

1 (Witness excused.)

2 (WHEREUPON, a recess was taken; proceedings resumed as follows,
3 to-wit:)

4 THE COURT: Call your next witness.

5 MR. HENDRIX: Your Honor, we call Jason Duncan.

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

7 (Witness sworn.)

8 THEREUPON,

9 PAUL JASON DUNCAN

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

13 DIRECT-EXAMINATION

14 BY MR. HENDRIX:

15 Q] Tell us your name, please?

16 A] Paul Jason Duncan.

17 Q] Jason, where do you live?

18 A] I live in Etowah.

19 Q] Here in Arkansas?

20 A] Yes.

21 Q] Jason, do you know Jason Baldwin?

22 A] Yes.

23 Q] How do you know him?

24 A] I was locked up in Craighead County with him for about
25 seven months.

1 Q] That's the Craighead County Detention Center?

2 A] Yes.

3 Q] All right. And let's go through that a little bit. Uh,
4 when did you come into the juvenile detention center?

5 A] It was July 13th, of '93.

6 Q] Okay. When did you go out?

7 A] I believe it was around January 24th of '94.

8 Q] Okay. So for about six or seven months?

9 A] That's correct.

10 Q] Okay. And Jason, just tell us why you were in there?

11 A] Uh, for burglary.

12 Q] Okay. Did you get convicted of it?

13 A] Yes.

14 Q] Did you get sentenced?

15 A] Yes.

16 Q] And what did you do?

17 A] Uh, I was locked up for one year. I got out July 13th of
18 '94.

19 Q] Did you go to the Arkansas Department of Corrections?

20 A] Yes.

21 Q] Uh, that would have been Boot Camp, I think you told me?

22 A] Yes, I went to Boot Camp.

23 Q] All right. And then when did you get out of that sentence?

24 A] July 13th of '94.

25 Q] Uh, have you been, have you gotten any felony convictions

1 since that time?

2 A] No.

3 Q] What are you doing now?

4 A] I work for Jones Irrigation. I build irrigation pivots and
5 I work every day.

6 Q] Okay. Married man; formerly married man?

7 A] Divorced, three children.

8 Q] Gottcha. Uh, let's talk a little bit about the juvenile
9 detention center briefly. Could you kind of tell us what the
10 routine was when a new guy would come into the facility?

11 A] Well, we would be locked up for twenty-four to forty-eight
12 hours and with no one around. And then we would get to come out
13 of our cells and join the general population. So when a new guy
14 came in, they kind of put him in lockdown by themselves for a
15 little bit?

16 A] Right.

17 Q] And then they get, I guess, into the general population?

18 A] Right.

19 Q] How many kids were on the floor at a given time?

20 A] Twelve, eight to twelve, usually. There usually wasn't a
21 lot of people there.

22 Q] Gottcha. So after a kid came in and then got out of lock-
23 down, kind of describe for us the facility itself?

24 A] Uh, I mean, there was about eight cells, I believe, two
25 guys to a cell. Two tables, a TV, you know, a small, it wasn't

1 a real big place, you know. It had a kind of office in the
2 middle, you know, behind glass and bars and stuff where one of
3 the workers would, you know, uh, set and watch us. That's about
4 it.

5 Q] I think that's called the day room, there were tables and
6 stuff and folks would play cards and be able to socialize?

7 A] Right.

8 Q] Okay. And then you've got the command center with windows;
9 is that right?

10 A] Yes.

11 Q] Then were y'all able to be closely monitored, or were y'all
12 monitored at all times?

13 A] Yes.

14 Q] Okay. Uh, let's talk about Jason. Was Jason there before
15 you got there?

16 A] Yes.

17 Q] And was Jason still there when you rotated out?

18 A] Yes.

19 Q] So he was there for the entire seven months; right?

20 A] Right.

21 Q] Uh, did you get to know him?

22 A] Yes.

23 Q] How well did you get to know him?

24 A] I believe pretty well.

25 Q] Yeah?

1 A] I mean, we talked every day, uh, spent most of the day to-
2 gether.

3 Q] Uh, who else did, did he seem to be friends with or be
4 buddies with at the facility?

5 A] There was a couple of other guys, you know, uh, we, we all,
6 I mean, there was a few of us that was there the whole time, you
7 know, that I was there and we all seemed to get along pretty
8 good. And then there was a few that come in and some of them
9 that got along with us and some was just trouble makers.

