

Testimony of Gustavo Guzman Jr.

DIRECT EXAMINATION

12

13 BY MR. TOBY L. SHOOK:

14 Q. Would you tell us your name, please.

15 A. Gustavo Guzman, Junior.

16 Q. Okay. You --

17

18 THE COURT: You're going to have to

19 speak slower and louder. The acoustics aren't the best.

20 Because that lady there on the end has to hear you, and

21 all these lawyers over here have to hear you. Okay. So

22 just lean up into that mike. You're going to hear your

23 voice echoing.

24 THE WITNESS: Gustavo --

25 THE COURT: State your name again and

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1345

1 spell your last name.

2 THE WITNESS: Gustavo Guzman, Junior.

3 THE COURT: No, they still can't hear

4 you. You've got to get your voice way up there.

5 THE WITNESS: Gustavo is my first

6 name. Guzman, my last. Gustavo, G-U-S-T-A-V-O. Guzman,

7 G-U-Z-M-A-N.

8 THE COURT: All right. Go ahead.

9

10 BY MR. TOBY L. SHOOK:

11 Q. All right. You'll need to keep your

12 voice up loud and clear. Okay?

13 A. Okay.

14 Q. How old are you?

15 A. Eighteen.

16 Q. And, where do you live?

17 A. Rowlett.

18 Q. Okay. Well, where do you live in

19 Rowlett?

20 A. It's called a --

21 Q. Well, what's your street address?

22 A. Well, it's 5706 Willowbrook.

23 Q. Okay. And, is that a house or

24 apartment?

25 A. It's a house.

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1346

1 Q. Who do you live there with?

2 A. My mother and my brother and sister.

3 Q. And how old are they?

4 A. They are -- I'm not sure. They're --
5 one is 5 and one is 10.

6 Q. Okay. So you're the oldest?

7 A. Yes.

8 Q. And do you go to school?

9 A. Yes, sir.

10 Q. Where do you go to school?

11 A. Lakeview Centennial.

12 Q. Okay. How long have you lived in your
13 house?

14 A. About 5 years.

15 Q. Okay. Let me show you what's been

16 marked as State's Exhibit 7. Do you recognize this as an
17 overview of your neighborhood?

18 A. Yes, sir.

19 Q. Okay. Look on there on your street,

20 Willowbrook Street where it's marked, and can you see
21 your house?

22 A. Um-hum. (Witness nodding head
23 affirmatively.)

24 Q. Okay. Could you point it out for us,
25 please.

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1347

1 A. Right there.

2 Q. Okay. You're talking about this house
3 here?

4 A. Yes, sir.

5 Q. Is there a white gate around the
6 backyard?

7 A. Um-hum. (Witness nodding head
8 affirmatively).

9 Q. Okay.

10

11 THE JUROR: Is that the yard or the
12 house?

13 MR. TOBY SHOOK: I think that's the
14 house right there.

15 THE JUROR: Okay.

16

17 BY MR. TOBY L. SHOOK:

18 Q. You live on Willowbrook. Right?

19 A. Yes, sir.

20 Q. This street right here?

21 A. Yes.

22 Q. Okay. And behind you is the street
23 one over Eagle Drive?

24 A. Yes, sir.

25 Q. And 5801 Eagle Drive we can see here
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1348

1 marked off on the corner; is that right?

2 A. Yes, sir.

3 Q. Okay. So you would be, I guess it

4 would be, if you're going down Willowbrook, 1, 2, 3, 4, 5

5 houses down on Willowbrook. Right?

6 A. Yes.

7 Q. Okay. Now, you were living there back

8 on June 6th, 1996; is that right?

9 A. Yes, sir.

10 Q. With your mother and little brother

11 and little sister?

12 A. Yes, sir.

13 Q. Let me turn your attention to that

14 date. Well, let me move you back to Wednesday, June 5th,

15 and ask if you were out that evening.

16 A. Yes, later that night a couple friends

17 from the neighborhood went to go play hockey.

18 Q. Okay. What type of hockey were you

19 playing?

