

1 STATE OF MINNESOTA DISTRICT COURT  
 2 COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT  
 3 -----  
 4 State of Minnesota, File No. K6-04-000736  
 5 Plaintiff, Appellate Court  
 6 vs. File No. \_\_\_\_\_  
 7 Philip Randall Vance, VOLUME 3  
 8 Defendant. (October 1 and 4, 2004)  
 9 -----  
 10 The above-entitled matter came duly on for Jury  
 11 Trial before the Honorable Rex D. Stacey, one of the Judges  
 12 of the above-named Court, commencing on September 20, 2004,  
 13 at the Dakota County Judicial Center, City of Hastings,  
 14 County of Dakota, State of Minnesota. **RECEIVED**  
 15 \* \* \* **MAR 22 2005**  
 16 A P P E A R A N C E S  
 17 KATHRYN M. KEENA, Assistant Dakota County  
 18 Attorney, Dakota County Judicial Center, 1560 Highway 55,  
 19 Hastings, Minnesota, 55033, appeared representing the  
 20 State.  
 21 CEAN F. SHANDS, Assistant Public Defender, and  
 22 NITU K. SINGH, Assistant Public Defender, appeared as  
 23 counsel for and on behalf of the defendant.  
 24 THE DEFENDANT appeared personally.  
 25 **COPY**

1 I N D E X  
 2 (October 1 and 4, 2004)  
 3  
 4 WITNESSES: PAGE  
 5 DANIEL VUJOVICH  
 6 DIRECT EXAMINATION BY MS. KEENA (CONT.) 358  
 7 CROSS-EXAMINATION BY MR. SHANDS 363  
 8 REDIRECT EXAMINATION BY MS. KEENA 369  
 9 RECROSS EXAMINATION BY MR. SHANDS 374  
 10 FURTHER REDIRECT EXAMINATION BY MS. KEENA 376  
 11 FURTHER RECROSS EXAMINATION BY MR. SHANDS 377  
 12 FURTHER REDIRECT EXAMINATION BY MS. KEENA 378  
 13 FURTHER RECROSS EXAMINATION BY MR. SHANDS 379  
 14  
 15 REGINA HAGERMAN  
 16 DIRECT EXAMINATION BY MS. KEENA 380  
 17 CROSS-EXAMINATION BY MR. SHANDS 386  
 18 REDIRECT EXAMINATION BY MS. KEENA 388  
 19  
 20 ERIC GRIFFIN  
 21 DIRECT EXAMINATION BY MS. KEENA 389  
 22 CROSS-EXAMINATION BY MS. SINGH 394  
 23 REDIRECT EXAMINATION BY MS. KEENA 397  
 24 RECROSS EXAMINATION BY MS. SINGH 399  
 25  
 26 ISAAC HODGE  
 27 DIRECT EXAMINATION BY MS. KEENA 400  
 28 CROSS-EXAMINATION BY MR. SINGH 404  
 29 REDIRECT EXAMINATION BY MS. KEENA 405  
 30  
 31 TYRONE CRAWFORD  
 32 DIRECT EXAMINATION BY MS. KEENA 407  
 33 CROSS-EXAMINATION BY MR. SHANDS 412  
 34 REDIRECT EXAMINATION BY MS. KEENA 413  
 35  
 36 JOHN P. NUNN  
 37 DIRECT EXAMINATION BY MS. KEENA 414  
 38 CROSS-EXAMINATION BY MR. SHANDS 418  
 39 REDIRECT EXAMINATION BY MS. KEENA 419  
 40 RECROSS EXAMINATION BY MR. SHANDS 420  
 41 FURTHER REDIRECT EXAMINATION BY MS. KEENA 420

1 I N D E X (CONTINUED)  
 2 WITNESSES:  
 3 SANYA M. CLARK  
 4 DIRECT EXAMINATION BY MS. KEENA 421  
 5 PHILLIP OEFFLING  
 6 DIRECT EXAMINATION BY MS. KEENA 424  
 7 DONTAY REESE  
 8 DIRECT EXAMINATION BY MS. KEENA 429  
 9 CROSS-EXAMINATION BY MS. SINGH 439  
 10 REDIRECT EXAMINATION BY MS. KEENA 443  
 11 GERONIMO ESTRADA  
 12 DIRECT EXAMINATION BY MS. KEENA 444  
 13 DANIEL VUJOVICH (Re-called; October 4, 2004)  
 14 DIRECT EXAMINATION BY MS. KEENA 461  
 15  
 16 EXHIBITS:  
 17 NUMBER MARKED OFFERED RECEIVED  
 18 44 - Aerial Photo 360 361 361  
 19 45 - Letter and Envelope 422 --- ---  
 20 46 - Copy of Exh. 45 with redactions 426 427 428  
 21 47A- Compact Disc 456 457 457  
 22 47B- Transcript (Court Exhibit) 456 457 457  
 23  
 24  
 25


1  (Whereupon, the following proceedings  
 2 were duly had of record October 1, 2004:)  
 3 MR. SHANDS: Your Honor, at this time I --  
 4 well, yesterday I had indicated to the Court concern  
 5 that Keitha --  
 6 MS. SINGH: McKinney.  
 7 MR. SHANDS: -- that Keitha McKinney had  
 8 testified. She was represented. She had been  
 9 arrested. I had some concern. I had further found  
 10 out -- I did call her attorney, who I -- Ira Whitlock  
 11 represented Ms. McKinney. He represented her when she  
 12 was arrested. He indicated to me that he still  
 13 represents her. In fact, he represents her on another  
 14 matter. He was not contacted by the County Attorney's  
 15 Office.  
 16 It's our position that evidence -- that her  
 17 testimony is evidence that should not have been in this  
 18 trial. We believe that prejudices Mr. Vance. At this  
 19 time we'd make a motion for a mistrial.  
 20 MS. KEENA: I am totally confused by this  
 21 motion. I don't understand why the defense feels that  
 22 they -- the rights that we're talking about are Keitha  
 23 McKinney's rights, and it's Keitha McKinney's risk when  
 24 she gets up on the stand in that anything she says can  
 25 be used against her in any future court proceedings.

Exhibit P-4

PART # 5

1 She doesn't get to take the stand in front of the jury  
 2 and be advised that she has the right to remain silent  
 3 as a suspect in front of the jury. That isn't the way  
 4 it works. We do that outside the presence of the jury.  
 5 They're her rights; I discussed them with her. She  
 6 told me she talked to her attorney. I told her what  
 7 testimony I was going to elicit from her. She  
 8 indicated to me that she would proceed without her  
 9 attorney, without me granting her any use immunity.

10 So I -- the State doesn't understand what the  
 11 issue is here. And there's no -- it doesn't affect  
 12 this trial in any way, shape, or form.

13 MR. SHANDS: Your Honor, the issue here is  
 14 that there was testimony that was brought up that was  
 15 improperly brought into the courtroom. The Court is to  
 16 advise Ms. McKinney of her rights. It doesn't have to  
 17 happen in front of the jury.

18 THE COURT: Why didn't you ask me to do that?  
 19 MR. SHANDS: Because I didn't --  
 20 THE COURT: I don't know this case. I don't  
 21 have all the reports.

22 MR. SHANDS: Your Honor, I didn't know Keitha  
 23 McKinney was their next witness. Keitha McKinney came  
 24 in here and got on the stand. I didn't know that  
 25 Ms. Keena was out there talking to her about her

1 rights, about use immunity. She hits the stand, and if  
 2 the Court remembers, she was on the stand for  
 3 approximately 30 seconds. I have no -- I'm sitting  
 4 there, she pops up, I don't know, and I'm thinking  
 5 about it.

6 The point is we have improper testimony in  
 7 Mr. Vance's trial. I think --

8 THE COURT: It's not improper testimony.

9 MR. SHANDS: Ms. McKinney -- Ms. McKinney was  
 10 approached as a witness; her attorney was not  
 11 approached. We don't know if her rights were read to  
 12 her. We don't know what she -- what -- I don't know  
 13 what was said. I know what's been said by Ms. Keena.  
 14 It didn't happen in the courtroom; it happened  
 15 somewhere else.

16 I'm making the motion. The Court can deny  
 17 it. I want the record to be clear that we think that  
 18 testimony was improperly admitted in Mr. Vance's trial.  
 19 We think it prejudices him, and we're making the motion  
 20 for a mistrial.

21 THE COURT: Denied.

22 Anything else before we continue?

23 MS. KEENA: Not by the State, Your Honor.

24 MR. SHANDS: How about the -- we also have  
 25 other witnesses.

1 THE COURT: Richard Robinson and Yvonne  
 2 White?

3 MR. SHANDS: Yvonne White -- I'm anticipating  
 4 as the State's -- as they're putting their case in, I  
 5 think she should be advised of her rights. You know,  
 6 some of the people on the witness list -- I don't know  
 7 who Ms. Keena's calling. She hasn't called everyone on  
 8 her witness list. You know, maybe she can inform the  
 9 Court of who she's going to call. She doesn't have to  
 10 tell us. The Court may want to look at the situation  
 11 to see if they need to be advised of their attorney.

12 THE COURT: Okay. And I think I told you  
 13 yesterday Arlene Perkkio called and wants to be present  
 14 when Troy Crawford -- and would like to talk to Troy  
 15 Crawford prior to his testifying.

16 Okay. Then can we continue?

17 MR. SHANDS: Yeah.

18 THE COURT: Bring them in.  
 19 (The jury returned to the courtroom.)

20 DANIEL VUJOVICH  
 21 CONTINUED DIRECT EXAMINATION

22 BY MS. KEENA:  
 23 Q. Captain Vujovich, during the course of your  
 24 investigation, were you down in the area of St. Paul  
 25 where The Buttery bar and the Radisson bar are located?

Exhibit P-4

1 A. Yes, I was.  
 2 Q. And how far apart are those two bars?  
 3 A. About a block, block and a half.  
 4 Q. During your investigation, did you determine what the  
 5 distance is between that vicinity of St. Paul where the  
 6 bars are located and Sabreen's?  
 7 A. Yes, I did.  
 8 Q. And what's the distance?  
 9 A. It's approximately 5.4 miles.  
 10 Q. During your investigation, did you ever drive that  
 11 route and time it?  
 12 A. Yes, I did.  
 13 Q. And what route did you take?  
 14 A. I left from the vicinity of The Buttery bar, went south  
 15 on Robert to Concord, and then I continued on Concord  
 16 into South St. Paul southbound. And when I got to  
 17 Grand Avenue, I made a westbound turn, followed that up  
 18 a hill, where I made a southbound turn on to Third  
 19 Avenue, continued on to Third Street, where I made a  
 20 right-hand turn. So I continued westbound and made a  
 21 quick left-hand turn to continue southbound in the  
 22 alley behind Sabreen's.  
 23 Q. And do you recall how many -- how many stoplights there  
 24 are in that route you took?  
 25 A. I counted 12.

1 Q. And how many stoplights did you hit a red light at?  
 2 A. Four of them.  
 3 Q. And when you drove it, how long did it take you?  
 4 A. Approximately 12 minutes.  
 5 MS. KEENA: Permission to approach, Your  
 6 Honor?  
 7 THE COURT: You may.  
 8 (Exhibit Number 44 was marked for  
 9 identification.)  
 10 THE CLERK: Exhibit 44 marked for  
 11 identification.  
 12 BY MS. KEENA:  
 13 Q. Captain, I'm showing you what's been marked for  
 14 identification as Exhibit 44. Do you recognize that?  
 15 A. I do.  
 16 Q. And what's that -- what is it?  
 17 A. It's an aerial photograph of the area surrounding  
 18 Sabreen's store which was taken by Sergeant Gringo of  
 19 our department.  
 20 Q. And does this picture accurately reflect the area  
 21 around Sabreen's as it existed on December 22<sup>nd</sup>, 2002?  
 22 A. Yes.  
 23 Q. Now I note that there's two notations on the picture  
 24 contained in white boxes. One -- could you just please  
 25 describe what those are?

1 A. One has a notation of Sabreen's, 345 Fourth Avenue  
 2 South. The other one has a notation of 141 Fourth  
 3 Avenue South.  
 4 Q. And during your investigation, did you determine who  
 5 lived at the 141 Fourth Avenue South address --  
 6 A. We did.  
 7 Q. -- as of December 22<sup>nd</sup>, 2002?  
 8 A. Yes, we did.  
 9 Q. And who resided there?  
 10 A. Keitha McKinney, and a friend of hers was staying there  
 11 by the name of Richard Robinson.  
 12 MS. KEENA: For the record, I'm showing  
 13 Exhibit 44 to Counsel.  
 14 Your Honor, the State would offer Exhibit 44.  
 15 MR. SHANDS: No objection, Your Honor.  
 16 THE COURT: Received.  
 17 BY MS. KEENA:  
 18 Q. Captain, I'm going to hand you Exhibit 44 again. Could  
 19 you describe how far apart those two locations are, the  
 20 141 Fourth Avenue South and Sabreen's?  
 21 A. Approximately a block to a block and a half.  
 22 Q. And there's an alley that runs behind Sabreen's. Is  
 23 that correct?  
 24 A. Yes.  
 25 Q. And does that alley run all the way straight through

1 past the 141 Fourth Avenue South address?  
 2 A. Yes, it does.  
 3 Q. Thank you.  
 4 MS. KEENA: Your Honor, may I publish this to  
 5 the jury?  
 6 THE COURT: You may.  
 7 (Exhibit displayed to the jury.)  
 8 BY MS. KEENA:  
 9 Q. Captain, did the South St. Paul Police Department issue  
 10 any press releases during the course of this  
 11 investigation?  
 12 A. Yes, they did.  
 13 Q. In any of those press releases, did your department  
 14 release any information about the items that were  
 15 reported taken from the store?  
 16 A. Other than the -- there was a -- cash that was in the  
 17 articles. No mention of any other items.  
 18 Q. So there was no mention of the lottery tickets?  
 19 A. No.  
 20 Q. Was there any mention of a cordless phone?  
 21 A. No.  
 22 Q. Was there any mention of the white bags?  
 23 A. No.  
 24 Q. And was there any mention of the cigarettes?  
 25 A. No.

1 Q. While this case has been going on, have you been  
 2 retaining newspaper articles?  
 3 A. We've retained them via the Internet, off the Web page.  
 4 We have those articles.  
 5 Q. And have you reviewed all of those articles?  
 6 A. I have and Sergeant Oeffling has also.  
 7 Q. And in those -- and from what newspapers have you been  
 8 doing that from?  
 9 A. St. Paul Pioneer Press and the Minneapolis Star and  
 10 Tribune.  
 11 Q. And in any of the articles that you've seen, has there  
 12 been any information about those missing articles I  
 13 just described?  
 14 A. No.  
 15 MS. KEENA: I have no further questions, Your  
 16 Honor.  
 17 MR. SHANDS: Thank you, Your Honor.  
 18 CROSS-EXAMINATION  
 19 BY MR. SHANDS:  
 20 Q. Captain Vujovich, you talked to Mr. Vance during your  
 21 interviews about articles at the store that were  
 22 missing. Isn't that correct?  
 23 A. Yes.  
 24 Q. You talked to Mr. Vance about the cordless phone. Is  
 25 that correct?

1 A. I don't specifically recall. I may have.  
 2 Q. Isn't it true you talked to Mr. Vance about the plastic  
 3 bags?  
 4 A. Yes.  
 5 Q. Isn't it true you talked to Mr. Vance about the  
 6 cigarettes?  
 7 A. I'm sorry. What?  
 8 Q. About the cigarettes.  
 9 A. Yes.  
 10 Q. Officer Vujovich, do you have problems hearing?  
 11 A. I do have slight hearing loss, yes. If you would speak  
 12 up, I'd appreciate it a little bit.  
 13 Q. I'm sorry.  
 14 A. Thank you.  
 15 Q. Now during the time that -- well, on the sting  
 16 operation with Melissa Stites, you sat in on that.  
 17 Correct?  
 18 A. Yes, I did.  
 19 Q. And at that time you had hearing loss also. Isn't that  
 20 correct?  
 21 A. I do.  
 22 Q. Okay. Now, you testified that you heard over -- well,  
 23 let me go back.  
 24 What kind of hearing device did you have to  
 25 listen to the conversation between Melissa Stites and

1 Mr. Vance?  
 2 A. It's a hand pack, similar like to a walkie-talkie.  
 3 Q. Okay.  
 4 A. You know, if you describe it like that. And it's  
 5 transmitted over that.  
 6 Q. All right. Now, you testified that you heard Mr. Vance  
 7 mention the south side and -- well, he said the south  
 8 side with a Winchester. Is that correct?  
 9 A. Yes.  
 10 Q. Okay. Now, Mr. Vance later told you he was speaking  
 11 about a Fabian Wilson, and he talked about maybe he was  
 12 talking about the south side of Chicago on Winchester  
 13 Street. Is that correct? Do you remember that  
 14 information?  
 15 A. He told me 45<sup>th</sup> and Winchester.  
 16 Q. 45<sup>th</sup> and Winchester. Now, you didn't check to see if  
 17 there was a Winchester on the south side of Chicago,  
 18 did you?  
 19 A. There is, according to the MapQuest.  
 20 Q. Okay. So you checked MapQuest and there was --  
 21 A. Yes.  
 22 Q. -- a Winchester on the south side of Chicago?  
 23 A. Yes.  
 24 Q. Now being the head investigator on this case, you were  
 25 in a position to give inducements to witnesses in

1 exchange for -- in exchange for their information. Is  
 2 that correct?  
 3 MS. KEENA: Objection. What's the definition  
 4 of "inducement"? I'm not sure the officer understands  
 5 what that means.  
 6 BY MR. SHANDS:  
 7 Q. Do you understand what an inducement is?  
 8 A. I don't know -- I don't understand what your meaning of  
 9 it is.  
 10 Q. What's your meaning of "inducement"? What's your  
 11 understanding of it?  
 12 A. We could make a recommendation -- if they had a pending  
 13 case, we could make a recommendation to the attorneys  
 14 that they were cooperating with us.  
 15 Q. Okay. In effect, you've made some recommendations to  
 16 attorneys on people on this case. Isn't that a  
 17 correct -- well, let me be more specific. Isn't it  
 18 true that in exchange for information -- in exchange  
 19 for information from Eric Griffin, you have -- you  
 20 told -- you've promised him that you would talk to the  
 21 prosecuting authorities of Ramsey County about  
 22 dismissing a third-degree controlled substance crime  
 23 case?  
 24 A. I told him we would. I have not spoken to an attorney  
 25 there yet.