10 Q] Okay. What, uh, what type of guy was Jason; if you had to
11 describe him, what was his demeanor like, what was his attitude
12 like, how did he get along with others?

13 A] He, he would get along with anybody, uh, he was pretty
14 quiet, uh, polite, not a trouble maker. I never seen him get in
15 trouble. I got along with him great.

16 Q] Was he the type of guy that would, you know, was he super
17 outgoing, was he the type of guy that warmed up immediately to
18 you, or did it take some time?

19 A] It would definitely take some time.

20 Q] How long of a time did it take, for instance, for Jason to
21 sort of warm up to you to be buddies?

22 A] I think we started talking really a lot better after a
23 couple of weeks, you know.

24 Q] Uh-huh?

25 A] Uh, there's some people, you know, would come in there and

1 start trouble and stuff, you know, and of course, a lot of us
2 didn't really talk to people like that, you know. I don't blame
3 them, but you know, he didn't, he wasn't real outgoing or any-
4 thing.

5 Q] Was he a trouble maker?

6 A] No.

7 Q] Did you ever know him to get in trouble while he was in the
8 facility?

9 A] No.

10 Q] Okay. Uh, when you guys got to know each other, uh, did,
11 did he end up talking to you about his case, any?

12 A] Well, I mean, he, not really, uh, 'cause, you know, he
13 didn't know a whole lot of it. Are you talking about the trial?

14 Q] Yeah, just the case, in general?

15 A] We would talk a little bit. He was telling me that he
16 talked to his lawyer for a couple of hours.

17 Q] Uh-huh?

18 A] Uh, he got to see his mom, you know, while his lawyer was
19 there.

20 Q] Uh-huh?

21 A] And we talked about stuff like that.

22 Q] And my experience is that in "inside," you got guys that
23 always want to talk about their case; some that never talk about
24 their case. What type of guy was Jason?

25 A] I mean, he was saying that stuff they were saying on TV

1 wasn't true, that it was crazy, uh, he felt like people was out
2 to get him, you know, for some reason and he didn't know why,
3 you know.

4 Q] Did he ever confess any involvement to you in this event?

5 A] No.

6 Q] Did he ever say anything that made you suspicious that he
7 was involved in this event?

8 A] No.

9 Q] Uh, did you, was there a guy named Michael Carson that came
10 into the facility at some point?

11 A] Yes.

12 Q] Uh, do you remember how long Carson was there?

13 A] Maybe a week or two.

14 Q] And was, was that week or two at a time when both you and
15 Jason Baldwin were in the unit?

16 A] Yes.

17 Q] What, did, from what you saw, heard, get any interaction of
18 Carson, what type of guy would you say he was

19 A] Uh, a talker, uh, he liked to do a lot of talking. I don't
20 know how much of it was true, you know, uh, he would pretty much
21 go along with anybody who would do anything to be accepted, I
22 guess, uh, and I don't know, just one of those kind of people
23 that I tried to avoid.

24 Q] Uh-huh?

25 A] In my opinion.

1 Q] Jason, can you give me just sort of a basic physical
2 description of Carson, what you remember what he looked like;
3 big guy, small guy, fat, thin?

4 A] Yeah, he was bigger than I was, uh, I haven't seen him in a
5 long time and I don't know what he looks like now, but he was a
6 big guy then, uh, red-headed and I believe he had like a red
7 goatee, uh, a pretty good sized guy.

8 Q] During the time, now, when Carson was on the unit, is that
9 at a time when you and Jason Baldwin had already become buddies
10 and were talking all of the time?

11 A] Yes.

12 Q] Okay. Uh, from what you saw, did Jason Baldwin and Michael
13 Carson get to be buddies, get to be close like you and Jason
14 Baldwin were?

15 A] No.

16 Q] Did you see - - how much interaction between those two did
17 you ever see?

18 A] Not very much at all.

19 Q] Uh, another topic. Did you ever see or did you ever hear
20 about a group of black inmates becoming hostile to Jason,
21 threatening him, threatening to beat him up, anything like that,
22 threatening violence to him?