20 A. Roller hockey.

21 Q. Okay. Is that something you do a lot?

22 A. Yeah.

23 Q. And where did you play?

24 A. At the high school, Lakeview.

25 Q. Okay. And do you remember what time

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1349

1 of the day you were playing?

2 A. Not precisely. It was late about, 10

3 to 12.

4

5 THE COURT: Excuse me. The object of

6 this is to hear your testimony. Now every time you echo

7 in there, you get quieter. That's not the way to do it.

8 You want to get louder so they can hear you. Okay?

9 THE WITNESS: Okay.

10 THE COURT: So lean up into it, speak.

11 You're going to hear your voice resonate. Don't be

12 alarmed. It's quite normal. Everybody has to hear you.

13 Okay?

14 THE WITNESS: Yes, sir.

15 THE COURT: Let's try it again.

16

17 BY MR. TOBY L. SHOOK:

18 Q. Were you playing late that night?

19 A. Yes.
20 Q. Okay. That's good. How did you get
21 home?
22 A. A friend brought me home.
23 Q. Okay. And where does he live?
24 A. On Eagle Drive, just down a couple of
25 houses down.
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1350

1 Q. Down from you?
2 A. Yes.
3 Q. Okay. And, well, let me get out the
4 exhibit again here. If we're looking at Eagle Drive here
5 using the Routier home at 5801 as a reference, which way
6 down Eagle does he live?
7 A. The other end.
8 Q. This end?
9 A. Yes, sir.
10 Q. About how far down? Just stop me when
11 I am there.
12 A. Right there.
13 Q. Right in this area here?
14 A. Um-hum. (Witness nodding head
15 affirmatively).
16 Q. Okay. And, was he driving that night?
17 A. Yes, sir.
18 Q. Okay. And did he drop you off at your
19 house?
20 A. No. We went to his house and I just
21 walked home.
22 Q. Okay. You drove the car back to his
23 house here on Eagle Drive?
24 A. Yes, sir.
25 Q. Which way did you walk home?
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1351

1 A. Through that, through the yard.
2 Q. I'm sorry, I didn't hear you.
3 A. I cut through the yard and down the
4 alley and then went to my house.
5 Q. Okay. And then you just cut down the
6 alley to your house?
7 A. Yes.
8 Q. Okay. Now, do you remember what time
9 that was?
10 A. Between 11:00 and 12:00, Or 11:00 and
11 1:00. I don't know.
12 Q. Between 11:00 at night or 1:00 in

13 the morning?
14 A. Yeah. Yes.
15 Q. Were you keeping track of the time?
16 A. No.
17 Q. And what did you do once you got in
18 your house?
19 A. Watched TV in the kitchen.
20 Q. Okay. Do you remember what time you
21 went to bed that morning?
22 A. No, it was late.
23 Q. Was anyone else up in the house?
24 A. No, sir.
25 Q. Okay. When you took a walk down the
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1352

1 alley did you see anything unusual?
2 A. Nothing.
3 Q. Hear anything unusual?
4 A. No.
5 Q. Okay. Was anything going down at the
6 end of the block where the Routier's lived?
7 A. No.
8 Q. You didn't see any police cars?
9 A. No.
10 Q. Okay. Later that morning, were you
11 awakened by some police officers?
12 A. Yes.
13 Q. Do you remember what time that was?
14 A. No.
15 Q. Okay. How were you awakened?
16 A. I wasn't awakened, I was still
17 watching TV.
18 Q. Still watching TV?
19 A. Um-hum. (Witness nodding head
20 affirmatively). In the kitchen. And I saw through the
21 window the police officers with their flashlights.
22 Q. Okay.
23 A. And then I just looked out the window
24 and let them do what they needed to do.
25 Q. You saw some police officers with
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1353

1 flashlights?
2 A. Yes, sir.
3 Q. And where were they looking with their
4 flashlights?
5 A. On the grass and through the fence.
6 Q. Okay. Which window are you talking

7 about?

