

1 we're going to end up outside of the county.

2 And I think it was in this transcript, the Court
3 basically said you're really, you know, there's law
4 that says you're only entitled to one change of venue,
5 but that you would reconsider that if at the time
6 we're selecting a jury, it became abundantly clear
7 that there was going to be a difficulty in obtaining a
8 jury that would be fair and impartial.

9 THE COURT: I think that's correct.

10 MR. BURT: I'll review the transcript. I
11 certainly don't mean to misrepresent it. I remember
12 it a little bit differently, but I'll check it tonight
13 and inform the Court tomorrow what I've found.

14 THE COURT: Okay. That's fine. And tomorrow
15 morning we're going to be in 4A, back over where we
16 started yesterday. So y'all will have to haul your
17 gear back over there.

18 I guess you can do it tonight if you want to, but
19 we'll be in courtroom 4A and start at 9:30. Court
20 will be in recess until in the morning.

21 (WHEREUPON, the proceedings in the above-styled cause were
22 adjourned at 4:55 p.m., September 29, 2008.

23 **September 30, 2008**

24 THE COURT: All right, are we ready to proceed?

25 MR. BURT: We are, Your Honor.

1 THE COURT: Call your next witness.

2 MR. PHILLIPSBORN: Your Honor, we do have our
3 witness lined up.

4 THE COURT: All right.

5 MR. PHILLIPSBORN: Just because, uh, I'm old and
6 forgetful, I wanted the Court to know that we have
7 indicated earlier in the proceedings that we had an
8 inventory for the file that we wanted to allow it as
9 an exhibit, and has been presented with the boxes and
10 so with the Court's permission, uh, I wanted to mark
11 this.

12 THE COURT: All right, that's fine.

13 MR. PHILLIPSBORN: And that apparently is going
14 to be Exhibit #30.

15 THE COURT: All right, it may be received.

16 (WHEREUPON, Petitioner's Exhibit #30 was admitted and received
17 into evidence and is appended on page.)

18 (Proceedings continuing:)

19 MR. PHILLIPSBORN: Thank you, Your Honor. And
20 then another item, and I expect that this may be
21 covered in, uh, or that it will in fact be covered in
22 testimony that's going to be given today, uh, and I am
23 going to get a copy of the original, is that the Court
24 as the Court is aware, there was some testimony about
25 the basis for the severance motions made the Baldwin

1 defense; second amended motion for severance, uh,
2 indicates that at paragraph 4 that certain statements
3 attributed to Mr. Echols that would come in through a
4 joint trial could affect the alibi defense, which will
5 be raised by the defendant, Charles Jason Baldwin, as
6 well as other aspects of the defendant's trial
7 strategy.

8 I know that the record of the court proceedings
9 is part of the record that the court will consider in
10 making its ultimate order here, so again, I just
11 wanted to have this particular item marked and at a
12 recess I'll get a file stamped copy.

13 THE COURT: All right, that will be fine.

14 MR. PHILLIPSBORN: Thank you, Your Honor.

15 THE COURT: Was that an issue covered on direct
16 appeal?

17 MR. PHILLIPSBORN: Uh, Your Honor, the...

18 THE COURT: ...I think it was...

19 MR. PHILLIPSBORN: ...I think the question was
20 simply, uh, I think the bearing that it has in our
21 proceedings was that it was simply the question of
22 whether it had been part of the Baldwin strategy to
23 actually raise an appeal.

24 I think that the testimony that the Court heard
25 was that, uh, well, I know the Court will recall the

1 testimony, so it's simply to address the issue of
2 whether in fact the Baldwin defense had announced an
3 appeal.

4 THE COURT: All right.

5 MR. PHILLIPSBORN: The other matter that I wanted
6 to raise to the Court, and I don't know that there,
7 uh, I don't think that there is anything the Court can
8 do about it, but I wanted to express a concern that
9 Mr. Hendrix and I had.

10 Apparently our client was visited without notice
11 to us by a gentleman who is the owner of a firm that
12 Mr. Ford was employed by at the time of these
13 proceedings, Mr. Rees, uh, and I don't think from the
14 sound of it, nothing bearing on the current
15 proceedings was discussed, but we did have some
16 concerns about it and I just thought I would let the
17 record reflect that that had occurred without our
18 consent.

19 And as I said, I know the Court can't do anything
20 about it.

21 THE COURT: I sure can't in that issue. I don't
22 think anybody can, short of handcuffs and a rope.

23 MR. HENDRIX: We'd vote for that.

24 THE COURT: Are you finished?

25 MR. PHILLIPSBORN: No, Your Honor, one final

1 thing and I think we made a record of it yesterday,
2 uh, and I appreciate the Court's patience with us
3 yesterday, but just because I forgot to make inquiry
4 of the Court, I wondered if the Court might be able to
5 help us fill out the record about the circumstances
6 under which the Court had contact with Mr. Channell.

7 It seems as though there had been a brief contact
8 about the issue of the necklace.

9 THE COURT: Well, it came up Friday, I think it
10 was when we were here, and at the lunch break I simply
11 walked by while he was still sitting on the witness
12 stand and asked him if he had any of his records of
13 that with him.

14 And if y'all recall, I started to question him
15 about it before we even recessed, and then I said if
16 he was going to be around, then I would ask my
17 questions later.

18 So we took the noon recess and as I walked by him
19 I asked him if he had his records with him and he said
20 yes. And that was the extent of it.

21 I just thought that needed to be in the record,
22 because we are talking about the effectiveness of
23 counsel, and they were at least minimally effective in
24 persuading the Court to exclude that rather serious
25 evidence.

1 MR. PHILLIPSBORN: And I understand the Court's
 2 point and I, I think the concern that our end was
 3 without fleshing out the record of the Court being
 4 kind enough to do, the appearance, I think, was that
 5 there may have been some interaction that the defense
 6 counsel, that current defense counsel weren't aware
 7 of.

8 THE COURT: I did it right here in open court.
 9 Y'all saw me talking to him.

10 MR. PHILLIPSBORN: No, I understand, Your Honor.
 11 I think the problem was we didn't know what the Court
 12 was talking to him about and so now the record has
 13 been made.

14 THE COURT: I asked him as we left for lunch if
 15 he had his records with him on the necklace, and he
 16 indicated he did.

17 And, of course, I had already told you before I
 18 was going to ask that question, or ask a question,
 19 which that's what I intended to ask.

20 MR. PHILLIPSBORN: Thank you, Your Honor.

21 MR. BURT: Judge, could I clear up one issue?

22 THE COURT: Yes, sir.

23 MR. BURT: Your Honor, you will recall that
 24 yesterday there was a dispute between Mr. Davis and
 25 myself about what the record showed in regard to the

1 change of venue motion.

2 THE COURT: Yes, sir.

3 MR. BURT: And I think after looking at the
4 record we are both right. Mr. Davis argued to the
5 Court at page 78 of the Misskelley trial transcript
6 that the Defense had not sustained its burden of
7 showing countywide against prejudice, but then and
8 this is the part that I was referring to, and I
9 mistakenly thought that it was Mr. Davis, but actually
10 it was Mr. Fogleman at page 87 of the transcript Mr.
11 Fogleman said "But you're specifically ruling that as
12 far as their motion to move it outside of the district
13 is that they have not carried their burden," and you
14 did then respond, "That's correct, but I'm also ruling
15 that the Court has the power and the jurisdiction to
16 do exactly that, if it becomes necessary."

17 THE COURT: Yes, I think that's correct. I
18 remember saying that years ago.

19 MR. BURT: Thank you. Oh, and there's one other
20 matter before we go on. There was a page of Mr.
21 Channell's notes that we didn't have in the exhibit we
22 marked.

23 I've now made copies of that and with the Court's
24 permission; I was just going to add the missing page
25 to the exhibit.

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THE COURT: That will be fine.

MR. BURT: Thank you.

THE COURT: I think I had already agreed to that.

MR. ROSENSWEIG: You had asked a minute ago whether something had been argued on appeal?

MR. BURT: Yes.