23 A] No.

24 Q] Were there black inmates on the unit?

25 A] Yes.

1 Q] Do you remember any of them?

2 A] Yes.

3 Q] Who do you remember?

4 A] Uh, Montrail Gordon, uh, let's see. I, I don't know all of
5 their last names.

6 Q] Uh-huh?

7 A] A guy named Xavier.

8 Q] Was that Xavier Reedus?

9 A] Yeah, I believe that was, uh, one guy they called "Spook
10 Dog," I don't remember his name. I mean, I remember the guys
11 but I can't think of their names.

12 Q] Just a handful of African-American inmates?

13 A] Right.

14 Q] Of those, did you see them either individually or
15 collectively get up on Jason threatening him, causing Jason
16 problems?

17 A] No.

18 Q] Okay. Uh, was Jason the type of guy that would have gotten
19 himself involved in, in some altercation like that?

20 A] I don't believe so.

21 Q] Okay. So since you said no to that, I assume the answer to
22 this question is "no"; then did you ever see Carson in a
23 position where he was standing up for Jason against the threats
24 of other inmates?

25 A] No.

1 Q] And specifically, African-American inmates?

2 A] No.

3 Q] Okay. Now you ended up, uh, rotating out in January of '94
4 and I think the trial in this case was February of '94. In
5 February of '94 were you down in the ADC?

6 A] I was either there or in the Diagnostic Unit.

7 Q] Okay?

8 A] But I was out of the Detention Center.

9 Q] And the Diagnostic Unit is in Pine Bluff?

10 A] Yeah.

11 Q] Then did you end up being assigned to a specific facility?

12 A] I went to Varner.

13 Q] To Varner, down in Grady?

14 A] Yeah. In Boot Camp.

15 Q] And is that were you would have been during the time of
16 Jason's trial?

17 A] Yes.

18 Q] Did you end up hearing about the trial?

19 A] Yeah.

20 Q] And, and just tell us when that- - I don't know what kind
21 of access you had - - TVs or anything, but did you know about as
22 it was going on, or did you hear about it later?

23 A] Later.

24 Q] Okay. How much later?

25 A] When I got out.

1 Q] In July?

2 A] July.

3 Q] Okay. Uh, and were you aware that Carson ended up being a
4 prosecution witness against Jason Baldwin?

5 A] I'm sorry, I didn't hear the first part of that?

6 Q] Did you become aware that Carson became a prosecution
7 witness against Jason?

8 A] Right.

9 Q] And what did you then understand what Carson had testified
10 about?

11 A] What did I think about his testimony?

12 Q] What did you hear he testified about?

13 A] Well, I watched a documentary, is when I found out about
14 Carson's testimony.

15 Q] And you understood from that, that Carson testified that
16 Jason, during the time that he and Carson was on the unit, had
17 confessed to Carson, that Jason had confessed to him?

18 A] Right. Yes.

19 Q] And did you become aware that Carson said that, uh, that
20 the reason that they had become close was because Carson
21 essentially had become Jason's "slack" or muscle against the
22 black inmates. Do you remember that?

23 A] Uh, I think that, uh, I thought, I was thinking that he was
24 in the cell with him or something, I mean, I believe somebody
25 was telling me a little bit about supposedly why he testified

1 that he was in the cell with him, or something.

2 Q] Uh-huh?

3 A] And then I seen the documentary as well.

4 Q] Okay?

5 A] But as far as being the muscle and stuff like that, I
6 wasn't really aware of that.

7 Q] And from the information that you gathered what I guess
8 would have been after the trial, did you understand that Carson
9 was saying that Jason had confessed to him and then that Jason
10 had allegedly told Carson some very graphic details about
11 emasculating one of the young boys?

12 A] Right.

13 Q] Do you remember that?

14 A] Yes.

15 Q] What then, was your reaction to Carson's testimony?

16 A] I couldn't believe it.

17 Q] How come?

18 A] I mean, it just sounded like a lie. That wasn't the Jason
19 I knew, you know. It didn't sound like him and I don't believe
20 he would have talked to Carson, anyway, you know. He didn't, I
21 mean, me and him both, I believe we didn't like him that well,
22 you know. I mean, I told him I didn't like Carson that well. I
23 thought he was a trouble maker and Jason agreed.

24 Q] You didn't like Carson; what was Jason's position about
25 Carson?

1 A] He agreed.

2 Q] He didn't like him either?

3 A] That he was a trouble maker.

4 Q] And that led you to believe that Carson's testimony was
5 false?

6 A] Yeah. Absolutely.

7 Q] Also, was Jason the type of - - you testified earlier that
8 Jason was the type of guy that it took a little bit of time for
9 him to warm up to you; is that right?

