3. Did you see this object in the tool
15 box?

16 A. No.

17 Q. And that object is a gold object with
18 diamonds on it?

19 A. No, I didn't see that.

20 Q. Did you, when you looked through this tool
21 box, through this tray, go through all of the little
22 objects that are in it?

23 A. Yes. I moved everything around just like
24 I showed you.

25 Q. Now this object is gold colored. These

1 objects in here are, for the most part, what color?

2 A. Silver, you have silver, you have black,
3 you got some gold, you got yellow, you got red, you got
4 gray.

5 Q. Okay. If that object had been in this
6 tool box, do you believe that you would have seen it?

7 A. Yes, ma'am.

8 Q. Did you also see other things in Mr.
9 Jones' trunk?

10 A. Yes, ma'am, I saw a bundle of rags.

11 Q. Wait a minute. I want to make sure that I
12 put that back.

13 Did you see any shoes?

14 A. No, ma'am.

15 Q. Did you -- let me get this. Let me show
16 you what's been marked as State's Exhibit No. 41. Can you
17 identify that?

18 A. It is all rumped up. It ain't like his
19 trunk.

20 Q. Can you identify that as Mr. Jones' car?
21 Or do you know?

22 A. The license plate, yeah.

23 Q. You know the license plate?

24 A. Yes, ma'am, and all of those stickers
25 there.

1 Q. How would you characterize the condition
2 of his trunk?

3 A. Neat.

4 Q. Now are you and Mr. Jones good friends?

5 A. No, ma'am. I have no friends.

6 Q. Okay. Are you acquaintances?

7 A. We're associates, yes.

8 Q. What work did you do on the car? Don't
9 give details, just general.

10 A. A tune up.

11 Q. A tune up, okay. Do you recall what you
12 used the screws for that you were looking for in the tool
13 box?

14 A. Yeah. I used them for the side panel of
15 my van, my door on the passenger's side door. I was
16 missing some screws that had my handle up, and they was
17 there so it saved me a trip to the hardware store to go and
18 get it.

19 Q. No more questions. Thank you Mr. Johnson.
20 The prosecutor may have some questions for you.

21 - CROSS-EXAMINATION

22 BY MR. PIEPMEIER:

23 Q. Mr. Johnson, when were you first contacted
24 by the defense to be a witness on this case?

25 A. Last Sunday.

1 Q. Do you have your own tool box?

2 A. Yeah, I do.

3 Q. What's the difference between a friend and
4 an associate?

5 A. Well, your friend is more or less the kind
6 of person that will speak to you and basically do anything
7 he possibly can for you. Okay. I had a friend die, so I
8 don't let anybody get close to me.

9 Q. Okay. What's an associate?

10 A. An associate is just somebody who you know
11 that you talk to and you don't tell everything to.

12 Q. Where was this bundle of rags that you saw
13 in the trunk?

14 A. It was in the trunk of his car. It was on
15 the passenger's side of the car. It was folded neatly in a
16 stack.

17 Q. Did you have a spark plug adaptor in that
18 tool box?

19 A. Yes.

20 Q. Was there a socket for a spark plug?

21 A. Yes.

22 Q. Were there any door chains in there?

23 A. Not -- no, I didn't pay any attention to a
24 chain.

25 Q. Were you looking for chains?

1 A. No.

2 Q. If there were some chains in there, would
3 you have seen them?

4 A. I probably wouldn't have paid any
5 attention, because my mind was -- my main thing was
6 focusing on what I was doing, which was the tune up at that
7 particular time, which was finding a socket that would fit.

8 Q. And the ratchet?

9 A. Well, the ratchet was laying on the ground
10 after that.

11 Q. So that's what you're looking for when
12 you're going through the tool box?

13 A. Yeah.

14 Q. Was this pencil sharpener in there?

15 A. That was, yeah.

16 Q. This was in there?

17 A. Yeah.

18 Q. Okay. Was this button in there?

19 A. I don't know about a button; I don't know
20 about a button. You can't recall everything that's in a
21 tool box, every little piece.

22 MR. PIEPMEIER: Okay. No other questions,
23 Judge.

24

25

REDIRECT EXAMINATION

1
2 BY MS. ADAMS:

3 Q. Mr. Johnson --

4 MS. ADAMS: Mr. Piepmeier, your notes are
5 here.

6 MR. PIEPMEIER: Thank you.

7 MS. ADAMS: Mark.

8 MR. PIEPMEIER: I don't want to lose that.

9 MS. ADAMS: Expensive county property.

10 Q. Mr. Johnson, why would you notice -- I
11 don't want to take it out of here again -- but the tiny
12 gold and diamond pendant and not notice door chains?

13 A. Well, the gold pendant, it's in the top of
14 the tray; it will fit in the top tray. A chain wouldn't
15 fit in that top tray because it is bulky. It would have to
16 fit in the bottom of a tool box.

17 Q. Did you go through the bottom of the tool
18 box?

19 A. Yes, I did.

20 Q. All right.

21 A. And when I went through the bottom of the
22 tool box, you just grab -- when you going through a tool
23 box, you take and grab a handful of stuff after you look at
24 it, and just lay it down.

25 Q. Are the things that you're looking for in

1 the top tray there smaller than what you would be looking
2 for in the tool box itself?

3 A. Yes.

4 Q. And would you have to -- would you be
5 looking for more specific items? In other words, would you
6 just take a handful of these and throw them out like you
7 would that?

8 A. No, not really, no.

9 Q. Why?

10 A. Because the items you're looking for, like
11 the three Phillips screws, the items that I'm looking for
12 are small. You have to take the small stuff and move them
13 side to side in the tool box.

14 Q. Do you have to look more closely in the
15 top tray?

16 A. Right, you have to pay more attention than
17 you do to the big stuff there.

18 MS. ADAMS: Thank you, sir. I don't have
19 any more questions.

20 MR. PIEPMEIER: No other questions, Judge.

21 THE COURT: Mr. Johnson, push that
22 microphone out of your way. There you go. You may
23 step down, sir.

24 MS. ADAMS: Thank you, sir.

25 (Witness excused.)