MR. ROSENZWEIG: And I just think the record probably should reflect that because all of the defendants in this case face either a death sentence or a life sentence under what is now Rule 4-38, any objections made at trial are deemed as being by the Supreme Court as being reviewed and considered on appeal whether they were specifically briefed or not on appeal. I think that is sufficiently stated.

THE COURT: Okay. Are we ready for the next witness?

MR. HENDRIX: Yes, sir. We call Joyce Cureton.

THEREUPON,

JOYCE CURETON

was called as a witness by and on behalf of the Petitioner and having been duly sworn, was examined and testified as follows, to-wit:

DIRECT-EXAMINATION

BY MR. HENDRIX

Q] State your name, please?

1 A] Joyce Cureton.

2 Q] C-U-R-E-T-O-N?

3 A] Yes, sir.

4 Q] Ms. Cureton, back in 1993, 1994, where did you work?

5 A] Uh, Juvenile Detention facility. I was the director over
6 it.

7 Q] How long did you work there?

8 A] I worked there about ten years.

9 Q] Tell us a little bit about your duties back at that time;
10 what did you do on a daily basis?

11 A] Uh, I was the one that had to keep up with all of the
12 Juvenile Code and the new juvenile laws and stuff, and I would
13 have to train people, you know, that came to work for me. And
14 if there was a problem with a juvenile that one of the staff
15 members couldn't handle, well, then they would come to me and,
16 uh, then there was times when a person was sick and couldn't
17 come to work; I would go in and pull that shift.

18 Q] And in that vein, what was your schedule like; how long
19 were you there at the Detention Facility on, say, a given week?

20 A] It, it differed. I mean, sometimes I would be called,
21 like, at two o'clock in the morning, to get up and come out
22 there and settle, you know, a problem that the staff was having,
23 you know, with the kids.

24 Q] What was your regular schedule like?

25 A] My regular schedule was supposed to be from eight until

1 five.

2 Q] Monday through Friday?

3 A] Yes, sir.

4 Q] And then I take it from what you are saying is, you're also
5 on call?

6 A] Yes. Twenty-four hours a day/seven days a week.

7 Q] Okay. And so you spent a great deal of time out there at
8 the facility?

9 A] Yes.

10 MR. HENDRIX: Let me mark this, if I may. This
11 may be one of the most inartful things - - and Judge,
12 I've got an extra copy.

13 And what I'm doing, this is a layout of the
14 Juvenile Detention Facility at the time Ms. Cureton
15 worked there, and I wanted to give it to her, Your
16 Honor, and I've already given it to Brent, so y'all
17 can refer to it when she's testifying about it.

18 DIRECT-EXAMINATION, continuing:

19 Q] Uh, so you mapped this thing out a couple of days ago; is
20 that right?

21 A] Yes, sir, I did.

22 Q] Can you just go through it and give us an idea, uh, of what
23 we're looking at here?

24 A] Okay. Uh, the space here is the door coming from the adult
25 female unit into the juvenile unit. And the first door, uh, on

1 the right would be my office. Okay. This is a storage room
2 where we store the kids' clothes, uh, cleaning stuff. And then,
3 uh, the bathroom is where we would have the juveniles go in and
4 change clothes; change into a county uniform.

5 Q] Joyce, let me, let me kind of get a little bit more to the
6 point. On the top left corner of the page we're looking at,
7 you've got "My office"?

8 A] Right. This is where my office was.

9 Q] Everything below that is - - is that where the boys were
10 housed?

11 A] Yes, sir. That side was the boys and the other side was
12 the girls.

13 Q] Okay. On the far left side and the row going down that's
14 numbered from the bottom, one all the way up to ten by your
15 office, are those the boys' cells?

16 A] Yes, sir.

17 Q] All right. Across from that, you've got that block there.
18 What is that?

19 A] The block; that is what you call the pod.

20 Q] Uh-huh?

21 A] Uh, it had that real thick Plexiglas and bars around it,
22 and that is where the staff person sat, is at the end of that.
23 There was a panel similar to this where you could tell if some-
24 body's door was locked or unlocked and, uh, that person could
25 sit here and she would monitor, you know, all of the block.

1 Q] Was it glassed in?

2 A] Yes.

3 Q] Okay. So you could monitor. How many staff members would
4 man that pod?

5 A] Uh, it was a person was twelve hours two days a week, so it
6 was from seven to seven.

7 Q] And so it was constantly manned by just one staff member?

8 A] Yes. And during the day, plus myself.

9 Q] Okay. South of the pod, you've got a circle there?

10 A] The circles, that is the tables where the kids would sit
11 and play cards and watch TV. The TV was mounted on the wall.

12 Q] I think somewhere, the prior records refer to it as the
13 "day room"?

14 A] Yes.

15 Q] Is that a fair name for it?

16 A] Recreation; uh-huh.

17 Q] Okay. Uh, and so the staff, through those windows, are
18 able to see essentially every inch of the room and into the
19 cells, and so forth?

20 A] Yes, sir.

21 Q] Okay. Uh, and for the juveniles kept in there, is there
22 constant surveillance?

23 A] Yes.

24 Q] Okay?

25 A] Yes, there was cameras.

1 THE WITNESS: This is number 32.

2 THE COURT: Well, it is #32. Do you have any
3 objection?

4 MR. DAVIS: No objection.

5 THE COURT: All right, it may be received.

6 (WHEREUPON, Petitioner's Exhibit #32 was admitted and received
7 into evidence and is appended on page.)

8 DIRECT-EXAMINATION, continuing:

9 Q] I'm handing you what we've marked as Plaintiff's Exhibit
10 #33. Could you tell us what that is?

11 A] (Witness examining same.) This is my daily log that had to
12 be kept to turn in to, uh, once a month this would be turned in
13 to Little Rock, because we operated on, uh, state and federal
14 grants.

15 MR. HENDRIX: Judge, did I give you a copy of
16 that?

17 THE COURT: I don't need it; I can see it.

18 DIRECT-EXAMINATION, continuing:

19 Q] And for the record, these are the unit logs that were
20 contained in Mr. Ford's file that we got from him?

21 A] Yes.

22 Q] Uh, And I'm gathering then that these show, these are
23 housing logs, is that right, to show where specific inmates were
24 housed?

25 A] Yes, sir.

1 Q] Okay. Could you just briefly go through, and do you see
2 Jason Baldwin's name on there?

3 A] Yes, sir. On cell two.

4 Q] On that first page, it's a log from Wednesday, September 1,
5 1993?

6 A] Yes, sir.

7 Q] And where is Jason housed?

8 A] Uh, HC-2.

9 Q] Okay. Go to the next page, Thursday, September 2nd of '93.
10 Where was Jason housed?

11 A] We moved him to number seven.

12 Q] Okay. And to the best of your memory, is that pretty much
13 where he stayed; was that more of his constant cell, number
14 seven?

15 A] Yes.

16 Q] Where is it located in relationship to the pod?

17 A] Uh, it would be almost directly, uh, sort of, you know,
18 catty-cornered.

19 Q] Almost directly across?

20 A] Uh-huh.

21 Q] So you guys could see in there?

22 A] Yes, sir.

23 Q] Okay. Did he ever have a cell mate?

24 A] No, sir.

25 Q] All right. Uh, this was a notorious case, and I'm assuming

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Appellant(s)

Charles Jason Baldwin
Jessie Lloyd Misskelley, Jr.

v. Craighead Circuit, Western District
Hon. Charles David Burnett, JUDGE
CR93-450 (BALDWIN), CR93-47 (MISSKELLEY)

Appellee(s)

State Of Arkansas

25 Volume Supplemental Record Lodged
3 Envelopes Exhibits
1 Small Box Exhibits

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June 11, 2010
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Volume 4

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IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

CR-93-~~1450~~ 1506

~~JASON CHARLES BALDWIN~~
JASON CHARLES BALDWIN

DEFENDANT

FILED
APR 21 2010
Ann Hudson
Circuit Court Clerk

VOLUME III of X

1 you were aware of that?

2 A] Yes.

3 Q] And, and the staff?

4 A] Yes.

5 Q] Was Jason monitored well, and by that, I mean because of
6 the notoriety of the case, the constant set of eyes, or even an
7 extra set of eyes on him?

