

24

CURTIS DAVIS, being duly sworn by the clerk,

25

testified as follows:

447

1 DIRECT EXAMINATION by Mr. Rupp:

2 Q. Sir, can you state your name for the record,
3 please.

4 A. Curtis Davis.

5 Q. And, sir, can you tell the ladies and gentlemen of
6 the jury what your occupation was on December the 5th, of the
7 year 1998?

8 A. I was a detective at the Washington County
9 Sheriff's Department.

10 Q. And how long had you worked as a detective with the
11 sheriff's department?

12 A. At that time I was about a 13-year veteran of the
13 law enforcement, and I was a detective for about three and a
14 half years.

15 Q. I'd like to call your attention to December 5th, of
16 the year 1998, and ask you, did you receive a phone call
17 that morning?

18 A. Yes, I did.

19 Q. And can you tell the jury how that occurred?

20 A. Yes. The Washington County Sheriff's Department
21 dispatcher had contacted me by telephone at my residence.
22 And they informed me that the sheriff was requesting my
23 presence at a residence in Hopewell, Missouri, in reference
24 to a possible homicide case.

25 Q. And is that in Washington County?

1 A. Yes, it is.

2 Q. And when you received that call did you leave your
3 home?

4 A. Yes, I did.

5 Q. Did you go to that scene?

6 A. Yes, I did.

7 Q. Do you know approximately what time you got there?

8 A. Just, approximately a few minutes after seven in
9 the a.m.

10 Q. And when you arrived there, was anybody else there?

11 A. Yes. The fire department personnel was there,
12 Sheriff Ron Skiles, I believe it was Chief Deputy Walter
13 Higgenbotham, and a Deputy John Lawrence.

14 Q. And did you go to somebody or talk to somebody at
15 that point?

16 A. Yes. When I first arrived, I went ahead and made
17 contact with Sheriff Ron Skiles. And he advised me that the
18 department had received a call of the fire. And once they
19 got there, they called the sheriff's department and told
20 them that they had a body there, a female person, and that
21 it appeared that she was deceased.

22 Q. Okay. After the sheriff apprized you of the
23 information, did he give you any instructions?

24 A. Yes. First I went ahead and got my .35 millimeter
25 camera, and I started taking pictures of the crime scene.

1 And after I took the first roll of film, Sheriff Skiles
2 informed me that there was two juvenile subjects that had
3 been there overnight at the residence at the time of the
4 incident. And he advised me that he had them placed outside
5 in the patrol car, away from the residence, awaiting upon my
6 arrival so I could speak with them, interview them.

7 Q. You said you started photographing the crime scene?

8 A. Yes.

9 Q. Do you remember specifically what you photographed?

10 A. Yes. I photographed the bedroom where the subject
11 was lying, I photographed the subject and the wall that had
12 blood evidence on it and the bed, and also two pictures of
13 the kitchen floor that had a couple footprints in there.

14 Q. All right. Now, I'd like to interrupt you right
15 there.

16 A. Okay.

17 Q. You said you photographed the bed?

18 A. Yes.

19 Q. Why did you photograph the bed?

20 A. Because on the sheets, the sheets was messed up on
21 the bed, and there was some blood spots on the bed.

22 Q. Officer Davis, if I could have you look at State's
23 Exhibit No. 30 and State's Exhibit No. 31 for
24 identification, and ask you, do you recognize those
25 photographs?

1 A. Yes, I do.

2 Q. And who took those photographs?

3 A. I did.

4 Q. And what are they photographs of?

5 A. They're of the bed and the sheet that's on the bed.

6 Q. And are these true and accurate of what the crime
7 scene looked like when you arrived on December the 5th?

8 A. Yes, they are.

9 MR. RUPP: Your Honor, at this time I'd like
10 State's Exhibit Nos. 30 and 31 admitted into evidence.

11 MR. WILLIAMS: No objections, Your Honor.

12 THE COURT: Exhibits 30 and 31 are admitted into
13 evidence.

14 Q. (By Mr. Rupp): Exhibit 31 is more of a distant shot;
15 is that correct?

16 A. Yes, it is.

17 Q. And 31 is a more closeup shot?

18 A. Yes.

19 THE COURT: Did you just repeat those numbers? I
20 think you said the same number twice.

21 Q. (By Mr. Rupp): I'm sorry. Exhibit 30 is a more
22 closeup shot. Exhibit 31 is a more distant shot, correct?

23 A. Yes.

24 Q. If you would look at number 30, and I ask you, do
25 you see anything of significance in number 30?

1 A. Yes. There were several blood droppings on that
2 sheet.

3 Q. Okay. And if you would switch to 31,
4 approximately, do you see those in that photograph? The
5 developing didn't come out very well I'm afraid.