Exhibit P-4

1 Q. But that's what you told him you would do if he came in  
 2 and testified. Correct?  
 3 A. We would let them know that he was helping us out, yes.  
 4 Q. Isn't it true that you authorize -- or talked to the  
 5 prosecuting authority, which in this case would be  
 6 Dakota County, that in exchange for Dontay Reese's  
 7 testimony --  
 8 MS. KEENA: Your Honor, I'm going to object.  
 9 May we approach?  
 10 THE COURT: Okay.  
 11 (Off-the-record bench discussion.)  
 12 BY MR. SHANDS:  
 13 Q. Now Officer Vujovich, isn't it true that Dontay Reese,  
 14 in exchange for his testimony, there is agreement that  
 15 he would receive a 36-month decrease on his sentencing  
 16 for a criminal sexual conduct charge in the second  
 17 degree?  
 18 MS. KEENA: Objection, Your Honor. Can we  
 19 approach?  
 20 THE COURT: Yeah.  
 21 (Off-the-record bench discussion.)  
 22 THE COURT: Was that question answered?  
 23 MR. SHANDS: I don't believe so, Your Honor.  
 24 BY MR. SHANDS:  
 25 Q. Officer Vujovich, you've -- are you familiar with a

1 Geronimo Estrada?  
2 A. Yes, I am.  
3 Q. And you're familiar with Mr. Estrada because he had  
4 a -- he had his girlfriend contact you to indicate to  
5 you that he had some information on this case. Is that  
6 correct?  
7 A. Yes.  
8 Q. And with Mr. Estrada, did you authorize or tell  
9 Mr. Estrada about any inducements or exchanges you  
10 would give him in exchange for his testimony?  
11 A. It was not for an exchange for his testimony. I did  
12 give him funds for his inconvenience for phone bills.  
13 Q. You gave him funds for his phone bills. Do you  
14 remember how much?  
15 A. I think at this point approximately \$400 over time.  
16 Q. So you've given him 400 bucks -- \$400 for his phone  
17 bills, not his testimony?  
18 A. To cover his phone calls, yes.  
19 Q. Mr. Estrada contacted you. Isn't that correct?  
20 A. Pardon me?  
21 Q. Well Mr. Estrada, he contacted your department or he  
22 had his girlfriend contact your department.  
23 A. Right, through his girlfriend, wife.  
24 MR. SHANDS: I have no further questions,  
25 Your Honor.

1 MS. KEENA: Just a few follow-up, Your Honor.  
2 REDIRECT EXAMINATION  
3 BY MS. KEENA:  
4 Q. Captain Vujovich, pointing your attention back to the  
5 undercover operation where you heard the conversation  
6 between Mr. Vance and Melissa Stites, you were asked  
7 about the comment about southside and Winchester. What  
8 was -- in the context of that conversation, was there  
9 any discussion about the city of Chicago?  
10 A. No.  
11 Q. Was there any discussion about Fabian Wilson?  
12 A. No.  
13 Q. What was the discussion about?  
14 A. It was talking about -- the conversation was directed  
15 towards guns and when was the last time he had used  
16 one.  
17 Q. In regards to what Dontay Reese and the inducement for  
18 Dontay Reese, how did Dontay Reese become known to you  
19 as a potential witness?  
20 A. One of our officers received a call from an inmate from  
21 the Dakota County Jail indicating that he had  
22 information in this case, and when we met with him, he  
23 suggested that we speak with Dontay Reese.  
24 Q. And the inmate that called your department, he was --  
25 he was in the jail at the time, but where does he

1 typically reside?  
2 A. He lives about a block away from Sabreen's store to the  
3 south of it.  
4 Q. So after you received that information, did somebody go  
5 talk to Dontay Reese?  
6 A. Sergeant Oeffling and I did, yes.  
7 Q. And what was his initial reaction when you came and  
8 spoke to him?  
9 A. He looked at us and said, "I don't want to talk about  
10 it."  
11 Q. But he eventually did.  
12 A. He eventually ended up calling our department and was  
13 in contact with Sergeant Oeffling.  
14 Q. And did he tell you who he had to call before he called  
15 you?  
16 A. (No response.)  
17 Q. In making the decision to --  
18 A. When making his decision, yes, he contacted his mother,  
19 his father, and I believe his attorney.  
20 Q. In regards to Geronimo Estrada, did he ever ask you for  
21 anything in exchange for his cooperation in this case?  
22 A. No.  
23 Q. Why did your department -- well, first let's explain,  
24 he was housed in the Ramsey County Workhouse at the  
25 time he reported. Is that correct?

1 A. Yes.  
2 Q. When inmates are making phone calls out of the jail, is  
3 there an expense for that?  
4 A. Yes, there is. They're collect calls.  
5 Q. So whoever's receiving the phone call has to pay for  
6 it. Correct?  
7 A. Yes.  
8 MR. SHANDS: Objection, Your Honor. Calls  
9 for speculation in this case.  
10 THE COURT: Overruled.  
11 BY MS. KEENA:  
12 Q. So what was the impetus -- or why did you give him this  
13 money for these phone calls?  
14 A. Well, the short story of it is that he has a young  
15 child with his wife; he's not employed. He was at  
16 Ramsey County Workhouse. His wife was working in a  
17 pizza restaurant, and the calls were starting to build  
18 up when he was calling home. The expense were there,  
19 and we helped him out so he could continue to call his  
20 family and also that he could call us if he needed to.  
21 Q. After Mr. Estrada came forward, are you aware of any  
22 difficulties that he had in the Ramsey County  
23 Workhouse?  
24 MR. SHANDS: Objection, Your Honor.  
25 Irrelevant.



1 THE COURT: Overruled.

2 THE WITNESS: He had an incident where he was

3 assaulted that he thought could be in connection with

4 this case.

5 BY MS. KEENA:

6 Q. And in recalling the -- I believe it was the

7 June 18<sup>th</sup> statement of Mr. Vance yesterday, did you --

8 you mentioned to Mr. Vance during that interview

9 about -- you didn't name Mr. Estrada, but you mentioned

10 that there was someone in the jail that had

11 information. Is that correct?

12 MR. SHANDS: Objection, Your Honor. Leading.

13 Counsel's testifying.

14 THE COURT: Sustained.

15 BY MS. KEENA:

16 Q. During the June 18<sup>th</sup> interview, did you tell Mr. Vance

17 that you had additional information?

18 A. Yes.

19 Q. And was -- and what was that information?

20 A. We had heard thirddhand that --

21 MR. SHANDS: Objection, Your Honor. Hearsay.

22 THE COURT: Overruled.

23 BY MS. KEENA:

24 Q. You may continue.

25 A. Okay. We had heard thirddhand that another individual

1 that was with Mr. Vance may have been the actual

2 shooter in this case, so we wanted to present that

3 information to Mr. Vance to see what his response would

4 be.

5 Q. In regards to Mr. Estrada, did you tell him about that

6 information on June 18<sup>th</sup>, without mentioning

7 Mr. Estrada's name? That you had additional

8 information from an inmate.

9 A. We told Mr. Vance that, yes.

10 Q. Yeah. Okay.

11 What happened to Mr. -- you indicated

12 Mr. Estrada was assaulted while in jail.

13 A. (Nodding.)

14 Q. What happened then?

15 A. We requested the Ramsey County Workhouse to put him

16 into protective custody for his safety.

17 Q. And did they do that?

18 A. Yes, they did.

19 Q. And what does "protective custody" in the workhouse

20 mean?

21 A. Basically it's segregation from the other inmates and

22 very limited contact with anyone else.

23 Q. And how often do they get out of their cell when

24 they're in segregation?

25 MR. SHANDS: Objection, Your Honor. Calls

1 for speculation. Irrelevant.

2 THE COURT: Well, do you know?

3 THE WITNESS: I'm sorry, can you repeat

4 the --

5 BY MS. KEENA:

6 Q. When they're in segregation like that -- well, in

7 Mr. Estrada's case, do you know how often he would get

8 out of his cell?

9 A. I don't know. It was just described to me as limited.

10 MS. KEENA: I have nothing further, Your

11 Honor.

12 MR. SHANDS: Just briefly, Your Honor.

13 RE-CROSS EXAMINATION

14 BY MR. SHANDS:

15 Q. Now, you talked -- you spoke to Mr. -- you spoke to

16 Mr. Estrada that you had obtained information that

17 someone else other than Mr. Vance was the shooter at

18 Sabreen's?

19 A. Not from Mr. Estrada.

20 Q. I know you didn't receive it from Mr. Estrada, but that

21 was the information you received. Isn't that correct?

22 A. Yes.

23 Q. Yes. The money that you gave Mr. Estrada was for him

24 to be able to use the telephone at no expense to other

25 people. Is that correct?

1 A. No expense to his family, yes.

2 Q. You weren't with Mr. Estrada and looked at every phone

3 call and only gave him money for the phone calls that

4 went to his home, did you?

5 A. No.

6 Q. Okay. So basically when they submitted or if they ask

7 for money for phone expenses, you gave it to them, but

8 you don't -- but you didn't verify who he called.

9 A. No.

10 Q. So the phone call money was just for that, phone calls.

11 A. That's what I gave it to him for.

12 Q. Isn't it true that Dontay Reese would refuse to talk to

13 you when you first came to him about this case?

14 A. He said he did not want to talk to us, yes.

15 Q. He refused to talk to you.

16 MS. KEENA: Objection. Asked and answered.

17 THE COURT: Okay. Go ahead.

18 BY MR. SHANDS:

19 Q. But after you spoke about the possibilities of what you

20 can do with him, then he spoke to you?

21 A. He contacted Sergeant Oeffling on his own, yes.

22 MR. SHANDS: I have no further questions,

23 Your Honor.

24

25

1 FURTHER REDIRECT EXAMINATION

2 BY MS. KEENA:

3 Q. Captain Vujovich, you indicated that in the

4 June 18<sup>th</sup> statement that you had received information

5 that someone other than Vance was the shooter.

6 A. Yes.

7 Q. Did you track that information down?

8 A. Sergeant Oeffling followed up on that, and to the best

9 of our ability.

10 Q. And what were the results of that part of the

11 investigation?

12 MR. SHANDS: Objection, Your Honor. It calls

13 for hearsay.

14 THE COURT: Would -- Oeffling's going to

15 testify. Right?

16 MS. KEENA: He opened it. He asked him about

17 it, so I should be able to follow up.

18 MR. SHANDS: Can we approach?

19 THE COURT: Okay.

20 (Off-the-record bench discussion.)

21 THE COURT: Objection --

22 MS. KEENA: Captain --

23 THE COURT: Sorry. Objection's overruled.

24 Go ahead.

25

1 BY MS. KEENA:

2 Q. Captain Vujovich, the information that you received,

3 you indicated that it was followed up on.

4 A. Yes.

5 Q. And what was the nature of that information? Who did

6 it come from?

7 A. It came from -- do you want the name specifically?

8 Q. Yes.

9 A. It was through Eugene O'Connor, who received it through

10 Regina Hagerman --

11 MR. SHANDS: Objection, Your Honor --

12 THE COURT: Overruled.

13 THE WITNESS: -- who received it through

14 Vanessa Franko.

15 BY MS. KEENA:

16 Q. So -- and who was -- who were they indicating that the

17 shooter was?

18 A. Dominic Johnson.

19 MS. KEENA: I have no further questions.

20 FURTHER RE-CROSS EXAMINATION

21 BY MR. SHANDS:

22 Q. Did Mr. Estrada indicate to you that there were other

23 people present when he -- when he spoke with Mr. Vance?

24 MS. KEENA: Your Honor, I'm going to object.

25 That's outside the scope of the redirect.

1 THE COURT: Overruled.

2 THE WITNESS: He said there were other people

3 present, yes.

4 BY MR. SHANDS:

5 Q. Okay. And when Mr. Estrada was in the workhouse,

6 Ramsey County Workhouse, there were other people in the

7 workhouse besides Mr. Vance that were being

8 investigated for the Sabreen's robbery. Isn't that

9 correct?

10 A. I don't know if that individual was there at that time

11 or not.

12 Q. I'm not speaking of that individual. There were other

13 people at the Ramsey County Workhouse besides Mr. Vance

14 that you -- that was -- that you suspect was involved

15 in the Sabreen's robbery. Is that correct?

16 MS. KEENA: Your Honor, I'm going to object.

17 Can we approach, please?

18 THE COURT: Okay.

19 (Off-the-record bench discussion.)

20 MR. SHANDS: I have no further questions,

21 Your Honor.

22 FURTHER REDIRECT EXAMINATION

23 BY MS. KEENA:

24 Q. Captain Vujovich, did you attempt to talk to the other

25 people that were present during the conversations that

1 Mr. Estrada reported to you?

2 A. We did talk to one person that was there, yes.

3 Q. And was that person cooperative?

4 A. No.

5 MS. KEENA: I have nothing further.

6 FURTHER RE-CROSS EXAMINATION

7 BY MR. SHANDS:

8 Q. When you say that person wasn't cooperative, that means

9 they didn't talk to you.

10 A. Did but had no comments about that.

11 MR. SHANDS: Okay. I have no further

12 questions.

13 MS. KEENA: Nothing further.

14 THE COURT: Thank you.

15 (The witness was excused.)

16 MS. KEENA: Can we take a short break so I

17 can line up who's here and who's not?

18 THE COURT: Okay. Ten minutes?

19 (The jury exited the courtroom.)

20 (A short recess was taken.)

21 (The jury returned to the courtroom.)

22 THE CLERK: Please step forward to be sworn.

23 Please raise your right hand.

24 (The oath was administered.)

25 THE CLERK: Please have a seat.

REGINA HAGERMAN - DIRECT

380

1 For the record, please state your full name,  
2 spelling your first and last name.  
3 THE WITNESS: Regina Hagerman. R-E-G-I-N-A,  
4 H-A-G-E-R-M-A-N.  
5 THE CLERK: Thank you.  
6 REGINA HAGERMAN,  
7 having been first duly sworn, was examined and testified on  
8 her oath as follows:  
9 DIRECT EXAMINATION  
10 BY MS. KEENA:  
11 Q. Good morning.  
12 A. Good morning.  
13 Q. Ms. Hagerman, do you know an individual by the nickname  
14 of Florida?  
15 A. Yes.  
16 Q. And is the person that you know by that nickname  
17 present in the courtroom today?  
18 A. Yes.  
19 Q. Where is he at?  
20 A. (Indicating.) Right there.  
21 MS. KEENA: May the record reflect that  
22 Ms. Hagerman has identified the defendant, Philip  
23 Vance?  
24 THE COURT: It may.  
25

REGINA HAGERMAN - DIRECT

1 BY MS. KEENA:  
2 Q. How do you know Mr. Vance?  
3 A. He used to go out with my niece.  
4 Q. And what's her name?  
5 A. Darlene Jones.  
6 Q. And is -- who's your mother?  
7 A. Jacqueline Ezell.  
8 Q. I would like to draw your attention to January of 2003.  
9 Did Mr. Vance come to your house during that month?  
10 A. Yes.  
11 Q. And when did he come there?  
12 A. The day before the Super Bowl.  
13 Q. So it was a Saturday?  
14 A. I think so.  
15 Q. Was that the first time you had met Mr. Vance?  
16 A. Yes.  
17 Q. What was he doing at your house that day?  
18 A. Visiting my niece, drinking and talking.  
19 Q. And how long was he at your house that day?  
20 A. About five, six hours.  
21 Q. And while he was at your house, did he say anything  
22 about a murder?  
23 A. Yes.  
24 Q. What did he say?  
25 A. He just said he was under investigation for a murder.

REGINA HAGERMAN - DIRECT

382

1 Q. And did he say anything else?  
2 A. That him and his friend did it. That's it.  
3 Q. Did he say anything about the investigation itself?  
4 A. No.  
5 Q. Did he say anything about the police?  
6 A. No.  
7 MS. KEENA: Just one moment, Your Honor.  
8 THE COURT: Okay.  
9 BY MS. KEENA:  
10 Q. When he told you this, what was his demeanor?  
11 A. He was drunk.  
12 Q. Was he acting drunk or did you think he was really  
13 drunk?  
14 MR. SHANDS: Objection, Your Honor.  
15 THE COURT: Overruled.  
16 THE WITNESS: Do I answer?  
17 BY MS. KEENA:  
18 Q. Yeah.  
19 A. I don't know because I had just met him, so I don't  
20 know.  
21 Q. Did you notice anything else about his demeanor, how he  
22 was acting?  
23 A. Strange. I don't know.  
24 Q. What do you mean by "strange"?  
25 MR. SHANDS: Objection, Your Honor. Calls  
**Exhibit P-4**

REGINA HAGERMAN - DIRECT

383

1 for speculation.  
2 THE COURT: Overruled.  
3 THE WITNESS: I really can't explain. He was  
4 just drunk, laughing. I don't know.  
5 BY MS. KEENA:  
6 Q. You testified in the grand jury in this matter.  
7 Correct?  
8 A. Yeah.  
9 MS. KEENA: Permission to approach, Your  
10 Honor?  
11 THE COURT: (Nodding.)  
12 MR. SHANDS: Your --  
13 MS. KEENA: Ms. Hagerman --  
14 MR. SHANDS: Your Honor, I'm going to object  
15 at this point.  
16 THE COURT: Why don't you come up.  
17 (Off-the-record bench discussion.)  
18 BY MS. KEENA:  
19 Q. Ms. Hagerman, again, you testified at the grand jury  
20 back in March it was, I believe --  
21 A. Yeah.  
22 Q. -- correct? And earlier -- this is a copy of your  
23 grand jury testimony. Okay?  
24 A. Yes.  
25 Q. And I want you to use this to refresh your memory.



1 A. Okay.

2 Q. Okay? Now earlier I asked you about whether or not he

3 indicated that the police had said anything -- or that

4 they said anything about the police. I just want you

5 to read through this.

6 A. Which part?

7 Q. Right here.

8 A. Read that?

9 Q. No, just read it to yourself to refresh your memory.

10 A. (Pause.) All right.

11 Q. Okay. So when Mr. Vance was over there that day, did

12 he say anything about the police and the investigation?

13 A. He said this (indicating).

14 Q. Okay. What did he say? Don't read it; just what you

15 remember.