8 A] Uh, yes, everybody watched out for Jason.

9 MR. DAVIS: Your Honor, I realize that we're in
10 testimony of a Rule 37, but I would object to that
11 question and also ask that the answer be stricken
12 because where the witness could testify about what she
13 did personally and what she was aware of, to make the
14 statement that "everybody watched out for Jason" would
15 be improper, because that calls for speculation.

16 THE COURT: Sustained. Rephrase your question.

17 DIRECT-EXAMINATION, continuing:

18 Q] Okay. Uh, there are other staff members there; is that
19 right?

20 A] Yes, sir.

21 Q] And you were their supervisor?

22 A] Yes, sir.

23 Q] Did you receive - - and their records that were maintained
24 there as well; correct?

25 A] Yes, I gave a direct order that he was to be watched.

- 1 Q] And you received reports from your staff members?
- 2 A] Yes.
- 3 Q] You gave them a directive to watch after Jason?
- 4 A] Yes, sir.
- 5 Q] All right. So from your own personal observations, did you
6 have sort of a keen eye out for him?
- 7 A] Oh, yes.
- 8 Q] And to your knowledge and from your directive to your staff
9 and to reports you were receiving, they were as well?
- 10 A] Yes, sir.
- 11 Q] Okay. Uh, based on your personal observations during the
12 May to March that Jason was housed there, were you able to form
13 any opinions about Jason?
- 14 A] Uh, yes, sir.
- 15 Q] What kind of kid he was like?
- 16 A] Yes.
- 17 Q] Could you share those with us?
- 18 A] Uh, you couldn't ask for a better kid. I mean, he, he
19 never complained about anything, uh, he never demanded, you
20 know, like the other kids do, you know, "I know my rights," and
21 all of this mess that you get from a lot of them. But Jason, he
22 was altogether different.
- 23 Q] What was his interactions like, from what you observed and
24 what your reports told you. What was his interactions like with
25 the other kids?

1 A] Uh, at first, Jason was sort of standoffish, and he stayed
2 in his room a lot, and read.

3 Q] Did he seem to be a talkative, gregarious, out-going kid,
4 or fairly reserved?

5 A] I have to say that he was reserved.

6 Q] Did you, from your own hearing, observations, or from
7 reports that you received, ever hear about Jason talking to
8 other inmates about his case?

9 A] No.

10 Q] Now the JDC, the detention center, maintains records;
11 right?

12 A] Yes, sir.

13 Q] Uh, and these are records, well, tell us what kind of
14 records are maintained?

15 A] Well, uh, they have a - - on top of this you have a daily
16 log. Uh, it would be this log.

17 Q] And you're referring to Exhibit #33?

18 A] Uh, yes.

19 Q] Which are the housing logs?

20 A] Yes. Okay. The person on duty would write their name,
21 what shift, you know, and what time they come on and put their
22 name out by the side. Then, you know, if you have trouble get-
23 ting one up to get a shower or something, that would be
24 documented.

25 Q] Uh-huh?

1 A] I mean, everything was documentation, documentation, be-
2 cause this was what the state and federal demanded.

3 Q] Correct; these are juveniles, and there are some fairly
4 stringent laws and policies involved?

5 A] Yes.

6 Q] Okay. And so the records that, that I have given you, uh,
7 are only a small portion of tons of records that would be main-
8 tained?

9 A] Right. And Jason had a, a separate file; so did every
10 juvenile that come [sic] in there.

11 Q] Uh-huh?

12 A] Regardless of what they come in there for, there was a file
13 made up for that child.

14 Q] And so would the records, would y'all maintain records, or
15 the staff would, uh, reflect always what staff were on duty at a
16 given time?

17 A] Yes, sir.

18 Q] Uh, would the records have reflected things like the move-
19 ment of the kids, what they were doing during the day?

20 A] Yes, sir.

21 Q] Are there visitor logs?

22 A] Yes, sir.

23 Q] Records that would show who was coming in and out to visit
24 the juveniles?

25 A] Yes.

1 Q] Psychological and medical records, I'm assuming?

2 A] Uh-huh.

3 Q] Uh, were notations made, individual records kept on any
4 acts of violence, fights, that sort of thing?

5 A] Oh, yes.

6 Q] Is that well documented?

7 A] Yes.

8 Q] Okay?

9 A] That was in an incident report.

10 Q] And am I correct in assuming, because that would have to do
11 with possible security measures for the institution, as well as
12 liability issues?

13 A] Right.

14 Q] Because you're dealing with kids?

15 A] Right.

16 Q] Uh, all in all, do these records, I mean, what's the pur-
17 pose of it?

18 A] Uh, it's "C-Y-A" as they say, you know, and it's records
19 that, uh, JJPD demanded that we keep, because it was the law.

20 Q] And I take it you would produce some of the records your-
21 self; the staff would produce records as well?

22 A] Yes. And I would go over every morning what had happened
23 that night.

24 Q] So you reviewed all of the records and were aware of what
25 was contained in them; right?

1 A] Yes.

2 Q] All right. Now do you recall an inmate named Michael
3 Carson?

4 A] Oh, yes.

5 Q] And, and I'm going back to, I guess it's Exhibit #33, the
6 housing records, referring to the first page, Wednesday,
7 September 1st, do you see Michael Carson's name?

8 A] (Witness examining same.) Yes, sir.

9 Q] Where is he?

10 A] He's in number 5.

11 Q] And again, Carson, for the record, was in HC-2?

12 A] He was in number 5, bed 2.

13 Q] Had Carson, to your knowledge, been in the institution
14 before?

15 A] Uh, yes, sir; in and out.

16 Q] Okay. These records, the first day is September 1st, would
17 that be consistent with your memory of when he came in during
18 this institutionalization when Jason Baldwin was there?

19 A] Uh, his name was here and, I mean, it's been a long time,
20 but his name is down here; yes.

21 Q] Okay. Was there a policy in place that when you got a new
22 detainee - - well, what was the policy for new detainees?

23 A] Uh, they was [sic] put in either HC-2 or number 9; 9, HC-2
24 or 8.

25 Q] Why?

1 A] Uh, so, because they was [sic] put in there for three days'
2 lockdown, uh, to see if they was suicidal and just to keep a
3 closer eye on them.

4 Q] Uh-huh?

5 A] And to see how they was gonna interact with the other
6 juveniles.

7 Q] During that lockdown time, did they have any interaction
8 with any of the other kids?

9 A] Carson?

10 Q] Well, by policy?

11 A] Oh. Oh. No, the first three days that they was in there,
12 I mean, they understood, you know, that if they done something,
13 it would be longer.

14 Q] Okay. Uh, were their interactions more restricted during
15 that time?

16 A] Yes.

17 Q] Okay. Uh, these records, just where I can get to the
18 point, these records reflect that Carson on this stint from
19 Wednesday, September 1, through, I believe, Thursday, September
20 7th; would that be consistent with your memory?

21 A] Yes, sir.

22 Q] Okay. So that's a total of, I guess, what? Six days,
23 seven days?

24 A] What did you say the last day? September 3rd?

25 Q] September 7th?

1 A] Oh. Yes.

2 Q] And then what I'm trying to get at is, is it consistent
3 with your memory that Carson was in the facility for about a
4 week during the time that Jason Baldwin was housed there?

5 A] Yes.

6 Q] Okay. Now you've already testified that the kids are
7 monitored and their movements are monitored for various reasons;
8 pretty precisely. And those records are kept in the ordinary
9 course of your business?

10 A] Yes.

11 Q] Are they accurate?

12 A] Yes.

13 MR. HENDRIX: Your Honor, I'd move for their
14 introduction, as well.

15 MR. DAVIS: No objection.

16 THE COURT: All right, they may be received.

17 (WHEREUPON, Petitioner's Exhibit #33 was admitted and received
18 into evidence and is appended on page.)

19 MR. HENDRIX: Let me mark this; I don't intend to
20 introduce this, I'm marking it as Exhibit #34 and it's
21 really, Your Honor, just to give you and Mr. Davis and
22 the State, some reference to the series of questions
23 that I'm about to ask, Judge, to put it in context and
24 to show its relevance, and also to refresh her memory
25 from fourteen, fifteen years ago.