8 A. First I saw them through the kitchen,
9 window, and then through the back door.

10 Q. Okay. Were they behind your house
11 then?

12 A. Yes, sir.

13 Q. In the alley?

14 A. Yes, sir.

15 Q. Okay. Did you go out there at any
16 time at that point?

17 A. No.

18 Q. Okay. What did you do then?

19 A. I just ignored them. I just went back
20 to sleep. I mean, and then I went up and went to sleep.

21 Q. You went upstairs?

22 A. Um-hum. (Witness nodding head
23 affirmatively). Yes.

24 Q. And went to sleep?

25 A. Yes.

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1354

1 Q. After that, did someone awaken you?

2 A. Yes.

3 Q. About what time was that?

4 A. I don't remember.

5 Q. Was it light or dark out?

6 A. Dark.

7 Q. Okay. And how were you awakened then?

8 A. They knocked on the door and woke me
9 up.

10 Q. You got woken up by a knock on the
11 door?

12 A. Yes, sir.

13 Q. Who was at the door?

14 A. Police officer. I don't know who.

15 Q. Okay. A Rowlett Police Officer?

16 A. Yes.

17 Q. Did he ask you some questions?

18 A. Yes.

19 Q. And what did you tell him?

20 A. I didn't see nothing unusual.

21 Q. Okay. Same thing you told this Jury?

22 A. Yes.

23 Q. Okay. Let me ask you: In your

24 backyard, had you and your mother been doing anything out
25 there recently?

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1355

1 A. We were doing gardening.
2 Q. Okay. When had you been doing
3 gardening?
4 A. Maybe a week before.
5 Q. Okay. And, what type of gardening
6 were y'all doing?
7 A. We were putting edges, edging around
8 some bushes.
9 Q. Okay. Where were these bushes
10 located?
11 A. Along the fence.
12 Q. Okay.
13 A. The back fence.
14 Q. The back fence? Is that the fence
15 that runs along the alley?
16 A. Yes.
17 Q. Okay. Could you describe your fence?
18 A. White, metal, has gates.
19 Q. Okay. Has gates?
20 A. Um-hum. (Witness nodding head
21 affirmatively).
22 Q. And it's metal?
23 A. Um-hum. (Witness nodding head
24 affirmatively).
25 Q. About how high is it?
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1356

1 A. About 6 feet.
2 Q. Okay. And, are there gaps between the
3 bars?
4 A. Yes, sir.
5 Q. About how wide are those?
6 A. 5 to 6 inches.
7 Q. Okay. And, you were doing your
8 gardening along that back fence; is that right?
9 A. Yes, sir.
10 Q. What type of gardening were you
11 helping your mom with?
12 A. We were laying down edging, for some
13 bushes that were kind of messy. We were just making it
14 look nice.
15 Q. Okay. What do you mean by edging?
16 A. Plastic, we were separating the bushes
17 from the grass.
18 Q. Okay. And how were you doing that?
19 A. We would make a little hole -- we
20 would cut little holes in the ground and then lay the
21 edging down.
22 Q. Okay. Were you using any tools?

23 A. Yes, sir.

24 Q. What type of tools were you using?

25 A. Knives, spoon, and a shovel.

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1357

1 Q. Okay. What type of knives?

2 A. Kitchen knives.

3 Q. Okay. Where did you get those from?

4 A. They were just laying around in my
5 house.

6 Q. Okay.

7 A. We got them from the kitchen.

8 Q. Okay. Were they old or new knives?

9 A. They were old.

10 Q. Okay. And, what did you do with the
11 knives?

12 A. We left them there afterwards.

13 Q. Okay. But how were you using them as
14 tools?

15 A. We would -- if the shovels didn't work
16 then we would use the knives.

17 Q. Okay. And, how would you use the
18 knives?

19 A. We would cut deeper into the ground.

20 Q. Okay.

21 A. And then the shovel couldn't go too
22 deep, so we used the knives.

23 Q. Were you digging in the ground with
24 the knives?

25 A. Yes.

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1358

1 Q. And were you digging in dirt?

2 A. Yes.

3 Q. Okay. Did you have any rope out
4 there?

5 A. Yes.

6 Q. And what were you doing with the rope?

7 A. We would tie one end of the rope to a
8 knife and another end of the rope to another knife, and
9 then extended the rope and the knives would make a
10 straight line.