6 A. No. I can't really make it out from the angle of
7 the shot. I took it more of an angle, which the other one
8 was more of a straight up and down.

9 Q. Okay.

10 A. Also, the sheets were pulled, like, messed up.

11 Q. Okay. Like somebody scooted off the bed?

12 A. Yes.

13 Q. Other than the photographing of the victim's
14 bedroom and the two other photos, did you do any more of the
15 processing of the crime scene?

16 A. No, I did not.

17 Q. Now, in the bedroom you indicated you also took
18 additional photographs of blood on the wall?

19 A. Yes, I did.

20 Q. And I believe those have been previously admitted.
21 Are these yours or similar to your photographs?

22 A. Yes. They're either mine or similar to them, yes.

23 Q. And I'm showing you what was marked as 29 and 26
24 for identification. And is that fair and accurate of what
25 it appeared to be?

1 A. Yes, it is.

2 Q. Okay. And from your observations of the bedroom,
3 the main crime scene, did there appear to be a struggle?

4 A. Yes, there did.

5 Q. Did you photograph any other part of the house?

6 A. No.

7 Q. Why?

8 A. Because after I ran out of film, the sheriff
9 approached me again, like I said, and he advised me at that
10 time that there was two possible witnesses that was outside,
11 awaiting for my arrival to be interviewed.

12 Q. And so you were pulled off the crime scene?

13 A. Yes.

14 Q. And what did you do after you were pulled off the
15 crime scene?

16 A. I went out to the witnesses, and I spoke to the
17 first one, which was, he was identified as Michael Bernard
18 Politte, which people call him Bernie Politte.

19 Q. Where was he?

20 A. He was located out in the patrol vehicle of John
21 Lawrence's.

22 Q. Okay. And do you see that person present here
23 today in the courtroom?

24 A. Yes, I do.

25 Q. And would you show the jury and the judge who that

1 individual is?

2 A. The young man there in the blue shirt and the brown
3 pants in the middle.

4 MR. RUPP: Your Honor, I ask the record reflect
5 this witness has identified the defendant.

6 THE COURT: The record will so reflect.

7 Q. (By Mr. Rupp): Did you talk to the defendant?

8 A. Yes, I did.

9 Q. And why were you talking to him at this point?

10 A. I was trying to find out if he might have seen or
11 heard anything and what maybe occurred that night.

12 Q. Is it fair to say that you thought he was a
13 potential witness?

14 A. Yes.

15 Q. Do you recall whether he gave you any information
16 at that point?

17 A. Yes.

18 Q. And do you recall what information he gave you?

19 A. Yes. I identified myself as a detective with the
20 sheriff's department. I asked him if it was so that he was
21 there all night in the house. And he said, yes, he was.
22 And I told him to start with the events previous to the
23 evening before and tell me what maybe he seen or heard or
24 the occurrence that happened from the night before until
25 that morning when we arrived.

1 Q. Do you recall what he told you?

2 A. Yes, I do. Michael Politte stated that he and a
3 friend of his --

4 MR. WILLIAMS: Judge, may we approach?

5 THE COURT: Yes.

6 (The following proceedings were had at the
7 bench out of the hearing of the jury:)

8 MR. WILLIAMS: Judge, for the record, I would like
9 to renew my previous objections to the defendant's
10 statements that were made either at the scene or later,
11 subsequently at the sheriff's department, any knowledge of
12 those statements by this particular officer based on my
13 previous objections. I object to this on the fact that he
14 was not advised of his Miranda warnings at the scene. And
15 this officer was questioning him. He was in a police car
16 with the windows rolled up and the doors locked. And he was
17 not free to leave. He was not advised of his Miranda
18 warnings. We know that from the previous suppression
19 hearing testimony, that was held in this court. And I would
20 ask that he be not allowed to talk about anything that the
21 defendant stated at this time or any subsequent times
22 thereafter, because those would be tainted by fruits of the
23 poisonous tree.