1 I'd like to make some references to the trial
2 record, uh, and ultimately to that statement regarding
3 the allegations that Michael Carson made Jason, uh,
4 against Jason.

5 And the first one to show its relevance, as I
6 have understood the trial record and that statement
7 that Carson made.

8 He first alleged that when he got out of lockdown
9 one evening, he, Jason Baldwin and another kid named
10 Jason, who had burns on his arm, and a kid named
11 Biddle played Spades one evening.

12 For the context of the record, uh, Carson alleged
13 that he asked Baldwin had he committed the crime at
14 that time, and Baldwin said no and denied it.

15 DIRECT-EXAMINATION, continuing:

16 Q] Now, having put that context, if Carson had alleged, and,
17 and you were not at trial; correct, you were not at this trial?

18 A] No, sir.

19 Q] And, and so you didn't see Michael Carson testify?

20 A] Uh, I was outside of the courtroom.

21 Q] Okay. Assume Carson alleges that soon after getting out of
22 lockdown one evening, he, Jason Baldwin, another kid named Jason
23 and a kid named Biddle were playing Spades. One, let me ask
24 you, do you have any independent memory of that event?

25 A] Uh, no, they played cards, you know, quite often when they

1 was allowed out.

2 Q] Is that the type of event that would have been reflected in
3 the juvenile records?

4 A] Yes.

5 Q] Okay. And, and to your knowledge, was that reflected in
6 the juvenile records?

7 A] Uh, not to my knowledge.

8 Q] Okay. Let me go then to another allegation.

9 MR. HENDRIX: And Judge, this is in reference to
10 the statement, uh, that I have given you, and this is
11 the statement that Carson gave to a State Police
12 officer named Beal, and I believe it was February,
13 '94. Back on page 9 Carson was asked - - well,
14 actually, let, let me back up. I'm taking it a little
15 bit out of sequence.

16 The next allegation Carson made at trial, and
17 this is on page 1168 and 69 of the trial transcript,
18 is that the day following this evening of playing
19 cards, that Jason Baldwin and Carson are sitting at a
20 table there in the day room, uh, around noon-time when
21 lunch is called, as Carson and Baldwin, as Carson
22 alleges, were scraping cards off the table. Carson
23 again asked, uh, "Did you do this?"

24 And at that point Carson alleges in his trial
25 testimony that Jason made some incriminating

1 admissions.

2 DIRECT-EXAMINATION, continuing:

3 Q] Now, Ms. Cureton, if Jason Baldwin and Michael Carson were
4 sitting around the noon time playing cards, would that have been
5 - - first, do you have any independent recollection of that?

6 A] No.

7 Q] Would that have been the type of event that would have been
8 maintained in these records?

9 A] Yes.

10 Q] Okay. If it occurred?

11 A] Yes.

12 Q] Okay.

13 MR. HENDRIX: Now the third area is in that state-
14 ment, Judge, in February of '94, uh, Carson, uh, is
15 asked "you're only in there for a week; did you know
16 Baldwin before?" "No" is his answer. So the State
17 Trooper asks him "so why did this guy make
18 incriminating admissions to you?"

19 And ultimately on page 9 his explanation is that
20 he had become to trust him because Baldwin had been
21 threatened and confronted by certain black inmates,
22 and that in Carson gave him the connection of trust,
23 in Carson's estimation, uh, have Baldwin make some
24 incriminating admissions.

25 DIRECT-EXAMINATION, continuing:

1 Q] Now you've already testified that incidents involving any
2 violence or threats would have been maintained in those records;
3 is that correct?

4 A] Yes.

5 Q] Okay. To your knowledge, one, do you have any independent
6 recollection of any event or incident where black inmates were
7 threatening Jason Baldwin?

8 A] No, sir.

9 Q] If that would have occurred, would that have been reflected
10 in the records?

11 A] Yes, there would be a copy of the incident report.

12 Q] Do you recall Paul Ford contacting you about this case?

13 A] Uh...

14 Q] ...and let me be more precise. Paul Ford, Robin Wadley,
15 any member of the defense of Baldwin defense team?

16 A] Uh, not until the trial started.

17 Q] Do you recollect when that was?

18 A] Uh, in March.

19 Q] In '94?

20 A] Yes, sir.

21 Q] What was the nature of that -- first, who contacted you?

22 A] Uh, they just come out there and brought Jason some, uh,
23 clothes.

24 Q] "They" being?

25 A] Wadley and Ford.

1 Q] Did they then contact you?

2 A] I was there.

3 Q] What was the nature of that contact or any contact you had
4 with Paul Ford, Robin Wadley, or any agents for the defense of
5 Baldwin?

6 A] Nobody got in touch with me or my staff, I mean, it, it,
7 you know, it would be documented had they - - now when he first
8 come out there, uh, Wadley and Ford, uh, brought HBO and Patty
9 Jones, she worked for me and she was working nights. And, uh,
10 Bobby Johnson, he worked night adult jail.

11 Q] Uh-huh?

12 A] And they had talked their way in, bluffed their way in, or
13 whatever, and had HBO set up and this attorney inmate room.

14 Q] Uh-huh?

15 A] And liked to cause them to lose their jobs over it.

16 Q] Okay?

17 A] So, but as far as him, now he did contact me the Friday
18 night after the trial, he called me at home; Ford did.

19 Q] So what I'm hearing you say is, is that pre-trial, you were
20 not contacted?

21 A] No, sir.

22 Q] To provide any information, and specifically, about Michael
23 Carson?

24 A] No.

25 Q] Then after the trial you are contacted, and what's that

1 about?

2 A] Uh, he wanted me to, uh, be in court, uh, that Saturday to
3 just basically, you know, tell what type of a kid he was while
4 he was incarcerated out there. And I told him, I said, "Well, I
5 don't, you know, I don't know about, you know, about that. I'll
6 have to talk, you know, to somebody."

7 Q] So he contacted you post-conviction, pre-sentencing is what
8 I'm hearing?

9 A] Right.

10 Q] And the nature is, is he talked to you about possibly you
11 testifying for Baldwin at a sentencing hearing?

12 A] Right.

13 Q] That it was about your opinions of Jason; is that right?

14 A] Yes.

15 Q] Were you ever contacted by anybody with the Baldwin defense
16 team specifically about Michael Carson?

17 A] No, sir.

18 Q] About the allegations Michael Carson made?

19 A] No, sir.

20 Q] And did you feel that either you, your staff or your
21 records had useful information to the defense?

22 A] No, sir. Not to my knowledge.

23 Q] Now let me ask you - - listen to me - - do you think that
24 you have useful information for Jason Baldwin when it came to
25 Michael Carson's allegations?

1 A] Oh, yes. Yes.

2 Q] Now to your knowledge, did Ford, did the Baldwin defense
3 team obtain records from you?

4 A] Not from me. No, sir.

5 Q] Okay. But we now know there were some records that were
6 obtained?

7 A] Yes.

8 Q] Uh, to your knowledge, did anyone with the Baldwin defense
9 team interview any of your staff members regarding the Carson
10 allegations?

11 A] Not to my knowledge.

12 Q] Okay?

13 A] And they would have told me.

14 Q] And there were staff members other than you, staffing the
15 pod during this week when Michael Carson was there when Baldwin
16 was housed there; right?

17 A] Yes, sir.

18 Q] Okay. Uh, to your knowledge did anyone with the Baldwin
19 defense team attempt to interview a kid identified as the other
20 Jason with the burns on his arm?

21 A] Not to my knowledge; no, sir.

22 Q] To your knowledge did anyone with the Baldwin defense team
23 attempt to interview the kid identified as Beetle, or Bittle?

24 A] Oh, uh, the boy that was burned. No, not to my knowledge.

25 Q] All right. And going back to the housing records, I, I

1 noticed on them that you give a date of birth, the age of the
2 kid, and also their, uh, ethnicity; right?

3 A] Uh-huh.

4 Q] And there were several black young inmates housed during
5 that week with Carson and Baldwin; right?

6 A] Yes, sir.

7 Q] To your knowledge did anyone with the Baldwin defense team
8 attempt to interview any of those African-American inmates?