16 A. I don't remember.

17 Q. (Indicating.)

18 A. Oh, what I just read. He said he was under

19 investigation but -- I don't remember. And they

20 wasn't -- under investigation and they wasn't going to

21 be able to prove it.

22 Q. And would it help if I gave you your initial interview

23 to refresh your memory?

24 A. It might.

25 Q. Ms. Hagerman, I'm showing you a transcript of the

1 interview that the police conducted of you on

2 April 23<sup>rd</sup>, 2003. Okay?

3 A. (Nodding.)

4 Q. (Indicating.)

5 A. (Pause.) I don't remember that. (Pause.)

6 Q. Do you remember that?

7 A. (Nodding.)

8 Q. Okay. So this statement was taken over a year ago.

9 Right?

10 A. Yeah.

11 Q. You're having a little trouble remembering this

12 morning?

13 A. Yeah, this is early.

14 Q. Okay. So does that refresh your memory? Asking you

15 the question again, did he say anything about the

16 police and the investigation?

17 A. He just said he was under investigation for a murder

18 him and his friend committed, but he had good lawyers

19 and they wasn't coming up with nothing, the police.

20 Q. Okay.

21 A. Am I done?

22 Q. Nope. The other question I had asked you was about his

23 demeanor, and I'm going to show you your grand jury

24 testimony again. So I'm just going to ask you to

25 review this again.

1 A. (Pause.)

2 Q. So you indicated that he was acting drunk?

3 A. Yes.

4 Q. Okay. And strange?

5 A. Yes.

6 Q. And you answered this -- did you think he was serious

7 when he told you that?

8 A. I don't know.

9 Q. You don't know?

10 A. I had just met him, so --

11 Q. Okay.

12 MS. KEENA: I have no further questions, Your

13 Honor.

14 MR. SHANDS: Just briefly, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. SHANDS:

17 Q. Ms. Hagerman, Mr. Vance had been at your house for

18 approximately about five hours. Correct?

19 A. Yes.

20 Q. Okay. And during that time, he had been drinking

21 alcohol.

22 A. Right.

23 Q. Okay. And he was drunk.

24 A. Correct.

25 Q. And isn't it true that when you told him that -- when

1 he told you that him and a friend did it, you thought

2 that he was trying to be hard. Isn't that correct?

3 A. It was like he was bragging about something.

4 Q. Right. He was sitting there bragging --

5 MS. KEENA: Objection, Your Honor.

6 THE COURT: Sustained. Go ahead.

7 BY MR. SHANDS:

8 Q. Can you tell me what you -- can you tell me what

9 "trying to be hard" means to you?

10 A. Bragging, stuff like that.

11 Q. Isn't it true "trying to be hard" is trying to impress

12 other people?

13 A. Yes.

14 Q. Okay. Mr. Vance didn't talk about any details.

15 A. No.

16 Q. But he said they would not be able to prove it. Is

17 that correct?

18 A. Correct.

19 Q. And this -- and I just want to make sure: This was the

20 day before the Super Bowl?

21 A. Yes.

22 Q. Okay. And that was -- was that at the end of January

23 or was it in February?

24 A. I don't remember.

25 Q. You don't remember --

1 A. I don't watch it.

2 Q. Okay.

3 MR. SHANDS: I have no further questions.

4 REDIRECT EXAMINATION

5 BY MS. KEENA:

6 Q. Ms. Hagerman, when he -- he told you that they were

7 under investigation -- that he was under investigation

8 for a murder. Correct?

9 A. Correct.

10 Q. And you were asked questions about -- you indicated

11 that he was bragging. Correct?

12 A. Correct.

13 Q. Did what he tell you impress you?

14 A. I don't know who --

15 MR. SHANDS: Objection, Your Honor.

16 Objection. Question calls for speculation.

17 THE COURT: Overruled.

18 BY MS. KEENA:

19 Q. Did that impress you?

20 A. I don't know who -- no, I don't know who he was trying

21 to impress.

22 MS. KEENA: I have no further questions, Your

23 Honor.

24 MR. SHANDS: I have no further questions.

25 THE COURT: Thank you.

1 (The witness was excused.)

2 THE CLERK: Please step forward to be sworn.

3 (The oath was administered.)

4 THE CLERK: Please have a seat.

5 For the record, please state your full name,

6 spelling your first and last name.

7 THE WITNESS: Eric Griffin. E-R-I-C,

8 G-R-I-F-F-I-N.

9 THE CLERK: Thank you.

10 ERIC GRIFFIN,

11 having been first duly sworn, was examined and testified on

12 his oath as follows:

13 DIRECT EXAMINATION

14 BY MS. KEENA:

15 Q. Good morning, Mr. Griffin.

16 A. Good morning.

17 Q. As a preliminary matter, I would like to briefly review

18 your criminal history. You have a conviction for

19 nonsupport, failure to pay child support, from October

20 of '97 and a conviction for controlled substance crime

21 in the fifth degree from March of 2000. Is that

22 correct?

23 A. Yes.

24 Q. I'd also like to review with you what you're receiving

25 in exchange for your cooperation in this case. Okay?

1 A. Yes.

2 Q. It's my understanding that you have a pending drug

3 charge in Ramsey County. Is that correct?

4 A. Yes.

5 Q. And that the arresting agency was the Minnesota Gang

6 Strike Force, and they have agreed to recommend to the

7 prosecutor that that drug charge be dismissed for your

8 cooperation. Is that correct?

9 A. Yes.

10 Q. Do you know two individuals with the nicknames of

11 Florida and Stacks?

12 A. Yes.

13 Q. And is the person that you know as Florida present in

14 the courtroom today?

15 A. Yes.

16 Q. And where is he at?

17 A. (Indicating.)

18 MS. KEENA: May the record reflect that the

19 witness has identified Philip Vance?

20 THE COURT: It may.

21 BY MS. KEENA:

22 Q. How long have you known Mr. Vance?

23 A. Maybe about two years.

24 Q. And how long have you known Stacks or -- do you know

25 Stacks' real name?

1 A. No.

2 Q. How long have you known Stacks?

3 A. Maybe about the same.

4 Q. How would you describe your relationship with

5 Mr. Vance?

6 A. Okay -- okay friends, I guess.

7 Q. How often would you see each other?

8 A. Pretty much about maybe three, four times a week.

9 Q. And where would you typically see him?

10 A. Downtown St. Paul.

11 Q. I would like to draw your attention to the evening of

12 December 22<sup>nd</sup>, 2002. Are you familiar with The Buttery

13 bar?

14 A. Yes.

15 Q. And where is that located?

16 A. Downtown St. Paul.

17 Q. And were you at The Buttery that evening?

18 A. Yes.

19 Q. What time did you arrive?

20 A. Around 10:00.

21 Q. And did you go there by yourself?

22 A. Yes.

23 Q. While you were at The Buttery that night, did you see

24 Mr. Vance and Stacks?

25 A. Yes.

1 Q. Did they arrive after you or were they already in the  
2 bar --  
3 A. After.  
4 Q. They arrived after you.  
5 A. Yes.  
6 Q. Did you speak with Mr. Vance that night?  
7 A. Yes.  
8 Q. And where were you at in the bar when you were talking  
9 to him?  
10 A. At the bar just with my back toward the window.  
11 Q. What was Mr. Vance's demeanor that night when you were  
12 talking to him?  
13 A. Just kind of wild, you know, from drinking.  
14 Q. Do you recall what he was wearing that night?  
15 A. Black hooded sweater and dark blue jeans.  
16 Q. And in describing the blue jeans, were they a  
17 tight-fitting jean? A loose-fitting jean?  
18 A. Loose fitting.  
19 Q. When you spoke with Mr. Vance, was it just a one-on-one  
20 conversation or were there other people present?  
21 A. Yes, there was other people present around me, but it  
22 was just me and him speaking, you know. They was on  
23 their own conversation.  
24 Q. What was the substance of the conversation that you had  
25 with Mr. Vance?

1 A. We was talking about like robberies and  
2 Q. And what did he tell you?  
3 A. He said that he had did a robbery and it had gone bad,  
4 and the guy he was robbing, he had fucked him up.  
5 Q. And did he indicate where this had occurred?  
6 A. In South St. Paul.  
7 Q. And you said that -- that he said he fucked him up?  
8 A. Uh-huh.  
9 Q. Did he say anything about who he robbed?  
10 A. No.  
11 Q. And did he say anything about where in South St. Paul  
12 this had occurred?  
13 A. No.  
14 Q. Do you know Dontay Reese?  
15 A. No.  
16 Q. Do you know Fabian Wilson?  
17 A. No.  
18 Q. Do you know Regina Hagerman?  
19 A. No.  
20 Q. Do you know Tyrone Crawford?  
21 A. No.  
22 Q. Do you know John Nunn?  
23 A. No.  
24 Q. Do you know Isaac Hodge?  
25 A. No.

1 Q. Do you know Geronimo Estrada?  
2 A. No.  
3 MS. KEENA: I have no further questions.  
4 MS. SINGH: Thank you, Your Honor.  
5 CROSS-EXAMINATION  
6 BY MS. SINGH:  
7 Q. Mr. Griffin, you stated that you've known Mr. Vance for  
8 about two years now?  
9 A. Yeah.  
10 Q. So back in two thousand -- back in December of 2002,  
11 you'd only known him for a short amount of time?  
12 A. Yeah.  
13 Q. Now you stated that you used to see him about three or  
14 four times a week at that time.  
15 A. Yeah.  
16 Q. Okay. You also stated that that evening on the 22<sup>nd</sup> he  
17 had a black hooded sweatshirt and loose-fitting blue  
18 jeans on. Right?  
19 A. Yeah.  
20 Q. Now you saw Mr. Vance quite a few times during that  
21 time period. Correct?  
22 A. Uh-huh.  
23 Q. Is that a "yes"?  
24 A. Yes.  
25 Q. And was that a general outfit that he wore during the

1 times that you saw him?  
2 A. He wore different outfits, you know.  
3 Q. But he generally wore loose-fitted jeans?  
4 A. Yeah.  
5 Q. And he generally wore sweaters or hooded sweatshirts?  
6 A. Yes.  
7 Q. Now Mr. Griffin, you spoke to individuals from the  
8 Minnesota Gang Task Force. Is that correct?  
9 A. Yes.  
10 Q. And the first contact you had with them was  
11 January 5<sup>th</sup> of 2004. Correct?  
12 A. I can't recall what date it was, the exact date.  
13 Q. Okay. But your first contact with them, you spoke to  
14 them about having them help you get out of jail?  
15 A. Yes.  
16 Q. You were in custody for the offense of the controlled  
17 substance. Correct?  
18 A. Yes.  
19 Q. And that conversation -- the first conversation you had  
20 regarded having them help you out of jail?  
21 A. Yes.  
22 Q. And you told them you had information on this  
23 particular case, and you would only speak to them if  
24 they helped you get out of jail?  
25 A. Yes.

ERIC GRIFFIN - CROSS

316

Q. And the Task Force people along with individuals from the South St. Paul Police Department told you that they would work on that for you.

A. Yes.

Q. And then they came back and spoke to you on another day?

A. Yes.

Q. And that's when they told you that they had spoken to the people and they were going to get you out of jail?

A. Yes.

Q. And that's when you gave them the information that you gave them?

A. Yes.

Q. Now you stated that when Mr. Vance told you he committed a robbery and he fucked him up -- those were the words that you used. Correctly [sic]?

A. Yes.

Q. Excuse me. You took that to mean he beat up the person. Correct?

A. Yes.

Q. And you didn't take him seriously that evening. Correct?

A. Yes.

Q. You stated that he was acting kind of wild and was drunk that night.

ERIC GRIFFIN - REDIRECT

A. Yes.

Q. Now Mr. Griffin, you were drinking as well that evening. Correct?

A. Yes.

MS. SINGH: I have no further questions.

REDIRECT EXAMINATION

BY MS. KEENA:

Q. Mr. Griffin, how many drinks had you had prior to talking to Mr. Vance?

A. Well, maybe one or two.

Q. And you indicated that Mr. Vance wore different types of outfits as well?

A. Yes.

Q. What other types of outfits would he wear?

A. Just regular jeans or khakis, T-shirts.

Q. So you've seen him in lots of different types of clothing?

A. Yes.

Q. Mr. Griffin, was it easy for you to step forward and provide this information?

MR. SHANDS: Objection, Your Honor.

Irrelevant.

THE COURT: Overruled.

THE WITNESS: Excuse me?

ERIC GRIFFIN - REDIRECT

398

BY MS. KEENA:

Q. Was it easy for you to step forward and provide this information to the Minnesota Gang Strike Force?

A. No.

Q. Have you had any negative consequences as a result of stepping forward?

A. Yes.

Q. What are they?

A. Well, I had to leave town.

Q. And why did you have to leave town?

A. Because I felt threatened.

Q. How so? What happened?

A. It was an incident that some guys pulled me over and asked me about --

MR. SHANDS: Objection, Your Honor. Beyond the scope of cross. Irrelevant.

THE COURT: Overruled.

THE WITNESS: These guys had pulled me over and asked me about Florida and Stacks, and once -- I didn't know who they was at first when they asked me to come to the car, and I didn't come to the car. And I asked them could they get out. The guy got out and he asked me a question. I can't really recall what it was. Then he asked me about Florida and Stacks, and then he proceeded to go to the --

Exhibit P-4

ERIC GRIFFIN - RECROSS

399

MR. SHANDS: Objection, Your Honor. I'm going to object to this sort of testimony as being narrative. I'd ask that they ask questions.

THE COURT: Overruled.

THE WITNESS: And he asked me -- after I told him yeah, I knew who he was and he stepped from the car, it seemed like he was retrieving something from the guy in the back seat, and I took off running. And since then I had to pack up and move.

BY MS. KEENA:

Q. And you moved out of state?

A. Yes.

MS. KEENA: I have nothing further.

RE-CROSS EXAMINATION

BY MS. SINGH:

Q. Now Mr. Griffin, you've never been threatened by Mr. Vance. Isn't that correct?

A. No.

MS. SINGH: I have no further questions.

MS. KEENA: Nothing further.

THE COURT: Thank you. You can step down. (The witness was excused.)

MS. KEENA: Your Honor, may we approach, please?

THE COURT: Come on up.

Never examined / cross examined

(Off-the-record bench discussion.)

THE COURT: Break time.

(The jury exited the courtroom.)

(A short recess was taken.)

(The jury returned to the courtroom.)

MS. KEENA: Your Honor, the State would call Isaac Hodge as a witness.

THE CLERK: Would you please stop to be sworn? Please raise your right hand.

(The oath was administered.)

THE CLERK: You may be seated.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: Isaac Hodge, III. Isaac, I-S-A-A-C. Last name Hodge, H-O-D-G-E, III.

ISAAC HODGE, III,  
having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good morning, Mr. Hodge. As a preliminary matter, I would like to briefly review your criminal history. You have a 1997 and a 1998 conviction for controlled substance crime in the fifth degree?

A. Yes.

Q. Do you know an individual by the name of Philip Vance?

A. Yes.

Q. And the person that you know as Philip Vance, is he present in the courtroom today?

A. Yes.

Q. Where is he located?

A. Sitting over there (indicating).

MS. KEENA: May the record reflect that the witness has identified the defendant, Phillip Vance?

THE COURT: It may.

BY MS. KEENA:

Q. How do you know Mr. Vance?

A. I know him from Sherburne County. We were locked up together for a period of time.

Q. And do you recall what time period you were housed together?

A. I left Sherburne in July, so it was probably April, May, June, July somewhere.

Q. That was July of 2003 you left?

MR. SHANDS: Objection, Your Honor. Leading.

THE COURT: What year was it?

THE WITNESS: 2003 that I left.

BY MS. KEENA:

Q. During the time that you were housed together, did you get to know Mr. Vance?

A. We was having little conversations, you know, play volleyball, play cards, things like that.

Q. While you were housed with Mr. Vance, was there an occasion where he voiced some concern to you about seeing someone's picture in the paper?

A. Yeah, we was looking in the paper and we saw some guy in there -- do you know what I'm saying -- which was Cross, and he said, "Man, this dude put my name in some bullshit."

Q. And what was the person's name?

A. His last name was Cross. I don't know them all like that.

Q. Did -- after seeing that picture, did you engage in any conversation --

A. Yeah, we had a short conversation. Basically, you know, walked up and had a short conversation, you know. We were talking about -- he was telling me about -- he just basically said like a murder-robbery had happened.

Q. That he was involved in the murder-robbery?

A. Yeah, a murder-robbery.

Q. Did you have any other conversations regarding that?

A. He had came back from Kansas. I asked him why he came back from Kansas if he was in trouble. You know, he was just saying that basically he was involved in a murder-robbery or whatever. I was, like, "Man, why

would you come back from Kansas if people are looking for you?" He said, "To get some money."

Q. That was his response?

A. Yeah.

Q. What was it?

A. "To get some money."

Q. Did he tell you who else was involved in the murder-robbery?

A. No, he didn't get into no specific details about the incident or where it took place. He was basically saying that, you know, he was involved in a murder-robbery, meaning that, you know, someone got killed on a robbery.

Q. Did he say anything about the type of gun?

A. No, but he told me a couple of war stories. I know when he caught his federal case, it was a little gun. So I started joking he had a little gun on him, you know. At the time of the incident we were talking about that, he didn't directly state what type of gun it was.

Q. Okay. Mr. Hodge, have you received anything in exchange here for your testimony today?

A. No.

MS. KEENA: I have no further questions.

MS. SINGH: Thank you, Your Honor. If I



1 could just have one minute.  
2 THE COURT: Yep.  
3 (Pause.)  
4 CROSS-EXAMINATION  
5 BY MS. SINGH:  
6 Q. Mr. Hodge, the conversation that you are speaking of  
7 with Mr. Vance occurred after he saw a picture of a  
8 person in the paper. Is that correct?  
9 A. Yes.  
10 Q. And you stated that person's name was Cross, but you  
11 didn't know him?  
12 A. No, I didn't know the dude.  
13 Q. Mr. Vance told you that this Mr. Cross put him in some  
14 bullshit. Is that your testimony?  
15 A. Yes.  
16 Q. And then he told you that he was being investigated for  
17 a robbery-homicide.  
18 A. Yes.  
19 Q. Okay.  
20 **A** No, he said the dude put his name in some bullshit, but  
21 he didn't say he was being investigated for it. He  
22 said he was involved in it.  
23 Q. Now Mr. Hodge, he never gave you any details about the  
24 gun or where the robbery occurred.  
25 A. No.