11 Q. Okay. There in the dirt along that
12 plastic rail you were working with?

13 A. Yes.

14 Q. Okay. And you said you were doing
15 that work when?

16 A. About a week before this happened.

17 Q. Okay. Did you finish the work --
18 A. No.
19 Q. -- that you were doing?
20 A. No.
21 Q. Okay. What did you do with the knives
22 and the rope?
23 A. We just left it there until next week.
24 Q. Okay. They were still in your
25 backyard?
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1359

1 A. Yes.
2 Q. And where were they located?
3 A. In the back -- in the backyard, along
4 the fence.
5 Q. Okay. Along that back rail?
6 A. Yes.
7 Q. Okay. Were they -- where were they?
8 Stuck in the ground, or laying out?
9 A. I don't remember. I mean, they could
10 have been in the ground. I'm not sure.
11 Q. Okay. But they were in that back
12 area?
13 A. Yes.
14 Q. Okay. Gustavo, let me show you what's
15 been entered into evidence as State's Exhibit 22 and 21.
16 Do you recognize those?
17 A. Yes, sir.
18 Q. Are these the knives that you and your
19 mother were working with?
20 A. Yes.
21 Q. The same ones that you had laying out
22 there by the back fence?
23 A. Yes.
24 Q. Okay. The ones that you were using
25 with the rope?
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1360

1 A. Yes, sir.
2 Q. Okay. Were they as clean as this when
3 you left them out there?
4 A. No.
5 Q. Okay. What was on them?
6 A. I mean, they were clean when we
7 started off, but then after a while they got dirty.
8 Q. Got dirty with mud?
9 A. Yes.
10 Q. Okay. And, were they lying out there

11 that night when you went out to play street hockey?

12 A. Yes.

13 Q. Okay. Did you go out in your backyard

14 sometime after the police woke you up?

15 A. The next morning.

16 Q. Okay.

17 A. Or the next day.

18 Q. The next day?

19 A. Yes, the next day.

20 Q. Okay. And did you check on those

21 knives?

22 A. Yes.

23 Q. And why did you do that?

24 A. I thought maybe, you know, the

25 murderer might have used them.

Sandra M. Halsey, CSR, Official Court Reporter

1361

1 Q. Okay. Did you hear about what

2 happened down at the Routier home?

3 A. Yes.

4 Q. Okay. And did you think about those

5 knives that had been laying in your backyard?

6 A. Yeah.

7 Q. So you went to see if they were still

8 there?

9 A. Um-hum. (Witness nodding head

10 affirmatively.)

11 Q. Where were they located when you went

12 out there?

13 A. Same place.

14 Q. Same condition?

15 A. Yes.

16 Q. Did it look like they had been moved

17 at all?

18 A. No.

19 Q. The same place you had left them?

20 A. Yes.

21 Q. What did you do then?

22 A. I just got close to them and checked

23 them out to see if there was any blood or anything. I

24 looked and they weren't, so I just left them there.

25 Q. Didn't see any blood on them?

Sandra M. Halsey, CSR, Official Court Reporter

1362

1 A. No.

2 Q. Just left them where they were?

3 A. Yes.

4 Q. Did you ever finish the gardening?
5 A. No.
6 Q. Okay. Later on -- well, we met a
7 couple of times; is that right?
8 A. Yes.
9 Q. The first time when you were shooting
10 basketball behind your house?
11 A. Yes.
12 Q. And you have met Investigator Bosillo
13 too; is that right?
14 A. Yes, sir.
15 Q. Did sometime he come and get those
16 knives from you?
17 A. Yes. Him and some other officers.
18 Q. Okay. And do you recall when that
19 was?
20 A. I don't know what was the date. It
21 was during school.
22 Q. Okay. And did you turn those knives
23 that you just looked at over to them?
24 A. Yes.
25 Q. Okay. And then I talked to you a
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1363