9 A] No, sir.

10 Q] All right. And we have visiting logs; correct?

11 A] Yes, sir.

12 Q] Are you aware of whether those logs reflect anybody with
13 the Baldwin defense team trying to interview staff or those
14 kids?

15 A] No, sir.

16 MR. DAVIS: Your Honor, could we - - there have
17 been a couple of questions and I'm not sure what the
18 answer may be, but the questions asked "are you aware"
19 is proceeded by talk about the log; I guess that I
20 would ask that they be more specific questions.

21 Does she not remember, or is not that information
22 in the logs, or would not remember if there is, or do
23 we have to look at the logs?

24 THE COURT: And is she speaking from her own
25 personal recollection, or from the recollection re-

1 refreshed by the logs?

2 MR. HENDRIX: And let me try to clear that up.

3 DIRECT-EXAMINATION, continuing:

4 Q] Two questions: First, do you have any independent recol-
5 lection as you sit here today of anybody with the Baldwin
6 defense team trying to conduct those interviews?

7 A] No, sir.

8 Q] Trying to review those records?

9 A] No, sir.

10 Q] Okay. Now you testified that your job as the supervisor
11 was to daily review these records; right?

12 A] Yes, sir.

13 Q] Okay. And now to your memory, going back and reviewing
14 those records, do you have any memory that the records would
15 have reflected any visits for interviews to have been conducted?

16 A] Yes, sir.

17 Q] Say that one more time?

18 A] Yes, sir.

19 Q] "Yes, sir," what?

20 A] If anybody come out to speak with anybody, there was a
21 visitation log, there was a book that we have for attorneys,
22 preachers, uh, school teachers.

23 Q] Uh-huh?

24 A] I mean, everybody. Anybody that had contact with a
25 juvenile had to sign in.

1 Q] And so...

2 A] ...at what time, and what time it was over.

3 Q] And so my question is, you've reviewed those records on a
4 daily basis?

5 A] Yes, sir. That was my job.

6 Q] From your memory, sitting here today, back to when you were
7 reviewing those records, would they have reflected Paul Ford - -
8 pardon me - - did they reflect that Paul Ford ever came to the
9 jail, signed in the visitors sheet, trying to interview any of
10 those folks?

11 A] No, sir.

12 Q] Okay. You did not testify at trial?

13 A] No, sir.

14 Q] And why is that?

15 A] Uh, because I was told to get out of the county and stay
16 until they had sentenced the boys; that they would call me on my
17 phone and tell me when I could come home.

18 Q] Okay. Did Paul Ford subpoena you for trial?

19 A] Well, when it first come out, uh, my name was on the sub-
20 poena, Patty's, Danny Williams, a whole bunch of people, you
21 know, that worked for me.

22 Q] As a potential trial witness?

23 A] Yes.

24 Q] All right?

25 A] Whenever it come around, nobody, they didn't call anybody.

1 Q] And so obviously, the decision was made not to call any of
2 those folks at the trial part?

3 A] No.

4 Q] Did you receive a subpoena then for the sentencing hearing
5 - - Paul, as I understand it, had asked you to show up at the
6 sentencing; correct?

7 A] Yes, sir.

8 Q] And I'm hearing you say that somebody told you to get out
9 of town?

10 A] Yes.

11 Q] The question is, did Paul give you a subpoena to compel
12 your attendance at that sentencing hearing?

13 A] No, sir.

14 Q] Had you received a lawful subpoena, a court order from a
15 judge, telling you, compelling you to show up in court under the
16 threat of contempt, would you have shown up?

17 A] Well, yes.

18 Q] Okay.

19 A] Now I did receive one subpoena, but I think that is when
20 Damien was here.

21 Q] The Echols trial?

22 A] I think so, because I was working for Robin Wadley at that
23 time and, uh, Robin told me that he would take it and go up to
24 court and represent me.

25 Q] I'm being reminded by another attorney that may have been

1 Echols post-conviction hearing?

2 A] I guess.

3 MR. HENDRIX: Your Honor, could I have a second?

4 THE COURT: Yes.

5 (Pause.)

6 DIRECT-EXAMINATION, continuing:

7 Q] Do you remember the name Ann Tate?

8 A] Yes, sir.

9 Q] And who is Ann Tate?

10 A] Uh, she was one of the ladies that worked for me.

11 Q] And would she have been on duty that week?

12 A] Uh...

13 Q] ...in fact, if you will look on the third page from the
14 back of Exhibit #33, it says "Juvenile Night Roster"?

15 A] September 5th?

16 Q] Yes?

17 A] Okay. Yes, Ann Tate.

18 Q] All right. And before that, September 4, also Ann Tate?

19 A] She relieved Patty Bircham; no, Patty Bircham relieved her.

20 I'm sorry.

21 Q] And so those are staff members?

22 A] Yes.

23 Q] So Ann Tate was a staff member?

24 A] Yes.

25 Q] And Patty Bircham, also?

1 A] Yes.

2 Q] Okay. Do you remember the names Xavier Reedus?

3 A] Oh, yes.

4 Q] Leonard Haskins?

5 A] Yes, sir.

6 Q] Uh, Daniel Biddle?

7 A] Yes.

8 Q] Were those all inmates?

9 A] Yes, sir.

10 Q] Okay. And were they there at that time?

11 A] Yes, sir.

12 MR. HENDRIX: Your Honor, I'll pass the witness.

13 CROSS-EXAMINATION

14 BY MR. DAVIS:

15 Q] Let me refer to Exhibit #32. Do you have a copy?

16 A] Uh-huh.

17 Q] This is more for my clarification than anything. In also
18 looking at what's marked at #33 and you were talking with Blake
19 about you could look at that chart and say "well, this shows
20 that somebody is in a certain room," when on the first page of
21 Exhibit #33 on the date of 9/1/93 where it shows Jason Baldwin
22 and it looks - - I don't know if that's a HC-2 or...

23 A] ...it's hospital 2, what we call hospital.

24 Q] Okay. On this chart, where would, can you show me where
25 that is?

1 A] Yes, sir. Okay. These two here, Mr. Davis, is the shower.

2 And HC is right there by it.

3 Q] Oh, okay. So it's just this side of cell number 8?

4 A] Yes, sir.

5 Q] Okay. And then adjacent to that is the two showers and on
6 the other side of the two showers is cell number 7?

7 A] Yes, sir.

8 Q] Would that be HC-7, I mean, are all of these numbers one
9 through ten on that side of the building numbered HC one through
10 ten and with the shower?

11 A] Uh-huh.

12 Q] Okay. Where are the, when you get down to the next section
13 of Exhibit #33 where it starts talking about Bed; are those
14 beds, are they beds that are located within those HC rooms that
15 are listed above?

16 A] Yes, sir.

17 Q] Okay?

18 A] Now I see here where I put 7, uh, I messed up on where my
19 hospital bed was, uh, Mr. Davis, because it's been, you know,
20 several years since I've been out there.

21 Q] Okay?

22 A] I mean, this was just a quick sketch that I made for him,
23 uh, as to, you know, like where the tables was, you know, and
24 where we sat, you know.

25 Q] Well, you know I don't go out to the juvenile place a lot,

1 so I'm not disputing what you put; I'm just trying to understand
2 it.

3 A] Yeah.

4 Q] So you're saying that actually, the hospital room should
5 have been between 8 and 9?

6 A] Yes, sir.

7 Q] Is that right?

8 A] Yes, sir.

9 Q] Okay. So your chart, State's Exhibit #32, should have the
10 room marked HC is located between...

11 A] ...8 and 9.

12 Q] Okay. Now if the list of numbers under the beds reflects
13 the people who are located in a particular bed in one of these
14 particular HC rooms, uh, or in these rooms here, I'm sure there
15 is an explanation for this, but how come there only shows two
16 people with beds on this front page, but there are all of those
17 people that are locked up? I mean, there are only two people
18 assigned to beds on this sheet, yet we've got all of these
19 people in the facility, and I know we didn't keep them without
20 beds, or we would have been in federal court?

21 A] No, no. No, I've never put one on there.

22 Q] I mean, how would you know the people that aren't listed
23 down here where it's got the beds. How would you know where
24 they were, what bed they were in?

25 A] Because they was either assigned the lower bunk or the top

1 bunk.