1 MS. SINGH: I have no more questions, Your  
2 Honor.  
3 REDIRECT EXAMINATION  
4 BY MS. KEENA:  
5 Q. Just so we're clear, Mr. Vance said he was involved in  
6 a robbery-murder.  
7 A. Yes.  
8 Q. Okay. Thank you.  
9 A. Meaning that, you know, they robbed somebody and  
10 somebody got killed.  
11 MR. SHANDS: Objection, Your Honor.  
12 THE WITNESS: He said it wasn't worth it.  
13 MR. SHANDS: Objection, Your Honor.  
14 Nonresponsive. Move to strike the witness's last  
15 statements.  
16 THE COURT: Well --  
17 MS. KEENA: I can ask follow-up questions.  
18 THE COURT: Okay. I mean, it wasn't  
19 nonresponsive. It was --  
20 MS. KEENA: More than we were expecting.  
21 THE COURT: Yeah.  
22 BY MS. KEENA:  
23 Q. I'm sorry. You indicated that Mr. Vance said something  
24 else?  
25 A. Yeah, like it wasn't worth it.

1 Q. That killing somebody wasn't worth it?  
2 A. Yeah, because I guess the amount of money that was took  
3 wasn't worth it.  
4 MS. KEENA: I have nothing further, Your  
5 Honor.  
6 MS. SINGH: No more questions, Your Honor.  
7 THE COURT: Thank you, Mr. Hodge.  
8 (The witness was excused.)  
9 MS. KEENA: Your Honor, may we approach,  
10 please?  
11 THE COURT: Yeah.  
12 (Off-the-record bench discussion.)  
13 THE COURT: Okay. We're going to break for  
14 lunch and start again at 1:00, so you'll get a jump on  
15 everybody going to lunch in town.  
16 And I want to -- I neglected to tell you  
17 prior to our having listened to a number of tapes that  
18 the attorneys, of course, have reviewed all the tapes,  
19 transcripts. "Redacted" means certain things that you  
20 don't need to hear are taken out. And I should have  
21 told you that right upfront, but now you know.  
22 Thanks.  
23 (The jury exited the courtroom.)  
24 (Lunch recess.)  
25 (The jury returned to the courtroom.)

1 MS. KEENA: Your Honor, the State would call  
2 Tyrone Crawford.  
3 THE CLERK: Please stand to be sworn. Please  
4 raise your right hand.  
5 (The oath was administered.)  
6 THE CLERK: Please have a seat.  
7 For the record, please state your full name,  
8 spelling your first and last name.  
9 THE WITNESS: Tyrone Powell Crawford.  
10 T-Y-R-O-N-E, C-R-A-W-F-O-R-D.  
11 THE CLERK: Thank you.  
12 TYRONE CRAWFORD,  
13 having been first duly sworn, was examined and testified on  
14 his oath as follows:  
15 DIRECT EXAMINATION  
16 BY MS. KEENA:  
17 Q. Good afternoon, Mr. Crawford. As a preliminary matter,  
18 I would like to briefly review your criminal history.  
19 You have an October '98 conviction for check forgery  
20 and a February 2004 conviction for mail fraud. Is that  
21 correct?  
22 A. Yes.  
23 Q. From the time period of -- I'd like to point your  
24 attention to the time period of February 2002 until  
25 March 31<sup>st</sup>, 2004. Were you housed at the Sherburne

1 County Jail on the mail fraud charge?  
2 A. Yes.  
3 Q. Do you know an individual by the nickname of Florida?  
4 A. Yes.  
5 Q. And is the person that you know as Florida present in  
6 the courtroom today?  
7 A. Yes.  
8 Q. Where is he at?  
9 A. Seated (indicating) right there.  
10 MS. KEENA: May the record reflect that the  
11 witness has identified Philip Vance?  
12 THE COURT: It may.  
13 BY MS. KEENA:  
14 Q. Mr. Crawford, I'm going to refer to him as Mr. Vance  
15 for my questioning. Okay?  
16 A. (Nodding.)  
17 Q. Did you have contact with Mr. Vance while you were  
18 incarcerated in the Sherburne County Jail?  
19 A. Yes.  
20 Q. Were the two of you housed together in the jail?  
21 A. Yes.  
22 Q. Approximately how long were you housed together?  
23 A. Several months at a time. They were bouncing us around  
24 from different unit to different unit.  
25 Q. While you were housed together, did you establish a

1 relationship with Mr. Vance as far as, you know, going  
2 things with him, talking to him?  
3 A. Yes, somewhat.  
4 Q. While you were housed together, did Mr. Vance express  
5 or voice any concern to you after seeing a newspaper  
6 article?  
7 A. Well, it was prior to the news article.  
8 MR. SHANDS: Objection, Your Honor.  
9 Nonresponsive.  
10 THE COURT: Overruled.  
11 THE WITNESS: We had a conversation where we  
12 knew the -- a mutual person, and he was expressing  
13 concern about a situation that had -- that he had been  
14 into before, and he was concerned that he was going to  
15 be getting him into trouble with that. He wasn't quite  
16 sure who the person was, but I knew who he was. And he  
17 didn't know what he looked like; he just knew his name.  
18 BY MS. KEENA:  
19 Q. Okay. So then what happened next?  
20 A. Well, I don't know what you mean by "what happened  
21 next."  
22 Q. Well, getting to the newspaper article.  
23 A. Oh. After the -- is it all right if I say his name?  
24 Q. Yeah.  
25 A. Monk, he had -- he had got in some trouble, and the

1 newspaper article had came out. And he had seen his  
2 picture and said, "Oh, yeah, I know him," you know,  
3 and --  
4 Q. And could you -- do you know Monk's real name?  
5 A. Maynard Cross.  
6 Q. Okay. And -- so Mr. Vance indicated that he knew who  
7 that guy was?  
8 A. Yes.  
9 Q. And did he say anything about that?  
10 A. Well, what he was concerned about is there was a  
11 robbery that happened that he had shot somebody, and at  
12 the time I thought he was just joking around about it  
13 or -- you know, a lot of people lie around there. And  
14 when the -- the news -- the thing come out in the news,  
15 I knew the stuff was real, you know. But what he was  
16 saying, though, is that Maynard Cross was going to  
17 testify against him about shooting somebody, you know,  
18 at a grocery store.  
19 Q. So did Mr. Vance tell you that he was under  
20 investigation for a robbery and homicide?  
21 A. He -- he didn't tell me he was under investigation, but  
22 he told me that it had happened. He didn't tell me,  
23 "I'm under investigation for it." He was just more  
24 concerned about him being under investigation about it  
25 because this was shortly after I had met him, so we

1 didn't go real into detail about it. He just said that  
2 it had happened.  
3 Q. And did he tell you what he did?  
4 A. He just told me he shot a guy at the grocery store, and  
5 he was concerned that that was going to come back on  
6 him.  
7 Q. Did he give you any information on whether anyone else  
8 was involved?  
9 A. No, he didn't.  
10 Q. Did he -- when he spoke about this, did he use the  
11 pronoun that "I did this" or "we did this"?  
12 A. When I say he didn't give any indication about anybody  
13 else, he didn't mention any names, but I was pretty  
14 sure that he didn't do it by his-self. He didn't  
15 mention anybody else's name.  
16 Q. And what made you think that he didn't do it by  
17 himself?  
18 A. Well, the nouns that you were referring to, "we," "us,"  
19 things like that. But --  
20 Q. Mr. Crawford, are you receiving anything in exchange  
21 for your cooperation in this case?  
22 A. No.  
23 MS. KEENA: I have no further questions.  
24 MR. SHANDS: Just briefly, Your Honor.  
25

## CROSS-EXAMINATION

1  
2 BY MR. SHANDS:  
3 Q. Mr. Crawford, you mentioned that he indicated to you  
4 that he was concerned with Maynard Cross telling the  
5 police or telling on him about this crime. Correct?  
6 A. Yes.  
7 Q. So he did indicate to you that he -- that Maynard Cross  
8 had some information about this crime.  
9 A. Yes.  
10 Q. He indicate -- and it's true that the information that  
11 he was worried that Maynard Cross had was very  
12 important.  
13 A. Can you repeat --  
14 Q. It was very important information --  
15 A. Oh, yes.  
16 Q. -- in regards to it.  
17 A. Yes.  
18 Q. Now you talked about in jail -- at first you didn't  
19 believe Mr. Vance when he told you about it. Correct?  
20 A. Yes.  
21 Q. Because people in jail, they're always talking about  
22 they're killing somebody or --  
23 MS. KEENA: Objection, Your Honor.  
24 THE COURT: Well, overruled.  
25

1 BY MR. SHANDS:  
2 Q. People in jail often talk about killing somebody or to  
3 make themselves look hard while they're in jail.  
4 A. Yes.  
5 Q. Can you explain to the jury -- when I say make them  
6 "look hard," make themselves "look hard," can you  
7 explain to the jury what that means.  
8 A. Sometimes they brag about crimes and things that they  
9 committed to make themselves look so much more tougher  
10 than they really are.  
11 Q. Okay. And is it true that they also brag about things  
12 that they didn't do or just mix things up to make them  
13 look tougher?  
14 A. It's not just with violence. It's with money or  
15 anything. They just lie about their whole life, you  
16 know.  
17 Q. Thank you.  
18 MR. SHANDS: I have no further questions.  
19 REDIRECT EXAMINATION  
20 BY MS. KEENA:  
21 Q. And just so we're clear, you initially thought that  
22 Mr. Vance was puffing?  
23 A. Yes.  
24 Q. And you changed that opinion?  
25 A. Yes.

1 MS. KEENA: I have nothing further, Your  
2 Honor.  
3 MR. SHANDS: I have nothing further.  
4 THE COURT: Thank you, Mr. Crawford.  
5 (The witness was excused.)  
6 THE CLERK: Please step forward to be sworn.  
7 Please raise your right hand to be sworn.  
8 (The oath was administered.)  
9 THE CLERK: Please have a seat.  
10 For the record, please state your full name,  
11 spelling your first and last name.  
12 THE WITNESS: John Peter Nunn. J-O-H-N,  
13 N-U-N-N.  
14 THE CLERK: Thank you.  
15 JOHN P. NUNN,  
16 having been first duly sworn, was examined and testified on  
17 his oath as follows:  
18 DIRECT EXAMINATION  
19 BY MS. KEENA:  
20 Q. Good afternoon, Mr. Nunn. As a preliminary matter, I  
21 would like to briefly review your criminal history.  
22 You have a May 28<sup>th</sup>, 2003, conviction for conspiracy to  
23 distribute narcotics?  
24 A. Yes.  
25 Q. Mr. Nunn, do you know an individual by the nickname of

1 Florida?  
2 A. Yes.  
3 Q. And the person that you know as Florida, is he present  
4 in the courtroom today?  
5 A. Yes.  
6 Q. Would you please --  
7 A. (Indicating.)  
8 Q. -- point out -- okay.  
9 MS. KEENA: May the record reflect that the  
10 defendant has identified the defendant, Philip Vance?  
11 THE COURT: It may.  
12 BY MS. KEENA:  
13 Q. How do you know Mr. Vance?  
14 A. I was in the county jail with him and the Sandstone  
15 prison.  
16 Q: And which county jail were you in with him?  
17 A. Sherburne.  
18 Q. And how did you initially meet Mr. Vance?  
19 A. When I came in the county jail and moved into the unit  
20 that they moved -- that they was in, him and my nephew  
21 was friends.  
22 Q. And your nephew is who?  
23 A. Isaac Hodge.  
24 Q. Did you have contact with Mr. Vance while you were  
25 incarcerated with him in those -- both facilities?

1 A. In the county jail, we was in the same unit, and in  
2 Sandstone, we used to walk the yard together and play  
3 pool.  
4 Q. During the time that you had contact with him, was  
5 there any conversation regarding a crime that Mr. Vance  
6 was being investigated for?  
7 A. Yeah, in Sandstone.  
8 Q. Would you please describe what that conversation was or  
9 what Mr. Vance told you?  
10 A. Yeah. We was just walking the yard and discussing  
11 about a gun that was supposed to have been at  
12 somebody's house or something, a girl's house.  
13 Q. Okay.  
14 A. And a robbery.  
15 Q. Okay. What did he say about the robbery?  
16 A. That somebody had got murked in the robbery and that  
17 the gun that -- he was afraid of it being found.  
18 Q. So did he -- did he tell you that he had committed this  
19 robbery?  
20 MR. SHANDS: Objection, Your Honor.  
21 THE WITNESS: Yeah.  
22 MR. SHANDS: Leading.  
23 THE COURT: Overruled. Go ahead.  
24 BY MS. KEENA:  
25 Q. Did he tell you that he committed this robbery?

1 A. Yeah, it was just only me and him talking.  
2 Q. Okay. And you used the term "murk," that he -- what  
3 did he say in that regard?  
4 A. That somebody had got murked.  
5 Q. And what does that mean?  
6 A. To me it means two different ways: Somebody could have  
7 got hurt or got shot at, or somebody could have got  
8 shot and killed.  
9 Q. And you said he was concerned about somebody finding  
10 the gun?  
11 A. Yeah.  
12 Q. Okay. What did he tell you in that regard?  
13 A. That it was a twenty-two and that it was at some girl's  
14 house, and the reason why I know the area that he -- he  
15 was talking about the area, which I know because my son  
16 had used to live in that area.  
17 Q. And what area was he talking about?  
18 A. Maryland. Right off of Maryland and 35W.  
19 Q. Okay.  
20 A. Or 35E. *XX*  
21 Q. Okay. Mr. Nunn, have you received anything in exchange  
22 for your testimony here today?  
23 A. No.  
24 MS. KEENA: I have no further questions.  
25

1 CROSS-EXAMINATION  
2 BY MR. SHANDS:  
3 Q. Now Mr. Nunn, it's your testimony that Mr. Vance told  
4 you about a gun that he wanted to get. He was  
5 concerned about a gun that was over -- over near 35E  
6 and Maryland. When he was in the yard, he was  
7 concerned about this gun because he didn't want the  
8 authorities to find it. Correct?  
9 A. Yeah.  
10 Q. And he told -- in fact, he told you a street where it  
11 was. Correct?  
12 A. No.  
13 Q. He didn't tell you the street?  
14 A. No, he described it, the area. That's how I know.  
15 Q. Okay. And did you tell that to the police?  
16 A. Yeah. *X*  
17 Q. Now you indicated -- is it your cousin, Isaac Hodge?  
18 A. My nephew.  
19 Q. Your nephew? Now he was in custody with Mr. Vance also  
20 during this time?  
21 A. During the time that we had that conversation?  
22 Q. Yeah.  
23 A. No.  
24 Q. When did you find out that --  
25 A. We was in Sandstone when we had the conversation.

1 Q. Okay.  
2 A. I met Vance in the county jail.  
3 Q. Okay. Was your cousin at the county jail at the time  
4 when you met Vance?  
5 A. My nephew.  
6 Q. Your nephew?  
7 A. Yeah, he was at the county jail. All of us was in the  
8 same block.  
9 Q. Okay. Did you have occasion to talk to your cousin --  
10 your nephew, I'm sorry -- your nephew when you were  
11 down at the county jail and all of you guys were  
12 together?  
13 A. Yeah.  
14 MS. KEENA: Could we --  
15 MR. SHANDS: I have no further questions,  
16 Your Honor.  
17 REDIRECT EXAMINATION  
18 BY MS. KEENA:  
19 Q. I just want to clarify what county jail we're talking  
20 about.  
21 A. Sherburne County.  
22 Q. Okay. You didn't have any conversation -- have you had  
23 any conversations with Isaac Hodge about this case?  
24 A. No.  
25 Q. And did you discuss your testimony with Isaac Hodge at

JOHN P. NUNN - RECROSS

420

SANYA M. CLARK - DIRECT

1 all?  
2 A. No.  
3 MS. KEENA: I have nothing further, Your  
4 Honor.

## RECROSS EXAMINATION

BY MR. SHANDS:

7 Q. Have you talked -- have you spoken with Isaac Hodge  
8 since the time that you guys were together in the  
9 county jail?

10 A. Yeah. *X*

11 MR. SHANDS: I have no further questions,  
12 Your Honor.

## FURTHER REDIRECT EXAMINATION

BY MS. KEENA:

15 Q. What did you guys talk about? Well, let me --

16 A. We --

17 Q. Let me put it to you this way: Did you talk about this  
18 case when you last spoke to Isaac Hodge?

19 A. No, because I didn't know nothing about I was being  
20 even called for a witness or nothing until just a few  
21 weeks ago, and I hadn't -- I hadn't talked to him since  
22 I've known that and now.

23 Q. Okay.

24 MS. KEENA: Nothing further.

25 MR. SHANDS: Nothing further, Your Honor.

1 THE COURT: Thank you, Mr. Nunn.

2 (The witness was excused.)

3 THE CLERK: Please step forward to be sworn.

4 Please raise your right hand.

5 (The oath was administered.)

6 THE CLERK: Please have a seat.

7 For the record, please state your full name,  
8 spelling your first and last name.

9 THE WITNESS: Sanya Marie Clark. "Sanya" is  
10 spelled S-A-N-Y-A. "Clark" is spelled C-L-A-R-K.

11 THE CLERK: Thank you.

12 SANYA M. CLARK,

13 having been first duly sworn, was examined and testified on  
14 her oath as follows:

## DIRECT EXAMINATION

BY MS. KEENA:

17 Q. Good afternoon, Ms. Clark. Ms. Clark, do you know  
18 Philip Vance?

19 A. Yes.

20 Q. And is he present in the courtroom today?

21 A. Yes.

22 Q. And could you point him out, please?

23 A. (Indicating.)

24 MS. KEENA: May the record reflect that the  
25 witness has identified Philip Vance?

SANYA M. CLARK - DIRECT

422

SANYA M. CLARK - DIRECT

423

1 THE COURT: It may.

BY MS. KEENA:

3 Q. How long have you known Philip Vance?

4 A. Six years.

5 Q. And how would you describe your relationship to  
6 Mr. Vance?

7 A. On-again, off-again love interest.

8 Q. And do you share a child in common?

9 A. Yes.

10 Q. Back in September of 2003, Mr. Vance was incarcerated  
11 in Sherburne County Jail. Is that correct?

12 A. Yep.

13 Q. And were you involved in sending letters on his behalf?

14 A. Yes.

15 Q. And those letters were being sent to Dominic Johnson?

16 A. Yep.

17 MS. KEENA: Permission to approach, Your  
18 Honor?

19 THE COURT: You may.

20 (Exhibit Number 45 was marked for  
21 identification.)