24 MR. RUPP: And I will stand on our previous
25 suppression hearing. This witness has already testified he

1 was -- that he was interviewing him as a possible witness.
2 It wasn't until a subsequent time, after he interviewed him
3 and interviewed another subject that he found
4 inconsistencies, and he then became a suspect. And then he
5 was taken to the sheriff's department and read his rights
6 pursuant to the juvenile rights form by a juvenile officer
7 and his father.

8 THE COURT: You're preserving your record. Your
9 objection is noted for the record. The objection is
10 overruled.

11 (The proceedings returned to open court, and
12 the following was had:)

13 Q. (By Mr. Rupp): Do you recall what he told you?

14 A. Yes. Michael Politte had advised me that he and a
15 friend was at his house the evening before, around 10:30
16 p.m., and that his mom went to bed about 12:30, and he and
17 his friend went to bed about ten minutes later. And the
18 next morning he woke up to the smell of smoke. He turned
19 over and asked his friend if he had been smoking a
20 cigarette. And his friend advised him, no, he had not. So
21 they get up, they see a fire in his mom's bedroom. And so
22 his friend goes running out of the house, yelling, call the
23 fire department. And Michael Politte stated he couldn't get
24 to the phone. So he ran out of the house and told his
25 friend to turn on the hose. And he drug the water hose in

1 to try to put the fire out. And that his friend went up to
2 the neighbor's house to call the fire department. And he
3 stated that he couldn't get the fire out and realized that
4 it was his mom on fire. So he ran up to meet his friend,
5 and he was on his way back from the neighbor's. They met.
6 They came back. They stood outside. And then the next
7 thing they knew, the fire department had shown up.

8 Q. Did he mention anything about his stereo?

9 A. Yes, he did. He mentioned that when they went to
10 bed that he had his stereo turned on throughout the night.

11 Q. Did he mention anything about a phone?

12 A. No. He just -- whenever his friend told him to
13 call the fire department, he said he couldn't get to the
14 phone.

15 Q. But he said he couldn't get to the telephone?

16 A. Yes.

17 Q. Did you see a telephone in that residence?

18 A. Yes, I did.

19 Q. Did you see Bernie Politte's room in that
20 residence?

21 A. Yes, I did.

22 Q. Is there a phone nearby Bernie Politte's room?

23 A. Yes, there was, right on the wall beside the
24 bedroom.

25 Q. In other words, to exit the house did you have to

*He is
trying to
put the fire
out at this time*

1 pass the phone?

2 A. Yes, you did.

3 Q. And he indicated to you that he ran out and met
4 Josh somewhere?

5 A. Yes. He said he ran out, and he was going up to
6 the neighbor's house to meet Josh. And Josh was on his way
7 back, and they met.

8 Q. And he indicated to you at that point they never
9 went back into the house?

10 A. At that point he did not admit going back into the
11 house, no.

12 Q. And then the fire department showed up?

13 A. Right.

14 Q. After you interviewed the defendant, did you talk
15 to other witnesses?

16 A. Yes, I did.

17 Q. And on the basis of that, did you make some
18 conclusions?

19 A. Yes, I did.

20 Q. And what was that?

21 MR. WILLIAMS: Objection, Your Honor, unless we
22 know what witnesses he talked to.

23 THE COURT: Sustained.

24 Q. (By Mr. Rupp): After you interviewed other witnesses
25 what did you do?

*Took Mike
to Change
Cloths*

1 A. Okay. I interviewed other witnesses. I came back
2 and advised Sheriff Skiles of what I was told. And I had
3 inconsistencies of statements from these witnesses. So we
4 decided at that time, Skiles and I, to go ahead and take the
5 two boys that was there overnight into the sheriff's
6 department for further investigation.

7 Q. At that point had your focus on these boys shifted
8 from witnesses to something else?

9 A. Yes.

10 Q. And what was that?

11 A. At that point they became from witnesses to
12 suspects.

13 Q. And after you advised Skiles of that, did he give
14 you a directive?

15 A. Yes, he did. He told me to transport Michael
16 Politte in to the sheriff's department and have John
17 Lawrence transport the other subject in to the sheriff's
18 department.

19 Q. Okay. After you got that instruction what did you
20 do?

21 A. Well, Michael Politte, John Lawrence had taken him
22 up to use the restroom at a different residence. And when
23 he came back I placed him in my patrol car, and I started to
24 transport him in to the sheriff's department.