10 A] Right.

11 Q] And I think you said that Carson was in the facility only
12 for a short period of time?

13 A] Right.

14 Q] Did Jason have any history of warming up fast enough in the
15 period of time that Carson was there, to confide in somebody in
16 that short a period of time?

17 A] No.

18 Q] Did, did anybody approach you prior to Jason's trial about
19 being a witness?

20 A] No.

21 Q] Did anybody that identified themselves as Jason's defense
22 team attempt to interview you and want you to be a witness?

23 A] No.

24 Q] Okay. Were you ever interviewed by anybody about this?

25 A] No.

1 Q] Until when?

2 A] Uh, Tom Quinn.

3 Q] Uh-huh?

4 A] He give me a call.

5 Q] And when did Tom Quinn find you?

6 A] It's been a few years ago. We've been talking for a few
7 years. And there's times he had to find me again, 'cause I've
8 relocated from different places, but I believe it's been about
9 three or four years ago.

10 Q] Uh-huh?

11 A] Maybe a little longer.

12 Q] Now did you end up seeing who you understood to be Jason's
13 defense lawyers on the unit coming to visit Jason?

14 A] Uh, his name was Paul something.

15 Q] Paul Ford?

16 A] Yeah.

17 Q] So he actually was there on the unit?

18 A] Oh, did I see him?

19 Q] Yeah?

20 A] No, I never seen him. I only remember the name.

21 Q] Okay. Are you aware of whether he interviewed any of the
22 other inmates that could shed any light on what Carson was
23 alleging?

24 A] No, I didn't know.

25 Q] All right. Had you been, uh, had somebody interviewed you,

1 would you have told them the same thing you've told the Court
2 today?

3 A] Absolutely.

4 Q] Would you have been willing to testify?

5 A] Yes.

6 Q] The records show that actually you were housed with Carson
7 for a few days; does that sound right?

8 A] You know, I don't remember. Uh, most of the time I had my
9 own cell; occasionally some guys would come in and I remember
10 Carson but, you know, I didn't - - he may have stayed with me
11 for a couple of days.

12 Q] Uh-huh?

13 A] But I do remember him being there.

14 Q] Gottcha. All right.

15 MR. HENDRIX: That's all I've got. I'll pass the
16 witness.

17 CROSS-EXAMINATION

18 BY MR. HOLT:

19 Q] Just real quick before I forget: you said "we didn't like
20 Carson that well," but then you said, "he may have been there; I
21 don't really remember him"?

22 A] Sir, what are you referring to?

23 Q] Well, you've mentioned Carson in terms of Blake just said
24 that "there was a record that showed that he was there when you
25 were there for two days," and you said you "didn't really

1 remember him that well," and then you also said it seemed like
2 you had formed an impression about you not liking him that well
3 either?

4 A] No, that was, what I meant was he, I don't remember if he
5 stayed in the cell with me for two days, but I do remember him
6 being there.

7 Q] Okay.

8 A] And that's what I meant by that.

9 Q] Okay. You remember him being there but you had formed an
10 opinion about Carson?

11 A] Right. From the dayroom.

12 Q] Okay. From the dayroom?

13 A] Exactly.

14 Q] Well, tell me some of the things that went on in the day-
15 room?

16 A] We would watch TV; we would play cards.

17 Q] Did you play cards?

18 A] Yes.

19 Q] What did you play?

20 A] Spades.

21 Q] Okay. Do you recall Carson playing Spades?

22 A] Yes. Did he play Spades?

23 Q] Uh-huh?.

24 A] Yes.

25 Q] Do you recall if he was taught?

1 A] If he was what?

2 Q] Do you recall if he learned how to play Spades while he was
3 there; you get like a four and a hand of Spades?

4 A] I don't know if he knew how to play Spades before he got
5 there or not.

6 Q] Okay.

7 A] Is that what you're asking me?

8 Q] Yes?

9 A] Yeah, I don't know.

10 Q] Okay?

11 A] He may have already knew how to play.

12 Q] You just don't know?

13 A] Right.

14 Q] Okay. Now I'm not going to belabor it and it's not, when
15 you said, you know, you went to prison. What were the circum-
16 stances of what you went; what did you do?