22 THE CLERK: Exhibit 45 marked for  
23 identification.

BY MS. KEENA:

24 Q. Does Mr. Vance write you letters?  
25

**Exhibit P-4**

1 A. Yes.

2 Q. Okay. So you're familiar with his handwriting?

3 A. Uh-huh. Yes.

4 Q. I'm showing you what's been marked for identification  
5 as Exhibit 45. And it's a letter -- or it contains a  
6 letter and an envelope. Do you recognize these items?

7 A. Uh-huh. Yeah.

8 Q. And the envelope has a return address, Sanya Clark. Is  
9 that correct?

10 A. Yep.

11 Q. And what's the date of this letter?

12 MR. SHANDS: Your Honor, I'm going to object.

13 Can we --

14 THE COURT: Why don't you come up.

15 (Off-the-record bench discussion.)

BY MS. KEENA:

17 Q. So is this one of the letters that you sent to Dominic  
18 Johnson on behalf of Philip Vance?

19 A. Yeah.

20 Q. And you were doing this because you know that inmates  
21 in one facility can't send letters to inmates in  
22 another facility.

23 MR. SHANDS: Objection, Your Honor.

24 Counsel's testifying.

25 THE WITNESS: County.



1 THE COURT: You can rephrase that.  
2 BY MS. KEENA:  
3 Q. Why were you sending these letters on Mr. Vance's  
4 behalf?  
5 A. County jails that he was in were not able -- he wasn't  
6 able to send out to a different facility.  
7 MS. KEENA: Okay. I have no further  
8 questions, Your Honor.  
9 MR. SHANDS: I have no questions, Your Honor.  
10 THE COURT: Thank you, Ms. Clark.  
11 (The witness was excused.)  
12 MS. KEENA: Your Honor, the State would call  
13 Phil Oeffling.  
14 (The oath was administered.)  
15 THE CLERK: Please have a seat.  
16 For the record, please state your full name,  
17 spelling your first and last name.  
18 THE WITNESS: Phillip, P-H-I-L-L-I-P, Nick,  
19 Oeffling is spelled O-E-F-F-L-I-N-G.  
20 THE CLERK: Thank you.  
21 PHILLIP N. OEFFLING,  
22 having been first duly sworn, was examined and testified on  
23 his oath as follows:  
24 DIRECT EXAMINATION  
25

1 BY MS. KEENA:  
2 Q. Good afternoon.  
3 A. Good afternoon.  
4 Q. Where are you currently employed?  
5 A. South St. Paul Police Department.  
6 Q. And what position do you hold there?  
7 A. I'm a sergeant currently assigned to investigations.  
8 Q. And how long have you been employed in your current  
9 position?  
10 A. Just about a year as investigator and ten years as an  
11 officer.  
12 Q. And that's all with the South St. Paul Police  
13 Department?  
14 A. Correct. Yep.  
15 Q. Are you a licensed peace officer?  
16 A. Yes, I am.  
17 Q. I would like to draw your attention to the date of  
18 September 23<sup>rd</sup>, 2004. Did you have occasion to go out  
19 to the Minnesota Correctional Facility in Stillwater  
20 and engage in a search?  
21 A. Yes, I did.  
22 Q. Would you please describe how that came about?  
23 A. Captain Vujovich had heard from a witness in this case,  
24 Regina Hagerman, that her fiance, who's also housed in  
25 Stillwater, had received a threat over her involvement

1 in this case. Reportedly that threat had come via a  
2 letter from the defendant to Dominic Johnson, who's  
3 also housed in Stillwater.  
4 Q. And so did you go out --  
5 A. I contacted the prison investigator and informed him  
6 what we'd been told, and he arranged for us to review  
7 all of Johnson's correspondence.  
8 Q. And did you go out and do that?  
9 A. Yes, I did.  
10 Q. And did you find the -- a threatening letter concerning  
11 Regina Hagerman?  
12 A. No.  
13 Q. Did you find any other letters?  
14 A. I did, yes.  
15 MS. KEENA: Permission to approach, Your  
16 Honor?  
17 THE COURT: You may.  
18 (Exhibit Number 46 was marked for  
19 identification.)  
20 THE CLERK: Exhibit 46 marked for  
21 identification.  
22 BY MS. KEENA:  
23 Q. I'm showing you what's been marked for identification  
24 as Exhibits 45 and 46. First drawing your attention to  
25 Exhibit 45, do you know what that item is?

1 A. That's the letter that I found at Stillwater.  
2 Q. And this was found where?  
3 A. The envelope -- the letter was with the envelope.  
4 Q. And where in Stillwater was it?  
5 A. Oh, I'm sorry. It was found in Dominic Johnson's cell  
6 and brought into an interview room, where I reviewed  
7 it.  
8 Q. And I'm showing you Exhibit 46. Can you describe what  
9 that is.  
10 A. It's a letter that was addressed -- the envelope, at  
11 least, was addressed to Dominic Johnson, and the letter  
12 is written to Dominic Johnson and signed by Florida  
13 Boy. And then on the back there's the defendant's  
14 information as to -- with instructions to write him  
15 back, to Johnson.  
16 Q. And is item -- item 46, with the exception that some of  
17 the information's been redacted, is that a copy of the  
18 original that we're seeing in Exhibit 45?  
19 A. Yes, it is.  
20 Q. And that's an accurate copy?  
21 A. Correct.  
22 MS. KEENA: For the record, I'm showing  
23 Exhibit 46 to Counsel.  
24 (Pause.)  
25 MS. KEENA: Your Honor, the State would offer

1 Exhibit 46.  
 2 MR. SHANDS: No objection.  
 3 THE COURT: Received.  
 4 BY MS. KEENA:  
 5 Q. Officer Oeffling, could you just read the first couple  
 6 sentences here?  
 7 A. Of this paragraph here?  
 8 Q. Of this -- well, starting up --  
 9 A. Okay. It begins 10:23 p.m, lock-down, the date of 9/10  
 10 of '03. It reads, "What's up my nigga. I always  
 11 somehow seem to find you -- find you last. See they  
 12 got you in the Cloud. Damn." Continues, "Before I  
 13 holler at you I'm going to let you know," and then in  
 14 capital letters, "never, ever discuss the past."  
 15 MS. KEENA: Thank you. I have no further  
 16 questions.  
 17 MR. SHANDS: I have no questions, Your Honor.  
 18 THE COURT: Thank you.  
 19 THE WITNESS: Thank you.  
 20 (The witness was excused.)  
 21 MS. KEENA: May we approach, Your Honor?  
 22 THE COURT: Yeah.  
 23 (Off-the-record bench discussion.)  
 24 THE COURT: Break time.  
 25 (The jury exited the courtroom.)

1 (A short recess was taken.)  
 2 (The jury returned to the courtroom.)  
 3 MS. KEENA: The State would call Dontay  
 4 Reese.  
 5 THE CLERK: Please stand to be sworn. Please  
 6 raise your right hand.  
 7 (The oath was administered.)  
 8 THE CLERK: Please have a seat.  
 9 For the record, please state your full name,  
 10 spelling your first and last name.  
 11 THE WITNESS: Dontay Reese. D-O-N-T-A-Y,  
 12 R-E-E-S-E.  
 13 THE CLERK: Thank you.  
 14 DONTAY REESE,  
 15 having been first duly sworn, was examined and testified on  
 16 his oath as follows:  
 17 DIRECT EXAMINATION  
 18 BY MS. KEENA:  
 19 Q. Good afternoon, Mr. Reese.  
 20 A. (Nodding.)  
 21 Q. As a preliminary matter, I would like to briefly review  
 22 your criminal history. You have a theft conviction  
 23 from October of '99, a burglary from June of 2000, a  
 24 controlled substance crime in the fifth degree from  
 25 June of 2000, and a theft of a motor vehicle from

1 December of 2001. Is that correct?  
 2 A. Yeah.  
 3 Q. I'd also like to review as a preliminary matter what  
 4 you're receiving in exchange for your cooperation in  
 5 this case. Okay?  
 6 A. (Nodding.)  
 7 Q. You're currently awaiting sentencing on a felony case.  
 8 Is that correct?  
 9 A. Right.  
 10 Q. And the prison sentence that you could possibly get is  
 11 98 months. Correct?  
 12 A. Right.  
 13 Q. And that my office has agreed to recommend to the  
 14 sentencing judge that you be given a reduction of 36  
 15 months. Is that correct?  
 16 A. Right.  
 17 Q. Turning to the case at hand, do you know Philip Vance?  
 18 A. Yep.  
 19 Q. And is the person that you know as Philip Vance present  
 20 in the courtroom today?  
 21 A. Yep.  
 22 Q. Where is he at?  
 23 A. (Indicating.)  
 24 MS. KEENA: May the record reflect that the  
 25 witness has identified Philip Vance?

1 MR. SHANDS: Your Honor, maybe if we could  
 2 have the witness be a little more specific who  
 3 Mr. Vance is.  
 4 THE COURT: What's he wearing?  
 5 THE WITNESS: I ain't got my glasses, but it  
 6 looks like a bone-colored shirt.  
 7 THE COURT: Okay. The record may reflect  
 8 that he's identified Mr. Vance.  
 9 BY MS. KEENA:  
 10 Q. Mr. Reese, how long have you known Mr. Vance?  
 11 A. Five -- five, six years.  
 12 Q. And how did you initially meet him?  
 13 A. Downtown. Downtown St. Paul.  
 14 Q. And -- I'm sorry.  
 15 A. Shoot -- we were shooting dice and stuff, so I met him.  
 16 Q. Did you hang out with Mr. Vance?  
 17 A. Yeah, a couple times at bars mostly downtown.  
 18 Q. And how often would you get together with Mr. Vance?  
 19 A. Not -- I don't know. Every -- it's been a while, but  
 20 every time we got together, it was probably once a week  
 21 or something like that, every Friday, Saturday.  
 22 Q. Do you consider him a friend?  
 23 A. Yeah, it's -- yeah.  
 24 Q. Do you know Dominic Johnson?  
 25 A. No.

1 Q. Do you know someone by the name -- nickname of Stacks?  
 2 A. Yeah.  
 3 Q. And how long have you known him?  
 4 A. About the same amount of time, take away a year.  
 5 Q. So --  
 6 A. About four years? Four years, five years, something  
 7 like that.  
 8 Q. And how did you meet Stacks?  
 9 A. I met Stacks the same spot downtown doing the same  
 10 thing.  
 11 Q. And so you did the same types of things with Stacks  
 12 that did you with Mr. Vance?  
 13 A. Yes.  
 14 Q. When you were with Mr. Vance, was Stacks with you on  
 15 those occasions as well?  
 16 A. Was Stacks with Vance? Yeah.  
 17 Q. So all three of you would be together?  
 18 A. Yes.  
 19 Q. How would you describe the relationship between  
 20 Mr. Vance and Stacks?  
 21 A. Close. Real close. Like brothers.  
 22 Q. You were incarcerated in the Dakota County Jail this  
 23 past year. Is that correct?  
 24 A. Right.  
 25 Q. While you were there, did you have contact with

1 Mr. Vance?  
 2 A. Yes.  
 3 Q. Was there a time when the two of you were housed in the  
 4 same unit in the jail?  
 5 A. Yep, there was a couple times.  
 6 Q. And did you and Mr. Vance speak to each other?  
 7 A. Yep.  
 8 Q. During your conversations with Mr. Vance, did he tell  
 9 you anything about the crime that he was charged with?  
 10 A. Yeah, he did.  
 11 Q. And did he tell you things in one conversation or was  
 12 there several conversations?  
 13 A. It was -- it was -- it was a bunch of conversations on  
 14 and off.  
 15 Q. And when did these conversations occur?  
 16 A. The first -- the first conversation was like five  
 17 months ago. I don't really -- I don't really remember  
 18 the time. It was about five, six months ago when I  
 19 first went to max. And then after that -- do you know  
 20 what I'm saying -- it was conversations when I got out  
 21 of max and came back to max. It was conversations and  
 22 people interrupting and stuff like that.  
 23 Q. So you're saying people interrupting you. Why was that  
 24 important?  
 25 A. Because -- do you know what I'm saying -- you don't

1 want to talk about -- you don't want to talk about your  
 2 case -- do you know what I'm saying -- around so many  
 3 ears. And at the time -- do you know what I'm  
 4 saying -- me and -- before this took place, me and  
 5 Florida boy were kind of close, so he was able to tell  
 6 me stuff. And then anybody that would come around,  
 7 we'd cut the conversation dead or he would step in my  
 8 room and the guard would be, like, get out of my room  
 9 and we'd start the conversation back up later or  
 10 something.  
 11 Q. As it relates to this case, what did Mr. Vance tell  
 12 you?  
 13 A. Basically he -- well, the first conversation was him  
 14 telling me that he -- he said he didn't do -- he said  
 15 he didn't do what he did, and then I told him he ain't  
 16 got to lie to me. And he said -- and then I brought up  
 17 "Why are you wearing a mask" and stuff. And he said --  
 18 I said, "Why you wearing a mask if you're going" -- do  
 19 you know what I'm saying -- "if you was going to kill  
 20 the dude anyways?" That's when he was, like, "Well, it  
 21 wasn't supposed to go down like that. Stacks" -- do  
 22 you know what I'm saying -- he called him "Cuz" at the  
 23 time. He said, "Cuz said my name and stuff."  
 24 Q. So let's back up a little bit. Were you aware of  
 25 the -- did he tell you where this happened?

1 A. Not -- not at this point in time. Not this  
 2 conversation.  
 3 Q. Okay. I'm sorry. Keep going with what you were  
 4 saying.  
 5 A. Right. Well, he said -- he said -- anyway, he was,  
 6 like, "Cuz said my name and it wasn't supposed to go  
 7 down like that. I was zooted, I was drunk" -- do you  
 8 know what I'm saying -- "and I gave the dude five. And  
 9 then we got the money and got lit" -- do you know what  
 10 I'm saying -- "They dropped us back off downtown."  
 11 Now I ain't know nothing about no -- nothing  
 12 at this time. This is just the first conversation I  
 13 remember.  
 14 Q. Okay. Did you have another conversation about it?  
 15 A. Uh-huh.  
 16 Q. That's a "yes"?  
 17 A. Yes. Yes. Sorry.  
 18 Q. What was said during the next conversation?  
 19 A. I'm not -- I don't remember how it went in order, but I  
 20 mean as far as -- as far as him telling me that he was  
 21 with the females and stuff like that, that all came --  
 22 that all came in the conversation we were talking about  
 23 him, "E", which is John -- do you know what I'm  
 24 saying -- about them doing something with some chicks  
 25 at the little bar.

DONTAY REESE - DIRECT

436

1 Q. What's the little -- is there another name for the  
2 little bar?  
3 A. No. Small bar.  
4 Q. Do you know where it's at?  
5 A. It's right next to the Radisson.  
6 Q. Okay. So he told you that who -- who was at the -- at  
7 the little bar?  
8 A. Him, "E", and Stacks.  
9 Q. And I'm sorry. Who was "E"?  
10 A. "E" is John.  
11 Q. Okay. And then what did he tell you?  
12 A. He was just telling me, okay, he was doing that with  
13 the chicks and whatever. They were supposed to get  
14 some money. And John -- they all left then because  
15 Stacks called these females, Yvonne and -- Yvonne and I  
16 think Tiffany or Nikki. I don't remember the name.  
17 Q. I'm sorry. What were the names?  
18 A. Yvonne was one I know, but I don't remember if it was  
19 Tiffany or Nikki. I don't remember the other one. But  
20 they called them -- they called them to get a ride to  
21 go out to -- to his cousin's house. He was going to  
22 use the money they used, not the checks, but they ended  
23 up using the money they were supposed to get off the  
24 checks because John ended up leaving with his BM, his  
25 babe, his girl. So -- do you know what I'm saying?

DONTAY REESE - DIRECT

437

1 Q. Did he tell you anything else during this conversation?  
2 A. I don't think it was the same conversation, no, but he  
3 did tell me other things -- do you know what I'm  
4 saying -- in other conversations.  
5 Q. Okay. What else did he tell you?  
6 A. He told me that him -- him and Stacks -- him and Cuz  
7 went out to Hennessey's house, met up with Troy.  
8 Q. And who's Troy? Did he tell you who Troy was?  
9 A. He's Troy.  
10 Q. Okay. What else did he tell you?  
11 A. He told me that him and Troy and Stacks and them, they  
12 went to the store, to the mom-and-pop store, and that's  
13 when -- do you know what I'm saying -- the first  
14 conversation just went into play with everything else  
15 he just said. Do you know what I'm saying?  
16 Q. Who did he tell you went inside the store?  
17 A. Him and -- him and Stacks, him and Cuz.  
18 Q. And what did he tell you about what happened inside the  
19 store?  
20 A. He told me it wasn't supposed to go down -- it wasn't  
21 supposed to go down the way it went down. He went in  
22 there to get some money, and Cuz ended up saying his  
23 name, so --  
24 Q. When you say "Cuz" --  
25 A. Stacks.

DONTAY REESE - DIRECT

438

1 Q. That's Stacks?  
2 A. Yeah. Stacks ended up saying his name, hollering -- do  
3 you know what I'm saying -- his name some type of way,  
4 and that's when he gave the dude five to the back of  
5 the head and they left. They got the money and left.  
6 Q. And did he tell you what they did after they left?  
7 A. They went to the -- they went back down -- they had the  
8 hos drop them back off down at the bar.  
9 Q. That's how he described the girls?  
10 A. Yeah.  
11 Q. Did he say what happened with Troy?  
12 A. He didn't say nothing about Troy going with them or  
13 leaving or anything.  
14 Q. Did he say anything about Hennessey going with?  
15 A. No.  
16 Q. Did he tell you where the girls dropped them off?  
17 A. Yeah, back at the bar. Not the little bar, though; at  
18 The Butter.  
19 Q. Did he indicate to you the type of car that the girls  
20 had?  
21 A. When he said -- when he said that there was -- him and  
22 Stacks had called -- him and Cuz had called the females  
23 to pick them up, that they was looking for a blue car.  
24 That was the car they was looking for.  
25 Q. And did he mention the make of the car?