25 Q. And did you tell him anything?

1 A. No, I did not.

2 Q. Did he react to this?

3 A. Yes, he did. He asked me why I had to take him in
4 to the sheriff's department. I told him we were conducting
5 an investigation, that this was a serious crime. And that
6 we needed to cover all the details and try to find out who
7 committed this crime.

8 Q. What did he say to you?

9 A. He was kind of agitated and said, I don't know why
10 you guys taking me to the sheriff's department. That I told
11 you everything I knew. So, I said, well, I said, don't you
12 want me to catch who done this to your mom. And he said,
13 yes, I do. On the way to the sheriff's department, we was
14 approximately a mile away from the house, Michael Politte
15 asked me a question. Asked me if he could ask me a
16 question. I said, go ahead. And he said, can I ask you
17 who's going to get my mom's truck? And I said, well, that
18 would depend on whose name is on the title.

19 Q. And what was his reaction to that?

20 A. So, then we went ahead and drove in to the
21 sheriff's department after that. And he just sat there
22 while we drove in there. And I placed him in a seat at the
23 sheriff's department in the office and told him we had to
24 wait for the juvenile officer to get there, his dad, and the
25 fire marshal.

Mike &
Mom spent
A lot of
time in this
Truck. It
was a part of
our Mom. It
was someone
normal
to want to
hang onto
it.

Keep their stuff.

Curt
Doesn't
Answer
Question
About

1 Q. And what was his reaction when you told him we'd
2 have to wait for a few minutes?

3 A. Okay. We waited for approximately 15, 20 minutes
4 before everybody arrived. And after that amount of time he
5 said, "Hey, man, when the heck are you going to take me
6 home? I'm tired, and I want to go home and go back to bed."

7 Q. During this period of time, other than the angry
8 outburst, when you told him you were taking him to the
9 sheriff's department, Curt Never said it was an angry outburst. how was he acting?

10 A. He was just acting normal as far as sitting there.
11 He didn't act too concerned of what had just taken place in
12 the residence. *(This doesn't even make sense)*

13 Q. Show any visible signs of remorse?

14 A. No, he did not.

15 Q. Eventually, did the juvenile officer and his father
16 come?

17 A. Yes, he did.

18 Q. And what happened then?

19 A. After they all got there, we took him in a room,
20 and the juvenile officer read him the Miranda rights under
21 the Miranda warning, that he had the right to an attorney
22 and so forth and so on. His dad --

23 Q. Hang on just a second. I'm going to show you
24 what's been previously marked as number 66. Is that the
25 form that you just referred to?

*Most that he just
Stressful Morning
Situations
An Exhausting
Everyone
knows
this.*

*Tear marks
running down the
Smoke
has a visible sign
of Remorse?
Interesting*

1 A. Yes, it is.

2 Q. And it has several signatures on it?

3 A. Yes, it does.

4 Q. Including the defendant's?

5 A. Yes.

6 Q. The defendant's father?

7 A. Yes.

8 Q. And other officers'?

9 A. Yes.

10 Q. Okay. What happened then?

11 A. Okay. We started talking to him once again. We

12 told him to go ahead and tell us once more what happened

13 from the night before until that day. He said that he came

14 home from school, he found a marijuana cigarette. So he

15 took it down to the Hopewell store, met a friend, and they

16 smoked the marijuana cigarette. Then they played a few

17 games of pool. Another person came down that was a friend

18 of his and had another marijuana cigarette. So he smoked

19 that one. And then he went ahead and played some more pool.

20 And then when the other subject that was staying all night

21 with him had -- got done doing some work for the store

22 manager, they went up to his house, and this was about 10:30

23 p.m.

24 Q. Went to whose house?

25 A. To Michael Politte's house.

1 Q. Did he indicate how they got there?

2 A. A friend took them in a car.

3 Q. Did he indicate what happened when they arrived?

4 A. Yes. They said they arrived about 10:30 p.m. They
5 played about five or six of Chess, and then they played some
6 Play Station. Michael Politte stated that his friend got
7 bored. And so he asked, Michael asked his friend if he
8 wanted to go start a fire. So Michael stated that he took a
9 jug of gasoline and some trash and carried it down to the
10 railroad tracks and set a railroad tie on fire.

