

1 says the defense is allowed to do it, I just don't  
2 recall, but -- no, that helped Mr. Nixon by putting  
3 Terrell Moore up here, parade him in front of the  
4 jury, let him take the Fifth Amendment, given the  
5 inference that he was involved in this attempted  
6 murder in front of the jury. So that was  
7 strategically good on Mr. Nixon's part, I thought.

8 And I objected to it. I hated that Judge McRae  
9 let him do it, but Judge McRae let him do it.

10 Q. Well, let me ask you something else: I have  
11 a few more questions, and I'm sorry to keep you, but  
12 there are numerous lengthy allegations and we do need  
13 to cover them.

14 Let me just ask you briefly, as to people that the  
15 Defendant, Rodney Stanberry, says committed this  
16 crime, I would ask you why were they not charged? And  
17 I have already asked you about Terrell Moore, so I  
18 won't ask about that again.

19 You said, you didn't believe his testimony. Do  
20 you have anything else to add about that?

21 A. No, I think I have covered Terrell Moore.

22 Q. Now, there's a fellow named Angel "Wish" Iho  
23 Melendez. Okay. There is some information that he's  
24 dead, and I think that's also in Mr. Stanberry's  
25 pleadings that he is dead so that pretty much

1 precludes prosecuting him.

2 A. Well, I've never been able -- I don't know if  
3 he's dead or alive or really who he is. I've never  
4 been able to confirm that.

5 Q. And the third person is Rene "Ponytail"  
6 Whitecloud, maybe Rene Barbosa?

7 A. In my opinion "Ponytail" confirmed his  
8 identity, and I suspect he is still in prison in New  
9 York for murder. At least I hope he is.

10 Q. Okay. Now, let me just ask you some  
11 questions about some case law that's out there  
12 regarding presenting evidence. A third party guilt  
13 in a Defendant's trial, where a third party inculcates  
14 himself, and the Defendant tries to bring that  
15 evidence into trial. And one of the requirements, and  
16 we won't go through that because this is the judge's  
17 purview, but one of the requirements is that a  
18 balancing test be made between the Defendant's  
19 interest in presenting his exculpatory evidence, and  
20 the State's interest in a reliable trial through  
21 reliable evidence and not through injection of  
22 unsupported or uncorroborated speculation.

23 Looking at that, would you have felt that  
24 Mr. Moore's testimony would have fit that criteria in  
25 your opinion as an attorney of ten years or more?

1 MR. KNIZLEY: I'm going to object. That's  
2 going to be the Court's --

3 THE COURT: Sustained.

4 MS. TIERNEY: All right, Judge. That's all  
5 I have about that. Let me just check one more  
6 thing, Judge. And I think I'm almost through,  
7 Judge, I just want to review real briefly to  
8 make sure I've covered everything.

9 BY MS. TIERNEY:

10 Q. Okay. Let me ask you one more thing.  
11 There's an allegation that Mr. Nixon was ineffective  
12 because he continued this case for an excessive  
13 period of time. In your opinion, was a continuance by  
14 Mr. Nixon ineffective in respect to the facts of this  
15 case?

16 A. No. In fact, Mr. Nixon could have continued  
17 this case a little bit longer, there probably wouldn't  
18 have been a case because Mrs. Finley died shortly  
19 after this trial.

20 Q. Well, did she not testify at a preliminary  
21 hearing?

22 A. She did not testify at a preliminary hearing.  
23 She -- there was no preserve testimony from Mrs.  
24 Finley. If Mr. Nixon could have continued this a  
25 little bit longer, and Mrs. Finley would have died as

1 she ultimately did, we could not have gone forward in  
2 this case in my opinion.

3 Q. And Mr. Jordan, you are now a criminal  
4 defense attorney; are you not; sir?

5 A. I do a lot of defense work, yes, ma'am.

6 Q. Okay. And in your opinion, would it be good  
7 strategy then to have prolonged this trial and hope  
8 this victim dies?

9 A. Yes, it was a great strategy. And it was  
10 very effective. It didn't prejudice Mr. Stanberry in  
11 any way, it could have only helped him.

12 I'd like to postpone all my cases three years if I  
13 could to see what happens in three years.

14 MS. TIERNEY: That's all I have, Judge.

15 REDIRECT EXAMINATION

16 BY MR. KNIZLEY:

17 Q. Buzz, you said that if Mrs. Finley would have  
18 identified Terrell Moore you would have arrested him  
19 on the spot as the shooter?

20 A. Yes.

21 Q. Well, Mrs. Finley identified positively  
22 "Ponytail" or Rene Whitecloud as the shooter; right?  
23 Right?

24 A. You mean here in town?

25 Q. Well, any town? Mrs. Finley identified

1 "Ponytail" as the shooter?