DONTAY REESE - CROSS

439

1 A. It had a "or" name, and I think he said Corsica or  
2 Accord or something like that. I don't remember.  
3 Q. Did Mr. Vance say what type of gun he used to kill the  
4 clerk?  
5 A. Yeah, deuce-deuce.  
6 Q. A deuce-deuce?  
7 A. Yeah. It's a twenty-two handgun.  
8 Q. Did he tell you what he did with the gun?  
9 A. Nope.  
10 Q. Did he tell you anything about the whereabouts of this  
11 blue car?  
12 A. That -- he just said the police got it.  
13 MS. KEENA: I have no further questions, Your  
14 Honor.  
15 MS. SINGH: Thank you, Your Honor.  
16 CROSS-EXAMINATION  
17 BY MS. SINGH:  
18 Q. Mr. Reese, you spoke to the cop -- to the police  
19 officers on August 4<sup>th</sup> of 2004. Is that correct?  
20 A. Yeah -- yeah, I believe so.  
21 Q. That wasn't your first conversation with them. Is that  
22 correct?  
23 A. Uh-uh.  
24 Q. You spoke to them before that.  
25 A. Right.

Exhibit P-4

1 Q. And when you first spoke to the police officers, you  
2 indicated you had no information regarding this crime.  
3 A. Right.  
4 Q. But after speaking with your family members and your  
5 lawyer, you changed your mind.  
6 A. Right.  
7 Q. And that's when the offer from the County Attorney's  
8 Office came back that they were going to give a  
9 sentencing recommendation to give you a reduction of  
10 sentence. Correct?  
11 A. Yes.  
12 Q. Now it's your testimony here today that Mr. Vance told  
13 you that he went to Hennessey's house. Is that  
14 correct?  
15 A. Right.  
16 Q. And you know Hennessey to be who?  
17 A. Hennessey.  
18 Q. Okay. You don't know his --  
19 A. Ricky.  
20 Q. -- given name. And you stated in your statement that  
21 when they went to Hennessey's house, that Troy was  
22 there.  
23 A. Right.  
24 Q. And you don't know who Troy is?  
25 A. No.

1 Q. Okay. And then in your statement you also stated that  
2 from that point they went to the store.  
3 A. Right.  
4 Q. And you told the police officers that Troy got out of  
5 the car.  
6 A. Right.  
7 Q. And he was the lookout.  
8 A. Right.  
9 Q. And he went into the store to the back of the store.  
10 A. Yeah, except he didn't go in the store; he was in the  
11 back of the store or around the store somewhere.  
12 Q. He never went inside the store.  
13 A. No.  
14 Q. And it's your testimony here today that Mr. Vance told  
15 you that they went into the store and then came out and  
16 left.  
17 A. Right.  
18 Q. And that you don't know what happened to Troy after  
19 that.  
20 A. Right.  
21 Q. So Troy walked away?  
22 A. Probably have to ask him that. I don't know.  
23 Q. And when you -- you stated that Mr. Vance told you the  
24 type of gun it was was a deuce-deuce. Correct?  
25 A. Yeah.

1 Q. Now, he didn't say it was a twenty-two.  
2 A. No.  
3 Q. He said deuce-deuce.  
4 A. Right.  
5 Q. You interpreted it to mean a twenty-two.  
6 A. Yeah.  
7 Q. Okay. Now you also stated that the -- Mr. Vance told  
8 you that he gave him five to the back of the head?  
9 A. Right.  
10 Q. And that he also told you that he was zooted?  
11 A. Right.  
12 Q. And that means to be drunk.  
13 A. Right.  
14 Q. Okay. And have you seen Mr. Vance drunk in the past?  
15 A. Yes.  
16 Q. And Mr. Reese, you didn't know the name of the store.  
17 The officers had to tell you the name of the store was  
18 Sabreen's. Correct?  
19 A. Sabreen's?  
20 Q. That's the name of the supermarket.  
21 A. Yeah, I guess.  
22 Q. Mr. Vance never told you that name.  
23 A. No, he said -- pop store is what Mr. Vance said.  
24 MS. SINGH: I have no more questions, Your  
25 Honor.

1 MS. KEENA: I just have one follow-up  
2 question.  
3 REDIRECT EXAMINATION  
4 BY MS. KEENA:  
5 Q. Mr. Reese, before you made the decision to talk to the  
6 police about this case, did you talk to your mom and  
7 dad about it?  
8 A. Yeah.  
9 Q. And what did your dad tell you to do?  
10 MR. SHANDS: Objection, Your Honor. Question  
11 calls for hearsay.  
12 THE COURT: Sustained.  
13 BY MS. KEENA:  
14 Q. Did you seek counsel from your parents before you  
15 decided to come forward?  
16 A. Right.  
17 MS. KEENA: I have no further questions.  
18 MS. SINGH: No questions, Your Honor.  
19 THE COURT: Thank you, Mr. Reese.  
20 (The witness was excused.)  
21 MS. KEENA: I have to do a little equipment  
22 stuff before the next witness.  
23 THE COURT: Well, let's take a break.  
24 MS. KEENA: Like a 10-minute break?  
25 (The jury exited the courtroom.)



1 (A short recess was taken.)  
2 (The jury returned to the courtroom.)  
3 MS. KEENA: Your Honor, the State would call  
4 Geronimo Estrada.  
5 THE CLERK: Please step forward and be sworn.  
6 Please raise your right hand.  
7 (The oath was administered.)  
8 THE CLERK: Please have a seat.  
9 For the record, please state your full name,  
10 spelling your first and last name.  
11 THE WITNESS: Geronimo Estrada.  
12 G-E-R-O-N-I-M-O. Last name Estrada, E-S-T-R-A-D-A.  
13 THE CLERK: Thank you.  
14 GERONIMO ESTRADA,  
15 having been first duly sworn, was examined and testified on  
16 his oath as follows:  
17 DIRECT EXAMINATION  
18 BY MS. KEENA:  
19 Q. Good afternoon, Mr. Estrada. As a preliminary matter,  
20 I'd like to briefly review your criminal history. You  
21 have a fifth-degree controlled substance conviction  
22 from 2002, a second-degree controlled substance  
23 conviction from 2003, and an unauthorized use of a  
24 motor vehicle from March 8<sup>th</sup> of 2004.  
25 A. That's correct.

1 Q. I would like to draw your attention to the time period  
2 of early February 2003. During that month, were you  
3 incarcerated at the Ramsey County Workhouse?  
4 A. Yes, I was.  
5 Q. While you were -- do you know Philip Vance?  
6 A. I didn't know him until I met him in Dorm 100 at the  
7 workhouse.  
8 Q. And did you know him as Philip Vance or by a nickname?  
9 A. I got to know him by -- the name he used was Florida.  
10 Q. And is the person that you know as Florida present in  
11 the courtroom today?  
12 A. Yes, he is. He's sitting right over there  
13 (indicating).  
14 Q. And what color shirt does he have on?  
15 A. Cream color, tan.  
16 MS. KEENA: May the record reflect that the  
17 witness has identified Philip Vance?  
18 THE COURT: It may.  
19 BY MS. KEENA:  
20 Q. While you were -- you indicated that while you were at  
21 the Ramsey County Workhouse, Mr. Vance was there as  
22 well?  
23 A. Yes, he was. But his appearance was totally different.  
24 He had dread -- or braided hair, longer.  
25 MR. SHANDS: Objection, Your Honor.

1 Nonresponsive.  
2 THE COURT: Okay. Sustained.  
3 BY MS. KEENA:  
4 Q. Are you familiar with a person by the -- that has the  
5 nickname of Stacks?  
6 A. Yeah.  
7 Q. And do you know Stacks' real name?  
8 A. No, I don't.  
9 Q. Was he incarcerated in the Ramsey County Workhouse the  
10 same time period as you as well?  
11 A. Yes.  
12 Q. And was there a time period when you, Stacks, and  
13 Mr. Vance were together in the Ramsey County Workhouse?  
14 A. Yeah, that was only one time during the day, though.  
15 It was during recreation.  
16 Q. And so you and Mr. Vance were actually -- were you  
17 housed in the same unit?  
18 A. Yes, we were.  
19 Q. And what was the unit again?  
20 A. Dorm 100. It's an intake unit.  
21 Q. While you were housed with Mr. Vance, did he engage you  
22 in any conversation about a crime that he was being  
23 investigated for?  
24 A. I was speaking to another inmate -- his name was  
25 Deville about --

Exhibit P-4

1 Q. I'm sorry. Could you just speak up a little bit?  
2 A. I was talking to another inmate in there -- his name  
3 was Deville -- and he was talking about his case. And  
4 I had some law books, and then Florida came up and  
5 asked me if there was any statute of limitations on  
6 murder. And I told him no, there's no statute of  
7 limitations on murder.  
8 Q. And were there any subsequent conversations after that?  
9 A. Well, after that Deville, myself, and -- I forgot --  
10 another inmate, a Mexican guy, were sitting at the card  
11 table and he started talking about that he was being  
12 harassed by some cops investigating him about a murder.  
13 Q. And was there any further conversation at that point?  
14 A. At that point Deville started talking to him, and  
15 Florida started getting confused and he started talking  
16 about some things about the -- about the store, about  
17 what was gone from the store, what he had. Deville  
18 kept throwing things at him, and Florida got shook up  
19 and he stopped talking.  
20 Q. And -- so was there any conversation following that  
21 occasion?  
22 A. No. I'd say about an hour and a half later, he started  
23 talking about that they ain't going to catch me, they  
24 ain't got nothing on me, and he started mocking them,  
25 started joking around like it was nothing.

1 Q. So when you say he was mocking them --

2 A. The police officers, the investigators that were

3 investigating him.

4 Q. Okay. Did he say anything else on that occasion?

5 A. He made a comment about "I touched him like they

6 touched my cousin up on the hill" because apparently he

7 was related to somebody that tried to rob somebody for

8 some dope, but he got shot instead, his cousin. So he

9 said he touched that person the same way they touched

10 his cousin.

11 Q. So did he say anything else?

12 MR. SHANDS: Objection, Your Honor. Vague,

13 as in the question.

14 THE COURT: Overruled.

15 THE WITNESS: He just kept talking, you know,

16 talking about it like it was nothing, like they're not

17 going to do anything.

18 BY MS. KEENA:

19 Q. So did you have another conversation after this?

20 A. After that I went -- I was talking to him and he

21 started talking about a car that he lost, a new Cadi

22 that they used leaving Minnesota. He said they hit a

23 deer and there was holes in the hood of the car and

24 that they left the car at the rest stop with everything

25 else inside of it.

1 Q. I want to go back. Did he talk specifically about

2 being involved in the crime that he was being

3 investigated for?

4 A. He made -- he made gestures to the crime, but he didn't

5 directly say he committed the crime. But he was making

6 gestures, making fun, like it was nothing, like it was

7 no big deal.

8 Q. What was he saying?

9 A. Just a lot of mostly rude comments about, you know,

10 about the person.

11 Q. Okay.

12 A. That he was a little bitch. "He cried like a bitch

13 when he got shot," things like that, you know.

14 Q. So did he indicate that -- where this happened?

15 A. No.

16 Q. Did he indicate about who was with him?

17 A. No.

18 Q. What did he say about the guy in the store?

19 A. That he cried like a little bitch when he got shot.

20 That's what -- that's what caught me right there.

21 Q. Did he say anything about what he did to the guy?

22 A. Laid him down. He said he laid him down and he put one

23 in him, he capped him, capped his ass. "Cried like a

24 bitch before he died," he said.

25 Q. I'm sorry. I can't hear you.

1 A. He said he cried like a bitch before he died.

2 Q. And what did you say about laying him down?

3 A. That he laid him down and then he shot him.

4 Q. Is that the words he used, "shot him," or did he --

5 A. He capped him, put a cap in his ass. "I laid the bitch

6 down and I put a cap in his ass."

7 Q. Did he indicate what -- if the victim was saying

8 anything?

9 A. He was saying that the guy was hysterical and crying.

10 He was crying, the man was crying "Please don't hurt

11 me," things like that.

12 Q. Mr. Estrada, do you remember testifying in the grand

13 jury in this matter?

14 A. Yes, I do.

15 MS. KEENA: Permission to approach, Your

16 Honor?

17 THE COURT: You may.

18 BY MS. KEENA:

19 Q. Mr. Estrada, I'm just going to ask you to review your

20 testimony from the grand jury to refresh your memory.

21 A. (Pause.) Yeah. I remember this.

22 Q. Okay. This is what you testified at the grand jury.

23 What you just read is your recollection?

24 A. Yes.

25 Q. So pointing your attention to the store, he didn't tell

GERONIMO ESTRADA - DIRECT 451

1 you the name of the store. Correct?

2 A. Uh-uh.

3 Q. And did he tell you what happened when they entered the

4 store?

5 A. That the guy was startled and didn't know what was

6 going on, and that they rushed him right away. And

7 they were going after the money, and another guy was

8 grabbing stuff, cigarettes, bags, and stuff like that.

9 He was telling me about plastic baggies, that they

10 grabbed baggies. I don't know what for. And they

11 grabbed a phone. He started talking about an expensive

12 phone that they had.

13 Q. And how many times did he indicate he had shot him?

14 A. He said he shot him once in the back of the head.

15 MS. KEENA: Permission to approach, Your

16 Honor?

17 THE COURT: You may.

18 BY MS. KEENA:

19 Q. What's your --

20 A. (Pause.) He kept saying one or two.

21 Q. Okay. I just was showing you your grand jury

22 testimony, and during the grand jury, you indicated

23 two.

24 A. Uh-huh.

25 Q. What's your recollection today?

1 A. Two. But he always -- he was talking all over the  
2 dorm, you know. He kept saying one, two --  
3 MR. SHANDS: Objection, Your Honor.  
4 Nonresponsive. Move to strike.  
5 THE COURT: Well, overruled.  
6 BY MS. KEENA:  
7 Q. Did he -- again, you said -- as far as when they went  
8 into the store, you're saying they went into the store.  
9 Did he ever tell you who "they" were?  
10 A. No.  
11 Q. And did he -- I'm sorry.  
12 A. Till Stacks opened his mouth.  
13 Q. Okay. So at another -- on another occasion, did you  
14 have a conversation where Stacks was present?  
15 A. Yeah, in the gym.  
16 Q. And was Mr. Vance present for that conversation as  
17 well?  
18 A. Yes, he was.  
19 Q. And what was said during that conversation?  
20 A. They were teasing Stacks about his -- his Nike Airs.  
21 They were imitation, and he was grilling Stacks about  
22 it and --  
23 Q. And --  
24 A. -- that's when Stacks started talking about when I get  
25 out, I got Stack some money and lottery tickets that I

1 can cash in when I get out of here and buy some new  
2 tennis shoes.  
3 Q. And was there anything further about Stacks'  
4 involvement at that point?  
5 A. No. None that I can remember. You know, it's -- it's  
6 been a while --  
7 Q. Yeah.  
8 A. -- since.  
9 Q. Going back to the store again, what did Mr. Vance tell  
10 you that was taken from the store?  
11 A. Lottery tickets, cash, a phone, and baggies.  
12 Q. Did he say anything about cigarettes?  
13 MR. SHANDS: Objection, Your Honor. Leading.  
14 THE COURT: Overruled.  
15 THE WITNESS: I think he mentioned something  
16 about Newports, they had a bunch of Newports. They had  
17 Newports in the workhouse. I remember that now. They  
18 had cigarettes because they didn't spend money on the  
19 canteen. They were selling cigarettes inside the  
20 workhouse. You can't smoke in there.  
21 BY MS. KEENA:  
22 Q. Did Mr. Vance say anything about the gun that he used?  
23 A. All I can remember is that he said that he left that in  
24 the car, in the Cadillac that he was -- they used.  
25 Q. This Cadillac that he talked about, did he -- did he

1 say that that was the car that they took to the store?  
2 A. No.  
3 MR. SHANDS: Objection, Your Honor. Leading.  
4 THE WITNESS: No.  
5 THE COURT: Overruled. Was that answered?  
6 MS. KEENA: Yes. He answered that question.  
7 THE COURT: Okay.  
8 BY MS. KEENA:  
9 Q. Did he indicate what they did with the clothing that  
10 they were wearing that night?  
11 A. He said he left it in the car and had somebody else  
12 come and pick him up from the rest stop.  
13 Q. That was in -- like in this Cadillac you're talking  
14 about?  
15 A. Yeah, they said they left it off the side of the road  
16 in a rest stop in Wisconsin.  
17 Q. And that's the one you were talking about --  
18 A. So when he told me about that they hit a deer and left  
19 holes on the hood (indicating) and cracked the battery  
20 or something like that because they couldn't get it  
21 going.  
22 Q. Did Mr. Vance mention what city this occurred in?  
23 A. Wisconsin.  
24 Q. No, I'm sorry. Going back to the shooting, did he  
25 indicate what city it occurred in?

1 A. No. I don't think so.  
2 Q. After you heard these comments, what did you do?  
3 A. Well, I turned around, walked away from him, called him  
4 a sick bastard, and went and laid down because I  
5 couldn't believe what I was hearing because the man had  
6 no remorse.  
7 MR. SHANDS: Objection, Your Honor.  
8 Question -- the answer called for speculation. I move  
9 to strike.  
10 THE COURT: Overruled.  
11 BY MS. KEENA:  
12 Q. Did you eventually contact someone about it?  
13 A. Yeah, I called my fiancée.  
14 Q. What's her name?  
15 A. Sonja.  
16 Q. Did you call her the same day that these comments were  
17 being made?  
18 A. Yeah, I called at like two hours after because I had to  
19 think about it.  
20 Q. What did you ask Sonja to do?  
21 A. To contact a police officer out in South St. Paul.  
22 Q. And the phone calls at the workhouse, they're recorded.  
23 Is that right?  
24 A. Yeah.  
25 Q. And you know that. Right?

1 A. Yeah, everybody does.

2 MS. KEENA: Permission to approach, Your  
3 Honor.

4 THE COURT: You may.  
5 (Exhibit Numbers 47A and 47B were marked for  
6 identification.)

7 THE CLERK: 47A and B marked for  
8 identification.

9 BY MS. KEENA:

10 Q. Mr. Estrada, I'm showing you what's been marked for  
11 identification as Exhibits 47A and 47B. 47A is a CD  
12 and 47B is a transcript. Is that right?