1 couple of times about what you -- the events you have
2 testified in front of the jury on; is that right?
3 A. Yes.
4 Q. Okay. What day did you get down here?
5 A. Monday of this week.
6 Q. Okay.
7 A. Monday or Sunday. I'm not sure.
8 Q. Sunday?
9 A. Yes.
10 Q. Okay. Did I talk to you then about
11 the knives?
12 A. Yes.
13 Q. And I talked to you one other time, I
14 think, about the knives; is that right?
15 A. Yes.
16 Q. Okay. Other than the knives in this
17 incident, you didn't see or hear anything else in the
18 neighborhood that evening?
19 A. No.
20 Q. Okay. And, do you have any idea what
21 time it was that you got in?
22 A. No. I can't be precise.
23 Q. You didn't see any police cars or
24 flashing lights, or anything like that, did you?
25 A. Only afterwards when I was going to

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1364

1 bed.

2 Q. After you saw the officers with the
3 flashlights?

4 A. Yes.

5 Q. Okay.

6

7 MR. TOBY SHOOK: That's all we have,
8 Judge.

9

10

11 CROSS EXAMINATION

12

13 BY MR. RICHARD MOSTY:

14 Q. Mr. Guzman, I just have a couple of
15 things.

16 What grade are you in in school?

17 A. Senior, 12th grade.

18 Q. Have you missed a week of school?

19 A. Yes.

20 Q. You aren't on a block schedule, are
21 you?

22 A. Yes.

23 Q. You're going to have your work cut out

24 for you when you get back, aren't you?

25 A. Yeah, I know.

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1365

1 Q. All right. Well, what -- I think I

2 missed the name of the friends that you went and played
3 hockey with. Who are those?

4 A. Cary Keith.

5 Q. Cary Keith?

6 A. Um-hum. (Witness nodding head
7 affirmatively).

8 Q. And who?

9 A. Cory Keith.

10 Q. Brothers, I guess?

11 A. Brothers.

12 Q. Anyone else?

13 A. I'm not sure of the rest. There's
14 always different people.

15 Q. Okay. Are those the ones that you
16 went and drove back with?

17 A. Yes.

18 Q. And, if I understood you right, you

19 left their house, I guess, out through the back way?

20 A. Yes.
21 Q. And you go down the alley?
22 A. Yes.
23 Q. And then do you go in your house
24 through the back way?
25 A. Yes.
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1366

1 Q. I guess there's a gate in the --
2 A. Yes. I mean, the -- my metal gate.
3 Q. Okay. Is that the metal gate that
4 faces the alley?
5 A. Yes.
6 Q. Was it locked, unlocked?
7 A. Unlocked.
8 Q. It's unlocked?
9 A. Yes.
10 Q. Did you lock it when you left?
11 A. No.
12 Q. So it was -- the time that you -- when
13 you saw the police officers out there with their
14 flashlights, that gate was unlocked?
15 A. Yes, it was open.
16 Q. It was open even?
17 A. Open.
18 Q. Oh, okay. You didn't even close the
19 gate that night?
20 A. No.
21 Q. Okay. Now, then you -- and I missed a
22 little bit. I know you said that there was a knife in
23 that backyard. What else? Two knives?
24 A. Yes, two knives and a spoon. And we
25 used a shovel, but we put that up in the little shed we
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1367

1 had.
2 Q. Okay. Is that a big spoon?
3 A. Yeah, a big spoon.
4 Q. Okay. And were y'all using that to --
5 A. To scoop out the mud and dirt.
6 Q. Okay. And did I understand you that
7 you could dig into the dirt a little easier with a knife
8 than with a shovel?
9 A. Yes. We would use the shovel to make
10 a big cut and then the knife to dig out the little stuff.
11 Q. All right. And how big a shovel was
12 this?
13 A. Regular shovel.