2 A. Yes.

3 Q. You identified who "Ponytail" was in the New  
4 York penitentiary system?

5 A. Yes.

6 Q. You spoke with him?

7 A. Yes.

8 Q. Did you have him arrested?

9 A. I did not have him arrested.

10 Q. Could you?

11 A. I suspect we could have done a warrant for  
12 him.

13 Q. Never did though?

14 A. Never did.

15 Q. But you believed her testimony  
16 unquestionably?

17 A. Absolutely.

18 Q. Well, you think you were doing your job as a  
19 prosecutor not to prosecute the man who shot the  
20 woman?

21 A. No, I have not prosecuted the man. He's in  
22 Ryker's Prison, and I suspect he's in prison up in New  
23 York for murder.

24 Q. You don't have any idea do you, Buzz, whether  
25 he's in jail or not?

1 A. I don't -- at this time, no.

2 Q. You didn't prosecute him?

3 A. I did not prosecute him.

4 Q. Generally, when you get information that an  
5 eye witness says this person shot me, and you identify  
6 the person, you would have had that man arrested would  
7 you not, if you believed it?

8 A. Well, no. It depends. He is in prison in  
9 New York City. I was actually pretty satisfied with  
10 that.

11 Q. You don't even know whether he was tried or  
12 not?

13 A. Well, I got the indication that they had a  
14 good murder case on him.

15 Q. You don't know though?

16 A. I don't know at this time, no, I don't know.

17 Q. And didn't know then?

18 A. No, I knew he was in Ryker's Prison for  
19 murder.

20 Q. Okay. Now, you talked about some cars being  
21 seen, and there were witnesses who identified Terrell  
22 Moore's car there that day; did they not?

23 A. They testified at trial, yes.

24 Q. And the child that you said that identified  
25 Rodney's car was a mentally-challenge child; was he

1 not?

2 A. In my opinion, he was a very good witness.

3 Q. Was he a mentally-challenge child?

4 A. I don't know what that means.

5 Q. Well, did he seem to be a slow learner,  
6 retarded?

7 THE COURT: If my memory is correct, he  
8 had a brain operation.

9 BY MR. KNIZLEY:

10 Q. Do you remember that, Buzz?

11 A. I don't remember that, but I thought he was  
12 an excellent witness quite frankly.

13 Q. Okay. And Ms. Finley's original  
14 identification was while she was still under the  
15 affects of the coma in the hospital by squeezing the  
16 officer's hand in making the identification; is that  
17 right?

18 A. I don't know about all of that.

19 Q. You don't remember that part?

20 A. I remember part of it, but I just don't  
21 remember the details of that.

22 Q. You were the prosecutor; right?

23 A. I was the prosecutor, and I remember what  
24 you're talking about, but I don't remember the  
25 details.

1 Q. But you do remember her identification in the  
2 hospital was not a verbal identification where she  
3 pointed to a photograph, but she simple squeezed the  
4 investigators hand to get an identification of an  
5 affirmative identification or not?

6 A. I think so, yes.

7 Q. Okay. Do you recall there was some mask that  
8 was seized as evidence in the case that was lost by  
9 the Pritchard Police Department and not available at  
10 trial?

11 A. If that's the fact, Mr. Knizley, I don't  
12 really recall that. And if it was, I think Mr. Nixon  
13 probably made an issue of it.

14 Q. I'm just asking do you remember?

15 A. I don't remember.

16 Q. Okay. And when you talk about your suspicion  
17 of Mr. Moore's confession was based in part upon your  
18 suspicion of Mr. Russell being the person taken the  
19 statement?

20 A. Well, the defense investigator, yes that  
21 always raises a red flag with me.

22 Q. And you alluded to a particular trial, the  
23 trial of Tom Snider?

24 A. That's one trial, yes.

25 Q. Can you name any others please?



1           A.     There was a trial I tried with Mr. Rick  
2 Yelverton that Mr. -- we tried a case and it happened  
3 at somebody's location, and sure enough the day of  
4 trial a witness comes in, who'd never been interviewed  
5 by the police, wasn't even named on any witness list  
6 or anything, never heard of before, she shows up, and,  
7 oh, no, he couldn't have done that because he was with  
8 me or somebody else did or something like that. And  
9 that person was actually acquitted. And that was a  
10 Ryan Russell case.

11           Q.     So you indicated two previous alibi witnesses  
12 that were located by an investigator; right?

13           A.     By Mr. Ryan Russell, two, I'll call mystery  
14 witness.

15           Q.     Well, they are alibi witnesses of what their  
16 testimony was.

17           A.     I don't know if the first one would be an  
18 alibi witness. That might be an eye witness.

19           Q.     And you are not generally, when you're  
20 focused upon a Defendant seeking alibi witnesses are  
21 you?

22           A.     I'm sorry.

23           Q.     You're not generally, when focused upon one  
24 Defendant going out seeking alibi witnesses for that  
25 Defendant?

1 A. I don't know what you're saying.

2 Q. Well, the birthday witness was an alibi  
3 witness; right?

4 A. That was an alibi witness.

5 Q. Mr. Yelverton's witness was an alibi witness;  
6 right?

7 A. That might have been an eye witness.

8 Q. Do you remember?

9 A. I think it was an eye witness.

10 Q. Do you remember?

11 A. I remember an eye witness. I might be wrong.

12 Q. Okay. And -- but it is -- it would be quite  
13 unusual for someone to totally confess for their  
14 responsibility for a crime. That's a little more than  
15 somebody just saying he was an alibi; isn't it?