11 Q. What did he say one more time? I didn't hear you.
12 Speak up a little bit.

13 A. Okay. He said he took --

14 MR. WILLIAMS: Objection, Your Honor. It's been
15 asked and answered.

16 THE COURT: Overruled.

17 Q. (By Mr. Rupp): Speak up.

18 A. Okay. He said he took a container of gasoline and
19 some trash, and he and his friend went down to the railroad
20 tracks and poured the gas on the railroad tie and started a
21 fire. (Using Trash)

22 Q. So he indicated he poured a liquid onto the tracks?

23 A. Yes, onto the railroad tie.

24 Q. Did he indicate what kind of liquid?

25 A. I believe he said it was gasoline.

1 Q. Did he say what kind of gasoline?

2 A. No, he did not.

3 Q. And then he put trash on top of that?

4 A. He said he carried trash down there. He didn't say
5 he put it on top, no. *Did the Find the Trash During their Investigation?*

6 Q. And he indicated that he had set it on fire?

7 A. Yes.

8 Q. What did he indicate happened after he had set it
9 on fire?

10 A. He stated that his friend said he heard a panther
11 scream. And then both of them heard a scream, like a
12 panther. And they took off, back up to the house. Michael
13 Politte said once they arrived at the house, it was about --

14 MR. WILLIAMS: Judge, I would just simply object to
15 the narrative form.

16 THE COURT: Sustained.

17 Q. (Mr. Rupp): After he indicated they heard the panther
18 scream, did he tell you what they did?

19 A. He said they got scared and ran back up to the
20 house.

21 Q. Did he indicate approximately what time he said
22 they arrived back at the house?

23 A. He stated approximately five minutes after twelve.

24 Q. And after they arrived back at the house, did he
25 indicate what happened next?

1 A. Yes. He said about 10 minutes after they arrived
2 back at the house that his mom came home.

3 Q. And did he indicate what, if anything, happened
4 when his mom came home?

5 A. Yes, he did. He said that she brought him a
6 sandwich from Subway, and that he shared that sandwich with
7 his friend, and that she went to bed about 10, 15 minutes,
8 and told them to turn off the lights whenever they went to
9 bed.

10 Q. Okay. Now, when you say she and his mom, do you
11 know who he was referring to?

12 A. Yes, Rita Politte.

13 Q. And that's the victim in this case?

14 A. Yes, it is.

15 Q. Now, after his mother went to bed, did he indicate
16 what they did for that 10 or 15 minutes?

17 A. No. They more or less ate the sandwich, and then
18 about 10 or 15 minutes later him and his friend went to bed.

19 Q. Did he indicate where he went to bed?

20 A. In the bedroom there before you -- to the right of
21 the door, as you're -- it would be to the left of the door
22 if you walk into the house, and if you're walking towards
23 the front door it would be to the right.

24 Q. I'm going to show you what's been marked as State's
25 Exhibit No. 17 for identification, and ask you, is that the

1 room that he was referring to?

2 A. Yes, it was.

3 Q. And in that exhibit it has a photograph of a door?

4 A. Yes.

5 Q. Correct, a bed?

6 A. Yes.

7 Q. And then about three, four feet away a pillow?

8 A. Yes.

9 Q. A blanket?

10 A. Yes.

11 Q. A wall and a closet?

12 A. Yes.

13 Q. With a television in the corner?

14 A. Yes.

15 Q. What did he say when they went in and went to bed?

16 A. He said that the next morning he had been awakened

17 by smoke.

18 Q. Did he indicate what the sleeping arrangements
19 were?

20 A. He was in the bed, and his friend was in the floor.

21 Q. Then what did he say had happened?

22 A. Said when he woke up, when the smoke woke him up,
23 he turned, looked down to his friend, and asked his friend
24 if he was smoking a cigarette.

25 Q. Did he indicate the room was smokey?

Friend if he was smoking a cigarette?

*Set if he
Fire, why
would he
think &
ask His*

Which
would make
sense that
through the
room was
smokey, it
wasnt heavy
because
smoke
has been
closed the
whole time
started to
fill the room
is what woke
him.