17 A] I broke into some cars, uh, I broke into a place that sold
18 cars, uh, I stole some stuff.

19 Q] Okay. Are you, were you acting with somebody, or alone?

20 A] I was with somebody.

21 Q] You were with somebody?

22 A] Right.

23 Q] Did they, were they prosecuted?

24 A] Yes.

25 Q] Okay. Who was that?

- 1 A] Uh, his name was Jimmy Patterson.
- 2 Q] Okay. Was he younger or older?
- 3 A] I believe he was a year older than me.
- 4 Q] Okay. Whose idea was it to break into the cars?
- 5 A] Both of ours.
- 6 Q] Okay. Had you ever done anything like that before?
- 7 A] Absolutely.
- 8 Q] Had Jimmy?
- 9 A] Yes.
- 10 Q] Had you ever been caught before?
- 11 A] No, we hadn't been caught. That's why, I guess we kept
12 doing it.
- 13 Q] Okay. So had you done it with Jimmy before?
- 14 A] Yes.
- 15 Q] Had you done it by yourself?
- 16 A] Yes.
- 17 Q] How long did you spend on the unit there?
- 18 A] From July 13th of '93 to about the middle of January?
- 19 Q] July 13th, '93; I assume that's an arrest date or close to
20 an arrest date?
- 21 A] Yeah.
- 22 Q] To January of '94?
- 23 A] Yes.
- 24 Q] And then at that point you went to the DOC?
- 25 A] Yes.

1 Q] And then paroled out?

2 A] Right.

3 Q] Okay. I think you said you completed an affidavit. You
4 said "there were some guys who would sometimes give him a bit of
5 a hard time but that did not last," uh, what are you talking
6 about?

7 A] Occasionally, somebody would come in, in the middle of the
8 night and be drunk, and in their cell for twenty-four to forty-
9 eight hours, would be saying stuff, I guess maybe they'd seen on
10 TV, uh, be gone the next morning, stuff like that.

11 Q] Okay. So you, you said that your reaction was that when
12 you heard that he had told these things to Michael, some of the
13 circumstances surrounding the crime, I believe that you said you
14 couldn't believe it?

15 A] I didn't believe it.

16 Q] Okay. So that was your opinion?

17 A] That's my opinion.

18 Q] Okay. Would it change your opinion if you knew that
19 Michael Carson had passed a polygraph test?

20 A] (Witness shakes head negatively.)

21 Q] It would not change - - you have to answer for the record?

22 A] Oh, no.

23 Q] It would not change your opinion?

24 A] No, sir.

25 Q] Okay.

1 MR. HOLT: That's all.

2 MR. HENDRIX: Just a few follow-ups that I forgot
3 to ask him.

4 RE-DIRECT EXAMINATION

5 BY MR. HENDRIX:

6 Q] How old were you when you were on the unit?

7 A] I was seventeen.

8 Q] Okay. On that burglary conviction, was it a juvenile or
9 adult?

10 A] Adult.

11 Q] It was an adult conviction?

12 A] Yes.

13 Q] Is it the only conviction that you've got?

14 A] Yes.

15 Q] You straightened up after that?

16 A] Yes. I've been in no trouble since then.

17 Q] Straight and narrow, working man?

18 A] Absolutely.

19 Q] July 13th, '93 is when you came in and I remember when you
20 told me that you remember that specific date. Is there any
21 reason why?

22 A] Uh, my birthday is July 12th. It was the night of my birth-
23 day and I was drunk and got into some trouble and I started pay-
24 ing for it the next day.

25 Q] That was your seventeenth birthday?

1 A] Yes, sir.

2 Q] Things got out of control?

3 A] Yes, sir.

4 MR. HENDRIX: I pass the witness. Nothing
5 further.

6 MR. HOLT: No questions.

7 THE COURT: All right, you can stand down. You're
8 free to go. Thank you.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 THE COURT: Call your next witness.

12 MR. HENDRIX: Jennifer Bearden.

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

14 (Witness sworn.)

15 THEREUPON,

16 JENNIFER BEARDEN

17 was called as a witness by and on behalf of the Petitioner/
18 Defendant and having duly sworn, was examined and testified as
19 follows, to-wit:

20 DIRECT-EXAMINATION

21 BY MR. HENDRIX:

22 Q] Jennifer, tell us your name, please?

23 A] Jennifer Bearden.

24 Q] How old are you right now?

25 A] Twenty-nine.