13 A. Yes.

14 Q. And before you came into court today, you listened to  
15 what's on the CD. Correct?

16 A. Yes.

17 Q. And what's on here?

18 A. It's a conversation with me and Sonja.

19 Q. And is this a conversation where you're telling her --  
20 or asking her to call the police?

21 A. Yes.

22 Q. And there were some things taken out of it. Right?

23 A. Yeah.

24 Q. Okay. And on the transcript as well. Right?

25 A. Yes.

1 Q. But other than that, this is an accurate reproduction  
2 of your phone call that day?

3 A. Yes, it is.

4 MS. KEENA: For the record, I'm showing  
5 Counsel.  
6 (Pause.)

7 MR. SHANDS: I have no objection, Your Honor.

8 MS. KEENA: Your Honor, the State would offer  
9 47A as an exhibit and 47B as a court exhibit only.

10 THE COURT: Received.

11 MS. KEENA: And at this time I'd like to play  
12 Exhibit 47A but first pass out the transcripts.  
13 (Exhibit 47A was played.)

14 BY MS. KEENA:

15 Q. Mr. Estrada, what was the date of that phone call?

16 A. Back on February 9 of 2003.

17 Q. And so that's the same day that he was telling you  
18 about this?

19 A. Yeah. Two hours after.

20 Q. Mr. Estrada, did Mr. Vance tell you anything or  
21 describe to you what he was wearing at the time?

22 A. He said they had some masks on, that they were  
23 covered -- they were covered up in dark clothing. They  
24 had masks on and they went into the store. And that  
25 after it was all said and done, he got rid of his

1 tennis shoes as well in that car. He kept talking  
2 about that.

3 Q. Did he say -- did he describe the mask at all?

4 A. All that was showing were the eyes. (Indicating.)  
5 That was it.

6 Q. Did he have a specific name for the mask?

7 A. No.

8 MS. KEENA: Permission to approach, Your  
9 Honor?

10 THE COURT: You may.

11 BY MS. KEENA:

12 Q. Mr. Estrada, I just want to show you a page from your  
13 grand jury testimony to refresh your memory.

14 A. (Pause.) Yeah.

15 Q. Okay. Having just refreshed your memory, was there a  
16 description of the type of mask?

17 A. Yeah, a ninja mask.

18 Q. And is that what Mr. Vance called it or is that what  
19 you called it?

20 A. That's what I called it.

21 Q. Okay. And to you what's a ninja mask?

22 A. A ninja mask covers the whole face but it leaves you  
23 space -- enough space so you can see out of the mask.

24 Q. And how did Mr. Vance describe to you the mask that he  
25 had on?

1 A. God, he said that but -- he just said he had a mask  
2 that covered his whole face. I can't -- I can't recall  
3 it.

4 Q. Okay. That's fine. Just final -- one final question:  
5 When they walked into the store, did Mr. Vance indicate  
6 where he went?

7 A. He ran back of the counter. Went and grabbed him right  
8 away.

9 Q. Went and grabbed who right away?

10 A. I don't know the man's name. He grabbed the person  
11 that was working inside that store.

12 Q. Okay. And did he indicate where the other person went  
13 to?

14 A. The other -- he said the other -- the other guy was  
15 running around grabbing stuff, and he said he laid him  
16 down and the guy started crying, started yelling --

17 MR. SHANDS: Objection, Your Honor.  
18 Nonresponsive.

19 THE COURT: Sustained.

20 MS. KEENA: That's fine. We've gone over  
21 that.

22 I have no further questions, Your Honor.

23 MS. SINGH: Thank you, Your Honor. I have no  
24 questions.

25 THE COURT: Thank you, Mr. Estrada.

1 THE WITNESS: Thank you.  
 2 (The witness was excused.)  
 3 MS. KEENA: Your Honor, can we approach?  
 4 THE COURT: Yes.  
 5 (Off-the-record bench discussion.)  
 6 THE COURT: We're going to let you go now,  
 7 and we're not going to make you sit in the jury room  
 8 and wait for an hour before you can get out of the  
 9 building. You can go home now.  
 10 But let me remind you: Don't talk to anyone  
 11 about the case, don't read anything, listen to  
 12 anything, and have a great weekend. Monday at 9:00.  
 13 (The jury exited the courtroom.)  
 14 (Proceedings adjourned.)  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 October 4, 2004  
 2 (Whereupon, the following proceedings  
 3 were duly had of record October 4, 2004:)  
 4 (The jury returned to the courtroom.)  
 5 MS. KEENA: Your Honor, the State would  
 6 re-call Daniel Vujovich.  
 7 THE COURT: You're still under oath.  
 8 DIRECT EXAMINATION  
 9 BY MS. KEENA:  
 10 Q. Captain Vujovich, as the officer overseeing this  
 11 investigation, were you aware of the statement of John  
 12 Nunn stating that Mr. Vance was worried about the  
 13 police finding the gun that was used in the crime at  
 14 some friend's residence off of 35E and Marion?  
 15 A. Yes. X X  
 16 Q. When did your department initially receive that  
 17 information from Mr. Nunn?  
 18 A. Detective Oeffling took that statement on  
 19 September 17<sup>th</sup>.  
 20 Q. Of what year?  
 21 A. 2004. X  
 22 Q. So that was more than a year and a half after the crime  
 23 was committed?  
 24 A. Yes.  
 25 Q. After receiving that information, did you take any

1 action to try to determine who that friend might be?  
 2 A. We did not have a name, but in the jail records from  
 3 Sandstone, we found a phone number that Mr. Vance had  
 4 called. Checking that phone number, came back to a  
 5 female party.  
 6 Q. And what was the female party's name?  
 7 A. Cassandra Yorga.  
 8 Q. And where did you determine -- or did you determine  
 9 where she lived?  
 10 A. Yes, in St. Paul at 265 Ravoux Street.  
 11 Q. And that's spelled R-A-V-O-U-X?  
 12 A. Yes.  
 13 Q. And where is her residence located in relation to 35E  
 14 and Marion?  
 15 A. It's not too far off of Marion. I just looked at it on  
 16 MapQuest. It appears to be a half a block to a block  
 17 off of Marion.  
 18 Q. Did you speak to Ms. Yorga about the investigation?  
 19 A. Yes, I did.  
 20 Q. And do you recall when you spoke to her?  
 21 A. It was just general conversation --  
 22 Q. No, I'm sorry. When you spoke to her.  
 23 A. Oh. Last week. I'd check my report to get the exact  
 24 date.  
 25 Q. Do you have it with you?

Exhibit P-4

1 A. September 25<sup>th</sup>.  
 2 Q. Did Ms. Yorga know anything about the investigation?  
 3 A. No.  
 4 Q. Did she tell you anything about the gun? X  
 5 A. No.  
 6 Q. As -- in overseeing this investigation, did you conduct  
 7 an interview of Geronimo Estrada on February 9<sup>th</sup> of  
 8 2003?  
 9 A. Yes.  
 10 Q. During the course of that interview, did Mr. Estrada  
 11 tell you about Mr. Vance's comments regarding putting  
 12 the shoes and clothing and the gun into a gray  
 13 Cadillac?  
 14 A. Yes.  
 15 Q. When you interviewed Mr. Estrada, did he indicate to  
 16 you that that was the car that was used in the crime?  
 17 A. No.  
 18 Q. What was he indicating to you when he told you that?  
 19 MR. SHANDS: Objection, Your Honor. Calls  
 20 for speculation.  
 21 THE COURT: Overruled.  
 22 THE WITNESS: He indicated to me that some  
 23 items that were items of clothing and shoes were left  
 24 in that vehicle.  
 25



1 BY MS. KEENA:  
 2 Q. After receiving that information, did your department  
 3 undertake any investigation to try to locate that car?  
 4 A. Yes.  
 5 Q. And where did Mr. Estrada -- or what did Mr. Estrada  
 6 tell you about the location of that car?  
 7 A. He indicated to us that it was abandoned along 94 on  
 8 its way to Eau Claire by like a rest stop area. He did  
 9 not have a specific location.  
 10 Q. And that's Eau Claire, Wisconsin?  
 11 A. Yes.  
 12 Q. So what did your department do after receiving that  
 13 information?  
 14 A. Detective Brockman from our department contacted the  
 15 various law enforcement agencies along -- from St. Paul  
 16 to Eau Claire and also the towing companies that had  
 17 contracts for towing any vehicles that were left  
 18 abandoned on the highway or way-stop area trying to see  
 19 if any vehicle matching that description had been  
 20 impounded.  
 21 Q. And were you able to locate that vehicle?  
 22 A. No.  
 23 Q. During the course of your investigation, did you  
 24 receive information from John Martin that placed  
 25 Mr. Vance and Mr. Johnson in a blue Corsica prior to

1 the time of the homicide?  
 2 MR. SHANDS: Objection, Your Honor.  
 3 Vouching.  
 4 THE COURT: Overruled.  
 5 THE WITNESS: Yes.  
 6 BY MS. KEENA:  
 7 Q. And we heard earlier testimony, but are you aware if a  
 8 blue Corsica was found?  
 9 A. Yes.  
 10 MR. SHANDS: Objection, Your Honor. Can we  
 11 approach?  
 12 THE COURT: Yeah.  
 13 (Off-the-record bench discussion.)  
 14 BY MS. KEENA:  
 15 Q. Captain Vujovich, do you recall when the blue Corsica  
 16 was located?  
 17 A. In July of 2003.  
 18 Q. So that would have been nearly -- or over six months  
 19 past the time that the crime was committed.  
 20 A. Yes.  
 21 Q. Was a search conducted of the vehicle at that time?  
 22 A. Yes.  
 23 Q. And who conducted the search?  
 24 A. The Minnesota Bureau of Criminal Apprehension Forensic  
 25 Unit.

1 Q. And was there anything of evidentiary value found in  
 2 the car?  
 3 A. No.  
 4 Q. You conducted an interview of Mr. Vance on  
 5 January 15<sup>th</sup>, 2003. Is that correct?  
 6 A. Yes.  
 7 Q. During the course of that interview, did you ever  
 8 mention to him that there were lottery tickets taken?  
 9 A. No.  
 10 Q. Did you ever mention to him that there were cigarettes  
 11 taken?  
 12 A. No.  
 13 Q. Did you ever mention to him that there were white  
 14 plastic bags taken?  
 15 A. No.  
 16 Q. Did you ever mention to Mr. Vance during that interview  
 17 whether there was a phone taken?  
 18 A. No.  
 19 Q. You interviewed Mr. Vance again on January 16<sup>th</sup>, 2003.  
 20 Is that correct?  
 21 A. Yes.  
 22 Q. During that interview, did you ever mention that there  
 23 were cigarettes taken?  
 24 A. No.  
 25 Q. Did you ever mention lottery tickets?

1 A. No.  
 2 Q. Did you ever mention the white plastic bags?  
 3 A. No.  
 4 Q. Did you ever mention the phone?  
 5 A. No.  
 6 Q. And again, when did you conduct your interview of  
 7 Geronimo Estrada?  
 8 A. February 9<sup>th</sup>.  
 9 Q. Of 2003?  
 10 A. Yes. I'm sorry.  
 11 Q. Following your interview of Mr. Estrada, you conducted  
 12 additional interviews of Mr. Vance. Is that correct?  
 13 A. Yes.  
 14 Q. Now in your earlier testimony you indicated on  
 15 cross-examination that you thought you might have  
 16 mentioned the phone to Mr. Vance during the June 18<sup>th</sup>,  
 17 2003, interview. Do you recall that testimony?  
 18 A. Yes.  
 19 Q. Following your earlier testimony, did you have an  
 20 opportunity to review the interviews that you conducted  
 21 of Mr. Vance?  
 22 A. Yes, I did.  
 23 Q. During any of the interviews following Mr. Estrada's  
 24 February 9<sup>th</sup>, 2003, interview, did you ever mention  
 25 during the interviews with Mr. Vance the missing

1 lottery tickets?

2 MR. SHANDS: Objection, Your Honor. The

3 evidence that's in speaks for itself --

4 THE COURT: Okay.

5 MR. SHANDS: -- vouching testimony.

6 THE COURT: Overruled.

7 BY MS. KEENA:

8 Q. Did you ever mention to him the missing lottery

9 tickets?

10 A. Checking my statements, I did not find that.

11 Q. Did you ever mention cigarettes?

12 A. No.

13 Q. Did you ever mention in those statements that white

14 plastic bags were taken?

15 A. No.

16 Q. Did you ever mention that a phone was taken?

17 A. No.

18 MS. KEENA: I have no further questions, Your

19 Honor.

20 MR. SHANDS: We have no questions, Your

21 Honor.

22 THE COURT: Thanks.

23 (The witness was excused.)

24 THE COURT: Stipulation?

25 MS. KEENA: Yes, Your Honor.

1 THE COURT: The attorneys -- the parties have

2 entered into an agreement. I'm going to read that to

3 you now.

4 It is hereby agreed and stipulated that

5 Philip Vance and Geronimo Estrada were incarcerated

6 together in the Ramsey County Workhouse from

7 February 6, 2003, through February 10, 2003.

8 Philip Vance and Tyrone Crawford were

9 incarcerated together in the Sherburne County Jail from

10 April 21, 2003, through December 19, 2003.

11 Philip Vance and John Nunn were incarcerated

12 together in the Sherburne County Jail from April 22,

13 2003, through June 9, 2003.

14 Philip Vance and John Nunn were incarcerated

15 together in the Sandstone Correctional Facility from

16 December 19, 2003, through February 13, 2004.

17 Philip Vance and Isaac Hodge were

18 incarcerated together in the Sherburne County Jail from

19 April 21, 2003, through July 18, 2003.

20 And Philip Vance and Dontay Reese were

21 incarcerated together in the Dakota County Jail from

22 March 18, 2004, through March 20, 2004, and June 22<sup>nd</sup>,

23 2004, through August 4, 2004.

24 MS. KEENA: Thank you, Your Honor. And with

25 that, the State rests.

1 THE COURT: Thank you. We'll take a break.

2 I know it's early, but we'll take a break.

3 (The jury exited the courtroom.)

4 THE COURT: Have a seat.

5 We should make a record of the objection

6 regarding Mr. Vujovich.

7 MR. SHANDS: Yes, Your Honor. I did object

8 to Captain Vujovich's testimony. Captain Vujovich had

9 testified previously, had been cross-examined and

10 basically had been dismissed as a witness. The

11 testimony he gave today basically was vouching

12 testimony for evidence that had already been

13 presented -- that had been presented -- evidence had

14 been presented through Geronimo Estrada. Geronimo

15 Estrada testified to certain -- to what he heard and

16 what was said. Captain Vujovich's testimony today was

17 just to -- to bolster the credibility of what

18 Mr. Estrada said. Captain Vujovich did not add

19 anything new. Basically his testimony today was solely

20 to bolster the credibility or truthfulness of

21 Mr. Estrada's testimony. It's our position that it was

22 improper and it should not have been admitted.

23 THE COURT: Anything?

24 MS. KEENA: Your Honor, the State's purpose

25 for introducing that additional testimony -- first, the

1 State had to ask the -- kind of the foundation

2 questions on where I was going, so I had to be able to

3 explain to the jury the underlying information that

4 Mr. Estrada brought forward during the investigation.

5 The reason for calling Daniel Vujovich again

6 on that point was to show the efforts that the police

7 took after receiving that information from Mr. Estrada

8 in trying to locate that vehicle so that the claim

9 could not be made by the defense that we had lazy cops

10 here and we weren't following leads. That's the same

11 reason why I brought up the testimony about Cassandra

12 Yorga, to show that the police, you know, were trying

13 to follow up on things, on new information they got,

14 including new information that they just got on

15 September 17<sup>th</sup>, 2004.

16 So that was the purpose for the testimony,

17 Your Honor.

18 THE COURT: Okay. Then --

19 MR. SHANDS: And we also, Your Honor, at this

20 time we would make a motion for a directed verdict at

21 this point. We -- quite frankly, we wanted to make --

22 we would make the motion, we would ask the Court to

23 reserve brief argument on the motion for tomorrow

24 morning before the Court. But we just want the record

25 to reflect that we have made the motion after the

1 State's case, and we just reserve to make the brief  
2 oral argument tomorrow morning before we close.

3 THE COURT: Okay. Anything else we need to  
4 put on the record?

5 MR. SHANDS: Oh. We need to -- I need to  
6 speak with Mr. Vance briefly and talk about whether or  
7 not he's going to testify, and depending on his  
8 decision, we may need to just put on the record his  
9 decision.

10 THE COURT: Okay. Then why don't we break,  
11 and we'll give you a copy of the proposed jury  
12 instructions.

13 (A short recess was taken.)

14 (The oath was administered.)

15 THE CLERK: You may be seated.

16 PHILIP VANCE,  
17 having been first duly sworn, was examined and testified on  
18 his oath as follows:

19 EXAMINATION

20 BY MR. SHANDS:

21 Q. Mr. Vance, you and I have had some conversations about  
22 decisions that your attorneys can make and decisions  
23 that only you can make. Correct?

24 A. Yes.

25 Q. Okay. One of the decisions I told you that is solely

1 up to you is whether or not you have a jury trial or  
2 you have a trial to a judge. Correct?

3 A. Correct.

4 Q. Okay. And you decided that you wanted a jury trial in  
5 this matter. Correct?

6 A. Correct.

7 Q. And we've just had a jury trial.

8 A. Correct.

9 Q. The other right that's solely yours is the right to  
10 testify. Correct?

11 A. Correct.

12 Q. And I explained to you that I can give you advice in  
13 regards to whether you testify or not, but that is  
14 solely your decision. Correct?

15 A. Correct.

16 Q. And it's my understanding that with my advice and your  
17 decision, you've decided not to testify. Is that  
18 correct?

19 A. Correct.

20 Q. Okay. I haven't given you -- myself or anyone else, we  
21 haven't given you any promises, we haven't threatened  
22 you, coerced you, or done anything to make that  
23 decision for you in regards to testifying or not.

24 Correct?

25 A. That's correct.

474

1 Q. And you made that on your own --

2 A. Yes.

3 Q. -- volition?

4 A. Yes.

5 Q. All right. Throughout this trial, a couple of times I  
6 have come to you and explained to you that the State  
7 has made offers to you. Is that correct?

8 A. Correct.

9 Q. One of the offers was to plead to a second-degree  
10 intentional murder. Correct?

11 A. Correct.

12 Q. And you would have -- if you were to take that deal,  
13 you would have to testify or basically tell what  
14 happened in this case. Is that correct?