2 Q] Okay?

3 A] There was two bunks.

4 Q] Okay?

5 A] And when Carson come in, we put him in the room with Jason
6 Duncan.

7 Q] Okay. So does this reflect that there's two names down
8 here, or does this reflect that they are the only two people who
9 were sharing rooms with somebody at the time?

10 A] Yes.

11 Q] And the rest of them would have had their own individual
12 rooms?

13 A] Yes.

14 Q] Okay. That's what I didn't understand. Now at the same
15 time that Jason was there, there were three other juveniles
16 there on capital murder charges; right?

17 A] Yes, sir.

18 Q] Weren't they - - they were all out of the same county;
19 weren't they all three charged in the same county?

20 A] Craighead County; yes.

21 Q] Okay. Now when did you, let's see, when did you start work
22 out at the detention facility, or the jail and kind of move up;
23 what was your path to get to the point of being the director
24 over the juvenile detention facility?

25 A] Well, I went to work at the sheriff's department down here

1 at the old jail.

2 Q] Okay?

3 A] And they started sending me to juvenile classes to learn
4 the juvenile laws and the juvenile code and all of that, and
5 when we moved to the new jail, uh, Judge Bearden is the one that
6 asked Larry Emison to hire me.

7 Q] Okay. And so were you over the juvenile detention facility
8 out there from the gitgo?

9 A] Yes, sir.

10 Q] And when was that; how long before '93?

11 A] Oh, golly. We moved out there in '89 or '90; I'm not for
12 sure about that.

13 Q] And how long did you continue in that position after, uh,
14 after March of '94?

15 A] Uh, until August of '97, after Jerry Suiter died.

16 Q] Okay. So, and after Suiter it was Judge Haas filling his
17 term out; is that right?

18 A] Well, McCann took over as chief deputy until the Quorum
19 Court had a meeting, you know, and appointed, uh, Judge Haas.

20 Q] Okay. And was it while Jack in charge of the jail?

21 A] Yes.

22 Q] And the detention facility that you left?

23 A] Yes, sir.

24 Q] All right. And I recall having a conversation with you one
25 time during a political campaign where you didn't have much, you

1 didn't think very highly of Jack?

2 A] No, sir.

3 Q] Okay?

4 A] Still don't.

5 Q] What was the reason that you were, that, that, you were
6 removed in '97?

7 A] Uh, he fired me for taking, uh, a county car out of county.

8 Q] Now during the time that you were juvenile director over
9 the juvenile facility, were there any juveniles that committed
10 suicide inside the detention facility?

11 A] Yes, sir.

12 Q] More than one?

13 A] Yes, sir.

14 Q] Okay. And those would be situations that in fact, on at
15 least one of them, there were significant periods of time where
16 people were, they had been dead or something had happened for
17 hours on end before they were discovered; right?

18 A] Yes, sir. That was the night shift.

19 Q] Okay. And that would be under the same circumstances as
20 what you described in this #32, with someone that's supposed to
21 be monitoring them 24/7; right?

22 A] Right.

23 Q] So, and I realize those are tragic circumstances, but the
24 truth of the matter is that although people are in a position
25 and supposed to be monitoring somebody 24/7, uh, that's more of

1 the rule than it is the actual practice, isn't it?

2 A] Uh, on the night shift; yes.

3 Q] Okay. And as far as the monitoring of those people, as
4 long as they're, I mean, the person sitting there where they can
5 observe them, but as long as there is not something unusual
6 that's drawing their attention, such as a disturbance or loud
7 argument between them, I mean, the person that's in that
8 monitoring position has other things that they are doing as far
9 as keeping up the paperwork and calls from the front office?

10 A] Yes, sir.

11 Q] And things of that nature?

12 A] Yes, sir.

13 Q] Okay. So it would be a far reach to say that during a
14 period of a week-long period, that any one of the juveniles that
15 are in this facility, there couldn't be five minutes where they
16 would go by where nobody is really particularly watching what
17 they're saying or what they're doing; right?

18 A] Uh, if they was doing their job; no.

19 Q] Okay. So if they're just out there having a card game, I
20 mean, nobody is, they're doing things that normally the
21 detainees in the detention facility do, then there's nothing to
22 draw attention, there is no, they're not necessarily being
23 watched like a hawk that entire time. That person who's
24 responsible for that is doing other jobs?

25 A] Uh, they are doing paperwork, you know, and glancing up,

1 and we may get a call that we've got a juvenile coming in - -
2 okay, when that happened like during the daytime, I would go
3 open the door and let them bring in the juvenile. And then I
4 would help the person working, you know, book this child in.
5 But, I mean, I have gone inside the unit myself and sat down,
6 you know, and played cards with the boys, you know, and you
7 know, about the accident with the little boy from Clay County
8 that hung himself, I had, some of the kids had given me, you
9 know, notes as to what, you know, he was doing. And I had a
10 file on her and was fixing to fire her and then I waited too
11 late.

12 Q] Now did you, these records, or this specific records and
13 reports that you said that the juvenile facility would maintain,
14 have you seen any of those since you left out there?

15 A] No, sir, I haven't.

16 Q] Okay. So your testimony about specific instances of things
17 that went on is based on your own personal recollection?

18 A] Yes, sir.

19 Q] Now after Michael Carson was released from the facility in
20 early September, he would not have had access to those records,
21 those specific records and reports from the juvenile facility,
22 either, would he?

23 A] Nobody would.

24 Q] Okay. And when he talked about a person with the last name
25 of Biddle, a person that had some burns on him, that was

1 accurate, wasn't it, I mean, that was one of the people that was
2 in the facility at the same time he was?

3 A] Yes, sir. Jason Duncan.

4 Q] And there was another one, he referred to another boy named
5 Jason that was in there, that person was in there with him; he
6 was accurate on that?

7 A] Jason Duncan?

8 Q] Uh-huh?

9 A] Yes, sir; he's the one who had the burns.

10 Q] Okay. And there was a person named Daniel Biddle and
11 Michael referred to a fellow in there named Beetle to Biddle?

12 A] Yeah, Daniel Biddle. Yes, sir.

13 Q] Okay. And there were, the guys that were in there on the
14 capital murder charges?

15 A] Leonard and Montavious.

16 Q] Leonard and Montavious, and it looks like, yeah, they were
17 both African-Americans; right?

18 A] Yes, sir.

19 Q] Okay. And they would have been there during this same
20 period of time incarcerated; right?

21 A] Yes, sir. They were there for a long time.

22 Q] Okay. And if I understood your testimony, you indicated
23 that you weren't aware, you didn't personally observe, or it
24 wasn't ever reported to you that any of those fellows made any
25 threat to Jason; correct?

1 A] No, sir. They liked Jason.

2 Q] Okay. But in terms of - - that would include anything that
3 was reported to you, or anything that you observed. There could
4 have been threats that you weren't aware of if it wasn't report-
5 ed to you and if it didn't happen in your presence; correct?

6 A] Uh, well, yeah, there's always the possibility.

7 Q] Okay?

8 A] Uh, but if, you know, if they did and somebody told it,
9 then, you know, we would talk to them about it, you know, I'd
10 say, "Hey, what's the problem?" "Has he done something to you?"
11 I mean, not just necessarily Jason; you know, any kid.

12 Q] Sure, but there is some stigma attached in a detention
13 facility, even a juvenile detention facility, if you go to the
14 director and report things that are going on and somebody else
15 gets in trouble, that can make waves for you; isn't that true?

16 A] That's true.

17 Q] I mean, even in a juvenile facility?

18 A] That's true. But I would go inside the unit. I'd say,
19 "Okay, guys, I want to know what's going on."

20 Q] Okay. That's if you observe it or somebody reports it?

21 A] Right. If there was some incident report wrote up, I would
22 go in and say, "Okay, I want to know what's going on here, what
23 the problem is, let's get it solved."

24 Q] Okay. During this time period and working with the
25 juvenile courts, you were familiar that there was an alternative

1 school located here in Jonesboro; right?