14 Q. Okay.
15 A. It was the narrow type.
16 Q. The sharp shooter. Is that what those
17 are called?
18 A. Um-hum. (Witness nodding head
19 affirmatively).
20 Q. The sort of thin ones?
21 A. I guess, yes.
22 Q. That you can dig like one little plant
23 and it's longer than it is wide?
24 A. Yeah.
25 Q. And was that there right beside the
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1368

1 knives?
2 A. No.
3 Q. Where was it?
4 A. In the shed -- it was our neighbor's.
5 So we gave it back to him.
6 Q. So it had gone back to the neighbors
7 by the time all this happened?
8 A. Yes.
9 Q. Was there a screwdriver out there too
10 or not?
11 A. Yes.
12 Q. There was?
13 A. Yes.
14 Q. And was it there with the knives?
15 A. No.
16 Q. Where was it?
17 A. We put it up.
18 Q. It had gone back to your tool shed?
19 A. Um-hum. (Witness nodding head
20 affirmatively.)
21 Q. Okay. And so, if I understand, and
22 you went back out the next morning to check it?
23 A. Yes.
24 Q. Because your curiosity had been raised
25 by that time, hadn't it?
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1369

1 A. Yes.
2 Q. Okay. And, you're certain that that
3 screwdriver wasn't there?
4 A. No, I'm not certain about that.
5 Q. You're not certain about that?
6 A. No.
7 Q. But you are certain the knives were

8 there?

9 A. Yes.

10 Q. And are you certain that the shovel

11 was not there?

12 A. Yes.

13 Q. Now, at what point did somebody pick

14 up those knives?

15 A. I don't know, it was a while later.

16 Q. Did y'all pick up the edging that

17 y'all had and put it back in the garage?

18 A. Yeah, in the shed.

19 Q. In the shed?

20 A. Yes.

21 Q. Okay. And then did the knives go back

22 inside the house?

23 A. Yes.

24 Q. And somebody washed them up?

25 A. Yes.

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1370

1 Q. And they went back to a drawer, I

2 guess?

3 A. Um-hum. (Witness nodding head

4 affirmatively.) Yes.

5 Q. Did you actually hand them over to the

6 police?

7 A. Yes.

8 Q. Did you go to the kitchen drawer and

9 get them out?

10 A. Yes.

11 Q. And when was that?

12 A. I'm not sure of the date.

13 Q. Within the last month?

14 A. Yes.

15 Q. Okay. And that was Officer Bosillo?

16 A. Bosillo.

17 Q. And were you able to recall exactly

18 which knives you had out there?

19 A. Yes, the knives I remember exactly

20 which knives they were.

21 Q. So you went to the kitchen --

22 A. To the drawer.

23 Q. -- drawer and got those two knives?

24 A. Yes, sir.

25 Q. Okay. Did anybody make a note of that

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1371

1 date? Did Bosillo do anything like write his initials on
2 those things so that we could tie down that date?

3 A. Oh, an officer made me sign some
4 papers and pointed out the dates.

5 Q. Was that a Rowlett Police Department
6 officer?

7 A. Yes, sir.

8 Q. He was in uniform or not?

9 A. No.

10 Q. He was in a suit?

11 A. No. He just came over. He was off
12 duty. I think they called him up just for this.

13 Q. And he came with Bosillo?

14 A. I'm not sure about that.

15 Q. Okay. So you think maybe you signed
16 something a different day than the day you handed over
17 the knives?

18 A. No, I signed it. It was the day they
19 picked it up.

20 Q. Same day?

21 A. Yes.

22 Q. And so whatever date you signed that,
23 that's how we could go back and figure out --

24 A. Yes, sir.

25 Q. When you handed over those knives?

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1372

1 A. Yes.

2 Q. But you think that was in December
3 sometime?

4 A. Yes.

5 Q. Okay.

6

7 MR. RICHARD C. MOSTY: That's all I
8 have.

9 THE COURT: May this witness be
10 excused?

11 MR. GREG DAVIS: Yes, sir.

12 MR. RICHARD C. MOSTY: Yes, sir.

13 THE COURT: All right. Thank you very
14 much, sir.