16 A. Well, that's why I thought this was a pretty  
17 remarkable situation, Mr. Knizley, that  
18 Mr. Stanberry's investigator goes and find somebody to  
19 confess to it, and my victim says, no, he wasn't  
20 involved in it. I was just really perplexed about  
21 what happened with Mr. Moore for him to confess to a  
22 situation that he wasn't even involved with. So yes,  
23 I was surprised by that --

24 Q. And --

25 A. -- will continually be surprised by that.

1 Q. And if you might recall -- and I'm sure  
2 Mrs. Finley went through an awful lot. But at the  
3 trial of the case where they played a tape recording  
4 where she made some representations on the tape  
5 recording that she had made to the police officer; do  
6 you remember that?

7 A. Oh, yes. Mr. Nixon beat her over the head  
8 with that.

9 Q. And do you remember she said, that's my voice  
10 but I didn't say that?

11 A. I remember whatever the transcript said,  
12 Mr. Nixon made a big issue of that in front of the  
13 jury, and I think in his closing arguments, and was  
14 very effective in cross-examining and impeaching Mrs.  
15 Finley with that.

16 Q. Now she's -- and again, she's been through a  
17 lot. But isn't that a little incredible when you have  
18 a tape recording of a police officer who has the voice  
19 of your victim on there, and she says that's my voice,  
20 but I didn't say that, didn't you find that a bit  
21 incredible.

22 A. No, Ms. Valerie Finley was not real educated,  
23 and I don't think she understood the questions or  
24 whatever. So I wasn't surprised by that.

25 Q. You thought that question was complexed or

1 something to that nature?

2 A. It wasn't complexed, but you know, she got a  
3 very -- you got a woman without a lot of  
4 sophistication.

5 Q. You would be unwilling to attribute that to  
6 her memory maybe being clouded by her physical  
7 condition? You wouldn't be willing to give that up?

8 A. No, not with Mrs. Finley.

9 Q. But on some things she's clear, but like on  
10 this tape recorded thing she was not clear?

11 A. No, I wouldn't say that. I would never  
12 characterize her as being clear or unclear.

13 Q. Why do you think she said that was her voice,  
14 but it wasn't what she said on the tape? What is your  
15 explanation for that?

16 A. Because you know it's kind of funny sometimes  
17 you listen to your own voice on a tape recorder, it  
18 doesn't sound like you. And you listen to it, and it  
19 doesn't even sound like your own voice, so I think she  
20 doesn't have a little sophistication to realize --

21 Q. Do you remember her testimony was that it is  
22 my voice?

23 A. I don't remember.

24 Q. Okay. Now, Buzz you were telling us what a  
25 good witness she was, but you can't remember something

1 as dramatic as her saying, that's my voice, talking to  
2 the police, that's my voice, but that's not what I  
3 said.

4 A. No, she was, her demeanor and her as an  
5 excellent -- well, she was an excellent witness, and  
6 Mr. Nixon was very effective in bringing up the point  
7 you made which was made before the jury and was fully  
8 brought before the jury, the jury had that considered  
9 at the time they decided to convict or acquit  
10 Mr. Stanberry.

11 Q. Okay. And you never gained any information  
12 from Mr. Whitecloud or anyone else that Mr. Whitecloud  
13 would say that Mr. "Wish" and another unknown  
14 individual possibly Terrell Moore committed the act  
15 and not him and Rodney?

16 A. Are you referring to "Ponytail"?

17 Q. Yeah. You never got that information from  
18 anybody that "Ponytail" was --

19 A. Mr. Stanberry gave me that information. Sure  
20 Mr. Stanberry has always claimed that somebody else  
21 was involved and the names, all the names he gave, and  
22 they took the guns and they ran off to New York and  
23 there were five or six, you know, different names and  
24 all different people.

25 Q. Other than from the Defendant?

1 A. Well, whatever Terrell Moore said to --

2 Q. Other than Terrell Moore?

3 A. As far as the witnesses that he brought in at  
4 trial?

5 Q. No, as far as Mr. Whitecloud or any law  
6 enforcement agency or any -- either Mr. Whitecloud or  
7 any law enforcement agency ever indicated to you that  
8 Mr. Whitecloud's position was that Mr. "Wish" and some  
9 other person committed the crime?

10 A. No law enforcement has ever revealed that to  
11 me. Now, you are talking about "Ponytail" again;  
12 right?

13 Q. Yes.

14 A. Okay.

15 MR. KNIZLEY: Thank you.

16 MS. TIERNEY: I have no questions, Your  
17 Honor.

18 THE COURT: Thank you, Buzz. Do y'all need  
19 Buzz again?

20 MR. KNIZLEY: No, sir.

21 THE COURT: You may go, Buzz.

22 MS. TIERNEY: Judge, he's going to stay.

23 MR. JORDAN: Judge, I may sit and watch.

24 THE COURT: Certainly.

25 MR. KNIZLEY: We would like to call Mr.