↖
↗

1 A. Yes, he did.
2 Q. And when he found the room was smokey, he asked his
3 friend, correct?
4 A. Right.
5 Q. Then what happened when he asked his friend?
6 A. Said he and his friend got up, they went to the
7 door. His friend opened the door. The house was real
8 smokey. So he said that they crawled out of the house.
9 Q. Wait a minute. He said they crawled out of the
10 house?
11 A. Yes.
12 Q. I thought you testified previously in his first
13 interview they said they ran out of the house?
14 A. Yes, I did.
15 Q. I'm sorry. Okay, you said crawl?
16 A. Yes.
17 Q. All right. He said they crawled out of the house.
18 Then what?
19 A. And they went over to his mom's bedroom window and
20 knocked on it to try to wake her up.
21 Q. So he didn't indicate they went into the bedroom?
22 A. No.
23 Q. Then what did he say after they both went to the
24 window?
25 A. Michael Politte said that he told his friend to

This
is the
First Interview

1 turn on the water hose, and that he, Michael, grabbed the
2 water hose and stretched it through the house and attempted
3 to put the fire out.

4 Q. Did he say what happened then?

5 A. Yes. He said his friend ran up to the house, to
6 the neighbor's house, to call the fire department, get some
7 help. And as he was trying to put the fire out, he realized
8 that it was his mom on fire.

9 Q. Okay.

10 A. And he couldn't put it out, so he freaked out,
11 realizing it was his mom on fire, and he ran to get his
12 friend.

13 Q. Did he say where he ran?

14 A. Up to the neighbor's home.

15 Q. Did he say what neighbor's home he ran to?

16 A. No.

17 Q. What did he say happened once he ran up to the
18 neighbor's home?

19 A. He said by the time that he got to the neighbor's
20 house that Josh was starting to come back, that's his
21 friend, starting to come back down. So they came back to
22 the house, and they met his uncle, Chuck Skiles.

23 Q. What happened at the particular point he made that
24 statement? Did somebody interrupt? - *Where is he trying to go w/ this question?*

25 A. When he went to meet his friend, he told his friend

1 that that was his mom on fire.

2 Q. Okay. I'm talking about at the interview. What
3 happened next after he stated that?

4 A. Well, then what he said, he met his uncle, Chuck
5 Skiles, and told Chuck Skiles that his mom was on fire.

6 Q. Then what happened?

7 A. Sheriff Ronnie Skiles asked him, asked Mike
8 Politte, if he was sure he didn't tell his uncle, Chuck
9 Skiles that his mom was dead and she was on fire.

10 Q. What happened when the sheriff asked that?

11 A. Well, Michael Politte said that, "I might have said
12 that." And then he jumps up in a rage and throws his hands
13 in front of him, and he says, "Come on, Dad. Let's get out
14 of here."

15 Q. Then what happened?

16 A. And he says, "They're trying to pin something on me
17 that I didn't do." I told him, I said, you can't leave yet.
18 We're not interviewing you. And Michael Politte said, "Dad,
19 this is a bunch of shit. They're trying to pin something on
20 me that I didn't do."

21 Q. And up to that point was that the first show of
22 emotion?

23 A. Yes.

24 Q. Then what happened?

25 A. Then I went on to ask him some more questions. I

*Obvious If
was set on
fire and that
she was dead
because of
what is
their issue
with this
statement?*

Not True

He has shown lots of emotion prior to this per Court Davis testimony

469 per Chuck Skiles testimony too.

1 asked Michael Politte if he was sure that he didn't stay in
2 the house when his friend ran out of the house. And he
3 said, yes, he was sure. Or, no, let me back up. I'm sorry.
4 After they met his uncle, Chuck Skiles, he said that he and
5 Chuck Skiles ran in, back into the house.

6 Q. Now, wait a minute. Didn't you testify earlier
7 that he never went back into the house?

8 A. Yes.

9 Q. Are you sure this time he said that they both went
10 into the house?

11 A. Yes.

12 Q. That was his statement?

13 A. That he and Chuck Skiles went back into the house.

14 Q. What did he say then?

15 A. I asked him if Josh went back into the house with
16 him. He said, no. I asked him if he was sure. He said,
17 yes. And I asked him the question, didn't Josh go back in
18 the house with you and open some windows. And he said, "Oh,
19 that's right. I forgot. He did go back in the house."

20 Q. And that's something that you heard earlier; is
21 that correct?

22 A. Yes.

23 Q. And then what did he say?

24 A. So then he said that he pointed and told Chuck
25 where his mom was, and that he and Josh opened some windows,

*Mike
Never cleared
Back in
the house.*

*I'm sure
what Josh is
doing at
this point
is the least
of his
worries.
He just
found
him
mom
dead &
on fire.*

1 and then they went back out of the house and waited for the
2 fire department.