2 A] Yes, sir.

3 Q] Okay. And Ms. Burns, I believe, or Ms. Smith, Ann Smith?

4 A] Yes.

5 Q] She was one of the persons that was head of that school?

6 A] Yes, sir.

7 Q] And Ms. Parker, Judge Parker's daughter, what's her first
8 name?

9 A] I can't remember.

10 Q] Okay. But she was associated with the school also?

11 A] Right.

12 Q] Okay. Do you recall that Michael Carson was, when he
13 wasn't at the detention facility at this point, that he was, his
14 schooling occurred at the Jonesboro Alternative School?

15 A] Yes.

16 Q] Okay. And those people, Ms. Smith and Ms. Parker, that
17 were administrators and the instructors there at that school,
18 they would be some people who would be pretty familiar with
19 Michael Carson, as far as his reputation, his behavior, uh, his
20 character and things of that nature?

21 A] Yes, sir.

22 Q] Okay. And those would be good sources of people to go to
23 try to ascertain is this person somebody that's, uh, you can put
24 stock in what he says, or is he not only a kid that's in trouble
25 but a kid that can't tell the truth?

1 A] Right.

2 Q] Okay. And did you know that I went and visited with them
3 and asked them and met with them about his reliability prior to
4 using him as a witness?

5 A] No, sir. I did not.

6 Q] Okay. And it would also be a good thing to determine his
7 accuracy, I mean, you've know Charlie Beal as a State Police
8 polygrapher?

9 A] Yes, sir.

10 Q] Do you think he was competent and good in that field?

11 A] Oh, yeah.

12 Q] Okay. And Charlie gave him a polygraph the very first
13 thing after he gave a statement, uh, do you think the results of
14 Charlie's polygraph test could...

15 MR. HENDRIX: ...Your Honor, and I know you'll
16 address this accordingly. I know there is a rule, I
17 think, that applies across the board that polygraph
18 results are per se inadmissible in any court
19 proceeding in the courts of Arkansas.

20 MR. DAVIS: Well, number one, this is civil in
21 nature, Your Honor, and number two, it's not, I'm not
22 sure that it's per se ...

23 THE COURT: ...yes, if this were a trial, I would
24 sustain your motion. But for the purposes of this
25 hearing, I'm going to allow the testimony.

1 MR. HENDRIX: Okay.

2 THE COURT: Over your objections.

3 MR. HENDRIX: Thank you.

4 MR. DAVIS: I'll move on to something else.

5 THE WITNESS: Mr. Davis, do you want my personal
6 opinion of my, you know, handling of Carson?

7 MR. DAVIS: No, ma'am. I think what you have
8 testified to up to this point on direct, you were
9 asked about the character of Mr. Baldwin and you told
10 us that you thought he was a good character and that
11 you didn't think he had done anything like this;
12 right?

13 THE WITNESS: I sure do.

14 CROSS-EXAMINATION, continuing:

15 Q] Now this one record that was signed by Ann Tate, did she
16 continue to work out at the juvenile facility for the remainder
17 of the time that you did?

18 A] No, sir, she was having problems with her own son and
19 everything, and she quit.

20 Q] Okay. She quit?

21 A] Uh-huh.

22 Q] Now you were up at the trial, the Baldwin/Echols trial, you
23 were there?

24 A] As a guard at the front door.

25 Q] Okay. So you were outside of the courtroom the whole time?

1 A] Yes.

2 Q] Do you recall seeing Michael Carson up there to testify,
3 and being there?

4 A] I remember standing on my toes looking through the window
5 and seeing him there; yes, sir.

6 Q] Okay. And you indicated that you had been, you thought
7 your name was on a witness list?

8 A] Yes, there was a witness list that I don't even know who
9 brought it to us, but Pattie Bircham's name was on there and one
10 or two other of my staff people, plus Danny Williams. He was my
11 counselor, you know, for the kids.

12 Q] Okay?

13 A] But he would get, you know, if they was able to be saved,
14 he would get them into a proper facility to help them.

15 Q] Was he, was Danny a Craighead County employee, employed
16 with Craighead County as a counselor?

17 A] No, sir. No, sir. No, sir.

18 Q] Okay. Was he a representative of one of these treatment
19 facilities?

20 A] Uh, yes, sir. Village, Youth Village, or something like
21 that.

22 Q] Okay. And so he would help, he worked for Youth Village
23 and he would help place these juveniles that were ordered to
24 treatment, he would place them in a facility, or get them placed
25 in a facility?

1 A] Yes, sir.

2 Q] Now when you were actually contacted and told that you
3 might be, that they might want to use you as a witness, this was
4 after Jason Baldwin had already been convicted, but before he
5 had been sentenced; right?

6 A] Right. Paul Ford called me at home and asked me to be up
7 at the courthouse for the sentencing, that he wanted to put me
8 on the stand just to tell, you know, how Jason acted and inter-
9 acted, you know, with the kids.

10 Q] And you say this about the sheriff, where he - - was that
11 Larry Emison that ordered you to leave?

12 A] Yes, sir. He told me to get in the car and get out of the
13 county, completely out of the county, out of Craighead County.
14 He says "and do not come back until this is over and we will
15 call you."

16 Q] And prior to that as far as you possibly being a witness at
17 the other part of the trial, you said your name appeared on a
18 witness list, but receiving a subpoena or talking with anybody,
19 you're not, you don't think that happened?

20 A] No, it didn't.

21 Q] Joyce, I'm going to ask one more question. In terms of
22 when you were out there, and this is from your own recollection,
23 do you remember whether there was, you observed any contact
24 between Jason Baldwin and Michael Carson as far as casual con-
25 versations or them sitting together at a card table playing

1 cards, I mean, of your own personal recollection; do you know if
2 that ever occurred or not?

3 A] Them by theirselves?

4 Q] No, maybe with the two of them, maybe with some other
5 folks, but them interacting in some form or fashion, whether it
6 was playing cards, casual conversation?

7 A] No, sir. Jason basically stayed by him, you know, he, he,
8 you know, he didn't really get into all of the hoopla, you know,
9 and hollering and "please change the channel" and all of this.
10 Jason was a quiet kid and if trouble started, he went to his
11 room, he pulled his door to and locked it.

12 Q] Okay?

13 A] And when we would tell them to go to their rooms to lock-
14 down, well, I had a clock, uh, and like they would be sitting
15 here at the table. I never, to my knowledge, had to tell Jason.
16 Jason watched that clock and he knew when watch-time come and e
17 got up and went to his room and pulled his door to. And I, he
18 never had to be told, and that's the reason when I read that
19 Carson said that they was doing it after everybody else had gone
20 to their rooms, it, it, I just - - it's not true. I mean, I
21 just don't believe it.

22 Q] Okay. You don't believe it, but in terms of your observing
23 that and being in a position to observe that all of the time,
24 you weren't - - it could have happened; you just don't believe
25 it happened.

1 A] Yes, sir.

2 Q] Okay.

3 A] I mean, I couldn't, you know...

4 Q] ...now back to my original question. Not an incident that
5 involved a fight or an incident that involved misconduct on
6 anybody's part, but do you recall of your own personal knowledge
7 ever seeing Jason and Michael Carson having any sort of contact
8 whether it was sitting at a card table playing together, or a
9 casual conversation or conversing, or are you saying that from
10 what you would testify to that they never basically interacted
11 at all while they were located within the facility together?

12 A] Right.

13 Q] The latter?

14 A] Uh-huh.

15 Q] Okay.

16 A] I mean, he interacted with like Montavious and, oh, Spooky,
17 uh, and you know, the black boys that had been in there a long
18 time. Those are the boys that he basically sat with and played
19 cards with and everything.

20 Q] Okay. And so any testimony about Michael Carson playing
21 cards with Jason, you don't...

22 A] ...I'm not going to say it didn't happen, Mr. Davis.

23 Q] Okay?

24 A] No, sir, I'm not saying that it didn't happen. I never saw
25 it.

1 Q] Okay.

2 A] You know, and if it did at night, I'm sure that my staff
3 people wrote it down because, you know, that was part of their
4 duties is to write down where each kid was. And legally, every
5 twenty minutes after they was locked down at ten o'clock at
6 night the person on staff was supposed to go in the unit and
7 just, you know, sort of peek in each individual room to make
8 sure everything was okay.