15 A. Correct.

16 Q. And at that time I brought to you one that was -- we  
17 had talked about you would get the time in the  
18 sentencing guidelines on the grid?

19 A. Correct.

20 Q. And I believe that's over 300 months.

21 A. Yes.

22 Q. You did not want to take that deal. Is that correct?

23 A. That's right.

24 Q. I also came to you that the State offered yesterday a  
25 deal for you to plead guilty. You would have to do 40

475

1 months -- 40 months -- 40 years in prison, and you  
2 would also have to allocute, meaning tell what  
3 happened. Is that correct?

4 A. Yes.

5 Q. And you do not want to take that deal.

6 A. No.

7 Q. Okay. And I didn't make any promises, threats, or try  
8 to coerce you in any way to not take their deal?

9 A. No, you didn't.

10 Q. Okay. That's your decision?

11 A. Yes.

12 Q. Okay.

13 MR. SHANDS: I think that's it.

14 MS. KEENA: I don't have any questions.

15 I just wanted to clarify on the plea offer,  
16 that the State only made one plea offer in this case,  
17 and that was yesterday afternoon. The other -- other  
18 plea offer that was discussed was not actually a plea  
19 offer made by the State but a suggestion that the State  
20 might be open to a second-degree intentional murder.

21 THE COURT: Okay. Okay. You can step down.  
22 (The defendant was excused.)

23 (A short recess was taken.)

24 THE COURT: We'll make a record. We're going  
25 through jury instructions. Mr. Shands has asked the

476

1 Court to instruct the jury on the defendant's failure  
2 to testify, and I don't have a copy of it in front of  
3 me. Do you have the book?  
4 MR. SHANDS: I got the book right here. I'm  
5 trying to --  
6 MS. KEENA: It's up in the thirties  
7 somewhere.  
8 MR. SHANDS: It's CRIM JIG 3.17 -- page 31 --  
9 you got it? 3.17?  
10 THE COURT: I'll have it in a minute.  
11 (Off-the-record discussion.)  
12 THE COURT: Let's go on the record.  
13 We're back on the record in the Vance case,  
14 and there is a request to sequester the jury, so  
15 I'll -- when we let them go today, I'll tell them to  
16 bring clothing and personal effects.  
17 The defendant will formally rest before the  
18 jury but is reserving the right to argue a motion for  
19 judgment of acquittal, and we'll do that before the  
20 jury is seated tomorrow morning.  
21 But we -- I know you may want more time to  
22 look at the jury instructions, but are the ones -- the  
23 boilerplate instructions that we went through  
24 acceptable? And I will make changes. I will take out  
25 the last paragraph on direct and circumstantial. I've

1 indicated I don't intend to give the suggested  
2 instruction in State versus Bernhard and take out, on  
3 impeachment, evidence of the witness's reputation for  
4 truthfulness.  
5 MR. SHANDS: Right. I mean, just briefly, I  
6 mean -- I haven't read the case -- I would ask that you  
7 give that third paragraph.  
8 THE COURT: Okay. Then denied.  
9 And if you need -- would you like to take  
10 some time now to review the substantive instructions?  
11 I know we've all had that for some time now. Maybe  
12 you've already had a chance to go through it.  
13 We had a note -- a ruling on Exhibit 12,  
14 letter from Tariq Bakkri to Maynard Cross, was  
15 reserved. I think I made clear at some point that I  
16 wasn't going to allow that in.  
17 MS. KEENA: Yeah, only at the end of the  
18 foundation had been laid.  
19 THE COURT: Yeah. So do you need some time  
20 or --  
21 MR. SHANDS: Yeah, just briefly.  
22 THE COURT: Okay.  
23 MR. SHANDS: I just want to match them up.  
24 (Off-the-record discussion.)  
25 THE COURT: We'll put on the record that with

478

1 respect to instructions, the defense has considered it  
2 and will not ask for a cautionary instruction regarding  
3 testimony of the Gang Strike Task Force, not wanting to  
4 emphasize that testimony or -- so that's on the record.  
5 (Off-the-record discussion.)  
6 (The jury returned to the courtroom.)  
7 THE COURT: Have a seat.  
8 Mr. Shands.  
9 MR. SHANDS: Your Honor, Mr. Vance rests.  
10 THE COURT: Thank you. I'm going to instruct  
11 you on the law. There's a lot. I'm going to give each  
12 of you a copy of the written instructions to consult in  
13 the jury deliberation room, but listen carefully.  
14 It is your duty to decide the questions of  
15 facts in this case. It is my duty to give you the  
16 rules of law you must apply in arriving at your  
17 verdict. You must follow and apply the rules of law as  
18 I give them to you, even if you believe the law is or  
19 should be different.  
20 Deciding questions of fact is your exclusive  
21 responsibility, and in doing so, you must consider all  
22 the evidence you have heard and seen in this trial, and  
23 you must disregard anything you may have heard or seen  
24 elsewhere about this case.  
25 I have not by these instructions, nor by any

479

1 ruling or expression during the trial, intended to  
2 indicate my opinion regarding the facts or outcome of  
3 this case. If I have said or done anything that would  
4 seem to indicate such an opinion, you are to disregard  
5 it.  
6 You must consider these instructions as a  
7 whole and regard each instruction in the light of all  
8 the others. The order in which the instructions are  
9 given is of no significance, and you are free to  
10 consider the issues in any order you wish.  
11 You've been allowed to take notes during the  
12 trial. You may take those notes with you to the jury  
13 room. You should not consider these notes binding or  
14 conclusive, whether they're your notes or those of  
15 another juror. The notes should be used as an aid to  
16 your memory and not as a substitute for it.  
17 You should disregard anything -- I'm sorry.  
18 It is your recollection of the evidence that should  
19 control. You should disregard anything contrary to  
20 your recollection that may appear in your own notes or  
21 those of another juror. You should not give greater  
22 weight to a particular piece of evidence solely because  
23 it is referred to in a note taken by a juror.  
24 Attorneys are officers of the court. It is  
25 their duty to make objections they think proper and to

1 argue their client's cause. However, the arguments or  
2 other remarks of an attorney are not evidence. If the  
3 attorneys or I have made or should make any statement  
4 as to what the evidence is which differs from your  
5 recollection of the evidence, you should disregard the  
6 statement and rely solely on your own memory. If an  
7 attorney's argument contains any statement of the law  
8 that differs from the law I give you, disregard the  
9 statement.

10 During this trial, I have ruled on objections  
11 to certain testimony and exhibits. You must not  
12 concern yourself with the reasons for the rulings since  
13 they are controlled by rules of law. By receiving  
14 evidence to which objection was made, I did not intend  
15 to indicate the weight to be given such evidence. You  
16 are not to speculate as to possible answers to  
17 questions I did not require to be answered, and you are  
18 to disregard all evidence I have ordered stricken or  
19 have told you to disregard.

20 A fact may be proven by either direct or  
21 circumstantial evidence or by both. The law does not  
22 prefer one form of evidence over the other. A fact is  
23 proven by direct evidence when, for example, it is  
24 proven by witnesses who testify to what they saw,  
25 heard, or experienced, or by physical evidence of the

1 fact itself. A fact is proven by circumstances when  
2 evidence when its existence can be reasonably inferred  
3 from other facts proven in the case.

4 You are the sole judges of whether a witness  
5 is to be believed and of the weight to be given a  
6 witness's testimony. There are no hard and fast rules  
7 to guide you in this respect. In determining  
8 believability and weight of testimony, you may take  
9 into consideration the following nine factors:

10 One, the witness's interest or lack of  
11 interest in the outcome of the case. Two, the  
12 witness's relationship to the parties. Three, the  
13 witness's ability and opportunity to know, remember,  
14 and relate the facts. Four, the witness's manner.  
15 Five, the witness's age and experience. Six, the  
16 witness's frankness and sincerity or lack thereof.  
17 Seven, the reasonableness or unreasonableness of their  
18 testimony in the light of all the other evidence in the  
19 case. Eight, any impeachment of the witness's  
20 testimony. More on that in a second. Nine, any other  
21 factors that bear on believability and weight. You  
22 should rely, in the last analysis, on your own  
23 experience, good judgment, and common sense.

24 In deciding the believability and weight to  
25 be given the testimony of a witness, you may consider:

482

1 First, evidence that the witness has been convicted of  
2 a crime. You may consider whether the kind of crime  
3 committed indicates the likelihood the witness is  
4 telling or not telling the truth. Second, you may  
5 consider evidence of a statement by or conduct of the  
6 witness on some prior occasion that is inconsistent  
7 with the witness's present testimony. Evidence of any  
8 prior inconsistent statement or conduct should be  
9 considered only to test the believability and weight of  
10 the witness's testimony. In the case of the defendant,  
11 however, evidence of any statement he may have made may  
12 be considered by you for all purposes.

13 A witness who has special training,  
14 education, or experience in a particular science,  
15 occupation, or calling is allowed to express an opinion  
16 as to certain facts. In determining the believability  
17 and weight to be given such opinion evidence, you may  
18 consider the following four factors:

19 One, the education, training, experience,  
20 knowledge, and ability of the witness. Two, the  
21 reasons given for the opinion. Three, the sources of  
22 the information. And four, factors already given you  
23 for evaluating the testimony of a witness. Such  
24 opinion evidence is entitled to neither more nor less  
25 consideration by you than any other evidence.

483

1 The defendant is presumed innocent of the  
2 charges made. This presumption remains with the  
3 defendant unless and until the defendant has been  
4 proven guilty beyond a reasonable doubt. That the  
5 defendant has been brought before the court by the  
6 ordinary processes of the law and is on trial should  
7 not be considered by you as in any way suggesting  
8 guilt. The burden of proving guilt is on the State.  
9 The defendant does not have to prove innocence.

10 Proof beyond a reasonable doubt is such proof  
11 as ordinarily prudent men and women would act upon in  
12 their most important affairs. A reasonable doubt is a  
13 doubt based upon reason and common sense. It does not  
14 mean a fanciful or capricious doubt, nor does it mean  
15 beyond all possibility of doubt.

16 The State must convince you by evidence  
17 beyond a reasonable doubt that the defendant is guilty  
18 of the crimes charged. The defendant has no obligation  
19 to prove innocence.

20 The defendant has the right not to testify.  
21 This right is guaranteed by the federal and state  
22 constitutions. You should not draw any inference from  
23 the fact that the defendant has not testified in this  
24 case.

25 Now, before the defendant may be convicted of



1 an offense charged, you must find that the defendant  
 2 committed that specific offense. You are not to  
 3 convict the defendant of any offense with which he is  
 4 not charged.

5 There are three charges. First, murder in  
 6 the first degree. The statutes of Minnesota provide  
 7 that whoever causes the death of a human being with  
 8 premeditation and with the intent to effect the death  
 9 of the person or another is guilty of murder in the  
 10 first degree.

11 The elements of murder in the first degree  
 12 are: First, the death of Khaled al-Bakri must be  
 13 proven. Second, the defendant caused the death of  
 14 Khaled al-Bakri. Third, the defendant acted with  
 15 premeditation and with the intent to kill Khaled  
 16 al-Bakri.

17 "Premeditation" means that the defendant  
 18 considered, planned, prepared for, or determined to  
 19 commit the act before he committed it. Premeditation,  
 20 being a process of the mind, is wholly subjective and  
 21 hence not always susceptible to proof by direct  
 22 evidence. It may be inferred from all of the  
 23 circumstances surrounding the event. It is not  
 24 necessary that premeditation exist for any specific  
 25 length of time. A premeditated decision to kill may be

1 reached in a short period of time. However, an  
 2 unconsidered or rash impulse, even though it includes  
 3 an intent to kill, is not premeditated. In order to  
 4 have had an intent to kill, the defendant must have  
 5 acted with the purpose of causing death or believe that  
 6 the act would have that result.

7 Fourth element: That defendant's act took  
 8 place on or about December 22, 2002, in Dakota County.

9 If you find that each of these elements has  
 10 been proven beyond a reasonable doubt, the defendant is  
 11 guilty. If you have a reasonable doubt that there was  
 12 premeditation but you find that all the other elements  
 13 are proven, then the defendant is guilty of murder in  
 14 the second degree.

15 The crime of murder in the second degree  
 16 differs from murder in the first degree only in that  
 17 the killing was done with intent to kill another person  
 18 but not with premeditation. If you find that any  
 19 element other than premeditation has not been proven  
 20 beyond a reasonable doubt, the defendant is not guilty  
 21 of murder.

22 Second offense: Murder in the first degree  
 23 while committing aggravated robbery. This is -- the  
 24 statutes of Minnesota provide that whoever causes the  
 25 death of a human being with intent to effect the death

1 of that person while committing the crime of aggravated  
 2 robbery is guilty of murder in the first degree.

3 The elements of this count of murder in the  
 4 first degree are: First, the death of Khaled al-Bakri  
 5 must be proven. Second, the defendant caused the death  
 6 of Khaled al-Bakri. Third, the defendant acted with  
 7 the intent to kill Khaled al-Bakri.

8 In order to find the defendant had an intent  
 9 to kill, you must find that Defendant acted with the  
 10 purpose of causing death or believed that the act would  
 11 have that result. Intent, being a process of the mind,  
 12 is not always susceptible to proof by direct evidence  
 13 but may be inferred from all the circumstances  
 14 surrounding the event. It is not necessary that the  
 15 defendant's act be premeditated.

16 Fourth element: At the time of the act  
 17 causing the death of Khaled al-Bakri, the defendant was  
 18 engaged in the act of committing the crime of  
 19 aggravated robbery in the first degree. The statutes  
 20 of Minnesota define aggravated robbery in the first  
 21 degree as follows: Whoever, knowing he was not  
 22 entitled to do so, takes personal property from  
 23 another, either from the person or in the presence of  
 24 the person, and uses force or the threat of imminent  
 25 force against any person to overcome resistance or

1 compel acquiescence in the taking or carrying away of  
 2 the property is guilty of a crime if the defendant is  
 3 armed with a dangerous weapon or inflicts bodily harm  
 4 upon another person.

5 The elements of aggravated robbery in the  
 6 first degree are: That the defendant took property  
 7 from the person of or in the presence of Khaled  
 8 al-Bakri knowing that the defendant was not entitled to  
 9 take it.

10 Second element: That the defendant used  
 11 force or the threat of imminent force against Khaled  
 12 al-Bakri to overcome resistance or to compel  
 13 acquiescence in the taking or carrying off of the  
 14 property. The term "threat of imminent force" means  
 15 the intentional creation in Khaled al-Bakri's mind of  
 16 an understanding that if he resisted or refused to  
 17 cooperate, force would immediately be used against him.

18 Third element: That the defendant was harmed  
 19 with a dangerous weapon or inflicted bodily harm upon  
 20 Khaled al-Bakri. A firearm, whether loaded or  
 21 unloaded, is a dangerous weapon. "Bodily harm" means  
 22 physical pain or injury, illness, or any impairment of  
 23 physical condition.

24 Fifth element: That the defendant's act took  
 25 place on or about December 22, 2002, in Dakota County,

1 Minnesota.

2 If you find that each of these elements has  
3 been proven beyond a reasonable doubt, the defendant is  
4 guilty. If you find that any element has not been  
5 proven beyond a reasonable doubt, the defendant is not  
6 guilty.

7 Third offense: Murder in the second degree.  
8 The statutes of Minnesota provide that whoever causes  
9 the death of a human with intent to cause the death of  
10 that person but without premeditation is guilty of  
11 murder in the second degree.

12 The elements of murder in the second degree  
13 are: First, the death of Khaled al-Bakri must be  
14 proven. Second, it must be proven that defendant  
15 caused the death of Khaled al-Bakri. Third, that the  
16 defendant acted with intent to kill Khaled al-Bakri.

17 In order to find the defendant had an intent  
18 to kill, you must find that the defendant acted with  
19 the purpose of causing death or believed that the act  
20 would have that result. Intent, being a process of the  
21 mind, is not always susceptible to proof beyond direct  
22 evidence but may be inferred from all the circumstances  
23 surrounding the event. It is not necessary that the  
24 defendant's act be premeditated.

25 Fourth element: That the defendant's act

1 took place on or about December 22, 2002, in Dakota  
2 County, Minnesota.

3 If you find that each of these elements has  
4 been proven beyond a reasonable doubt, the defendant is  
5 guilty. If you find that any element has not been  
6 proven beyond a reasonable doubt, the defendant is not  
7 guilty.

8 Counsel wish to point out any errors or  
9 omissions in the instructions?

10 MS. KEENA: Nothing by the State, Your Honor.

11 MR. SHANDS: No, Your Honor.

12 THE COURT: Well, it's 10:50. We're well  
13 ahead of schedule, and we're going to send you home  
14 now. When you come back tomorrow morning at 9:00,  
15 you'll hear the attorneys' closing arguments. I'll  
16 then have a few additional instructions and guidelines  
17 for you. Again, you'll get a written copy, each of  
18 you, in the jury room and then you'll begin  
19 deliberating. Bring clothes and personal effects.

20 Can the attorneys approach?

21 (Off-the-record bench discussion.)

22 THE COURT: I ask you to bring clothes and  
23 personal effects because you may not be returning home  
24 tomorrow. Once you get the case, you'll be  
25 deliberating where you'll be together until you reach a

1 verdict.

2 Anything else?

3 MS. KEENA: Not at this time.

4 MR. SHANDS: No, Your Honor.

5 THE COURT: Remember: Don't talk about it,  
6 don't read about it, don't listen to any stories about  
7 it, and thanks. See you tomorrow morning, 9:00.

8 (The jury exited the courtroom.)

9 (Proceedings adjourned.)

1 STATE OF MINNESOTA )  
2 ) ss:  
3 COUNTY OF DAKOTA )

4  
5 REPORTER'S CERTIFICATE

6  
7  
8  
9 I, MONICA R. MORIARTY, do hereby certify that the  
10 above and foregoing transcript, consisting of the preceding  
11 138 pages, is a correct transcript of my stenographic notes  
12 and is a full, true, and complete transcript of the  
13 proceedings to the best of my ability.

14  
15  
16 Dated: November 2, 2004

17  
18 MONICA R. MORIARTY, RDR, CRR  
19 Dakota County Judicial Center  
20 1560 West Highway 55  
21 Hastings, MN 55033  
22 (651) 438-8045  
23  
24  
25