3 Q. Did he tell you anything else?

4 A. I asked him if he was sure, if he ran out of the
5 house at the same time his friend did when they first found
6 out the house was on fire. And he said, yes. And I told
7 him I was informed that he stayed in and called out to his
8 mom. And he said, no, that was not true. And I asked him
9 if -- then I asked him if he was sure that he ran over to
10 the mom's window with his friend. And he said, yes. And I
11 also told him again that I was told that he stayed in the
12 house while his friend went to his mom's window, and then he
13 came out and went to get the water hose. And he said that
14 that was not true, also.

15 Q. Did he tell you anything else?

16 A. He said that they stayed outside. Michael Politte
17 said that they remained outside after they went out the last
18 time after opening windows. And his uncle went in and tried
19 to put out the fire.

20 Q. So he told you that they opened the windows before
21 the uncle went to put out the fire, is what he told you,
22 correct?

23 A. Once they met the uncle outside, he said that's
24 when they all went in together, and they opened windows.
25 They came back outside and then stayed out while the uncle

1 had to run up and get some pans of water and take the --

2 Q. But he clearly indicated that they had opened the
3 windows prior to the fire department's arrival?

4 A. Yes.

5 Q. Does that pretty conclude that interview?

6 A. Yes.

7 Q. Did you meet up with the defendant at another time?

8 A. Yes, I did.

9 Q. Would that have been around December the 7th?

10 A. Yes, it was.

11 Q. What do you recall about that second meeting?

12 A. Okay. The deputy juvenile officer had received a
13 72-hour pickup from the judge, Troy Hyde. I contacted
14 Michael Politte's father. He brought Michael Politte in.
15 And we was going to interview him one more time. And when
16 the juvenile officer was reading his Miranda rights, Michael
17 Politte started banging his fingers on the table
18 (demonstrating) --

19 MR. WILLIAMS: Your Honor, I would object at this
20 point and based on the previous objections I made at side
21 bar.

22 THE COURT: Noted for the record. The objection's
23 overruled.

24 Q. (By Mr. Rupp): What was his reaction then when she
25 read the Miranda rights?

1 MR. WILLIAMS: Judge, I should be more specific.
2 I'm sorry. The objections were based on statements made by
3 Bernie Politte. That would be my objections to this officer
4 testifying on this additional interview about those
5 statements.

6 THE COURT: Objection's overruled.

7 Q. (By Mr. Rupp): What happened?

8 A. Okay. The juvenile officer was reading Michael
9 Politte his Miranda rights, advising he had the right to an
10 attorney. Michael Politte started banging his fingers on
11 the desk (demonstrating) and said, "Yes, I want a fucking
12 attorney." And so we stopped all interviews at that time.

13 Q. And by that, you mean you didn't ask him any
14 questions?

15 A. Yes.

16 Q. Did anybody in your presence ask him any questions?

17 A. No.

18 Q. Did he make any additional statements?

19 A. Yes, he did. He said that we was all stupid. That
20 we didn't know that gas don't burn down, that chemicals burn
21 down.

22 Q. Did he say anything else?

23 A. Not to my memory.

24 Q. Anything about expertise in fires?

25 A. Oh, yes. That he knows how to start fires and make

1 fires, and that we didn't know what we was talking about.

2 Q. Now, you've previously identified Mr. Politte,
3 correct?

4 A. Yes, I did.

5 Q. Is that the person that made those statements to
6 you?

7 A. Yes, it is.

8 MR. RUPP: I have no further questions, Judge.

9 CROSS-EXAMINATION by Mr. Williams:

10 Q. Detective Davis, you were a detective at the time
11 of this incident, right?

12 A. Yes.

13 Q. And at the time of this incident you -- well, let
14 me just back up. A detective is an investigator for the
15 sheriff's department?

16 A. Yes, he is.

17 Q. That's for the sheriff's department?

18 A. Yes.

19 Q. And would it be fair to say your responsibilities
20 are to investigate crime?

21 A. Yes.

22 Q. By sometimes collecting evidence?

23 A. Sometimes, yes.

24 Q. Preserving evidence?

25 A. Yes.