9 Q] Okay.

10 MR. DAVIS: No further questions.

11 RE-DIRECT EXAMINATION

12 BY MR. HENDRIX:

13 Q] On the housing logs, I'm a bit confused about what 'HC'
14 means?

15 A] Hospital.

16 Q] Okay, and you're telling me that the little map that you
17 drafted for me, you've got one of those cells wrong?

18 A] Uh, yes, sir, I did.

19 Q] Do you have it; do you want to correct that?

20 A] Okay. The reason it's HC-2 is because of the little female
21 unit over here is HC-1. I really meant to draw you a better
22 map.

23 Q] Have you got it corrected now?

24 A] Yes, sir.

25 Q] Is this correct?

1 A] Yes, sir.

2 MR. HENDRIX: The State didn't object, Judge.

3 RE-DIRECT EXAMINATION, continuing:

4 Q] Now does that accurately reflect the layout in '93 and '94?

5 A] Yes, sir.

6 Q] Okay. And so the hospital rooms were what?

7 A] Uh, if a kid gets sick.

8 Q] Uh-huh?

9 A] Or if we think he is suicidal, in which we have to think
10 some of them, you know, a lot of them, it was just a swinging
11 door.

12 Q] Uh-huh?

13 A] But a lot of them, you know, it was first time they have
14 been in trouble or something, you know.

15 Q] Uh-huh?

16 A] We just had to make sure, you know, that they wasn't [sic]
17 suicidal.

18 Q] Did you ever think Jason was suicidal?

19 A] Uh, no, sir.

20 Q] All right. So on September 1, it shows that Jason was in
21 the hospital room. Is that an indication he was sick that day?

22 A] Uh, no.

23 Q] What does it mean?

24 A] That was just, you know, under the circumstances, we wanted
25 him right across from us to where we could, you know, have

1 visual contact constantly.

2 Q] Keep that extra set of eyes on him?

3 A] Right.

4 Q] All right. Now you said some of the cells - - do all of
5 the cells have two bunks?

6 A] Yes, sir.

7 Q] All right. Just to make clear on the record, was Jason
8 ever housed with another cellmate?

9 A] No, sir.

10 Q] All right. I take it Carson was at some point?

11 A] No.

12 Q] Who is Jason Duncan?

13 A] Uh, Jason Duncan, he's from here in Jonesboro, or he was.

14 Q] He was another inmate out there?

15 A] Yes.

16 Q] Okay. At the same time?

17 A] Uh-huh.

18 Q] That's the kid with the burns on his arm?

19 A] Yes.

20 Q] Okay. And Carson, it is alleged, was part of the first
21 page gang; right?

22 A] Yes.

23 Q] Okay. The suicides that Brent asked you about, where did
24 they occur?

25 A] Uh, the little boy from Clay County, uh, he was in room 10

1 by himself.

2 Q] Did the suicides occur in the cells?

3 A] Uh-huh.

4 Q] Was there any suicide out in the dayroom?

5 A] No, no.

6 Q] Were the suicides at night?

7 A] Uh-huh.

8 Q] Okay. Did Michael Carson ever come to you or to your staff
9 members to inform you that Jason Baldwin had damaging things?

10 A] No, sir.

11 Q] Okay. Now did there come a time, did Brent ever come and
12 interview you about Carson, or I guess, did anybody of the
13 prosecution team?

14 A] Uh, yes.

15 Q] And, and what was that about?

16 A] Uh, he wanted to know if I had a file on Michael Carson and
17 I said yes, sir, I have a file on any kid that comes in here and
18 he said but I said, and I said yes, sir. And he was from the
19 sheriff's office and I went and pulled Biddle's, uh, not
20 Biddle's, uh, Carson's file, uh, and took it up to the sheriff's
21 office to Mr. Davis.

22 Q] Was there any more conversation about it; was there anymore
23 talk?

24 A] Uh, just that there wasn't anything in there that would
25 help them.

1 Q] Uh, Brent asked you about a series of folks, uh, that he
2 had talked to about Carson's reputation?

3 A] Uh-huh.

4 Q] And so forth that might have shed light on that. Uh,
5 regarding Carson's specific allegations, wouldn't the best
6 witnesses have been the other juvenile inmates that would have
7 been aware of such a thing, and then the staff that may have
8 observed it?

9 MR. DAVIS: Judge, I'm going to object to the
10 form of the question. That's not something that this
11 witness can know.

12 THE COURT: Sustained.

13 RE-DIRECT EXAMINATION, continuing:

14 Q] Who would have the best knowledge of the actual allegations
15 that Carson made about contacts he had with Jason?

16 MR. DAVIS: Your Honor, again, the same
17 objection.

18 THE COURT: Sustained.

19 RE-DIRECT EXAMINATION, continuing:

20 Q] Uh, did you ever talk to Jason about his case?

21 A] Uh, I asked one time and he told me that his attorneys had
22 told him not to talk to anybody about his case. He said, "But
23 Ms. Joyce, I am not guilty."

24 Q] Now your name ends up on this witness list; right?

25 A] Yes, sir.

1 Q] And it was for, I assume, for trial; right?

2 A] Yes.

3 Q] And again, did anybody from the Baldwin defense team
4 attempt to interview you prior to trial?

5 A] No, sir.

6 Q] Okay.

7 MR. HENDRIX: Your Honor, I'll pass the witness
8 again, and for the record, and I know Your Honor is
9 aware of this, we obtained affidavits from staff and
10 those specific inmates who obviously all denied that
11 interaction between Carson and Baldwin.

12 THE COURT: All right.

13 MR. PHILLIPSBORN: Your Honor, may I have just a
14 moment with my co-counsel?

15 THE COURT: Yes.

16 (Pause.)

17 RE-DIRECT EXAMINATION, continuing:

18 Q] A quick follow-up. Brent had talked about witnesses he had
19 approached about Carson's reputation. Did he ask you about it,
20 about Carson and his reputation?

21 A] Who, Mr. Davis?

22 Q] Yes, Brent?

23 A] Uh, not that I remember.

24 Q] Had he, what would you have told him?

25 A] I would have told him that he was a little smart-ass and a

1 troublemaker.

2 Q] Okay. I wasn't expecting that.

3 A] Well.

4 Q] But it's good enough. Anything else relevant that you can
5 think about Carson's reputation?

6 A] Uh, I do know, uh, that, uh, when the boys was watching the
7 TV that Friday night after the news, they went wild.

8 Q] Who are you talking about?

9 A] I'm talking the other boys in there talking about what was
10 on the news.

11 Q] Okay. What was said?

12 A] And they were cussing and threatening Carson and saying
13 that Carson was lying.

14 MR. DAVIS: Your Honor, I object.

15 THE COURT: Wait a minute.

16 THE WITNESS: Oh, I'm sorry.

17 MR. DAVIS: I think we're talking about some
18 reaction that occurred after the results of the
19 trial...

20 THE WITNESS: ...yes, sir...

21 MR. DAVIS: ...about a description of what was
22 said by other people, which the State would object to.

23 THE COURT: Sustained.

24 RE-DIRECT EXAMINATION, continuing:

25 Q] Here is where I think this is going. This, I think, is

1 relevant to whether Jason was threatened by the African-American
2 inmates, as Carson alleged. Is that what you're talking about?

3 A] Right.

4 Q] And so the question would be was there some news account,
5 and I'm not offering this for the truth of the matter, but was
6 there some news account about that incident, and then how did
7 the African-American inmates react?

8 A] They said that he was a liar and that they hoped that he
9 come back in there.

10 Q] Fair enough.

11 MR. DAVIS: I still object, Your Honor. It's
12 still hearsay.

13 THE COURT: Sustained. It's hearsay.

14 MR. HENDRIX: That's all. I pass the witness.

15 THE COURT: All right, you may stand down.

16 You're free to go.

17 (Witness excused.)

18 THE COURT: Let's take a ten-minute recess.

19 Court will be in recess ten minutes.

20 (WHEREUPON, a recess was taken; proceedings resume as follows,

21 to-wit:)

22 THE COURT: Call your next witness.

23 MR. BURT: We call Mr. Stidham.

24 THE COURT: Raise your right hand and be sworn.

25 (Witness sworn.)