

1 that we took out of a jacket pocket at the hospital. He was
2 wanting to know if we could get that back. I told him or
3 Sheriff Emery told him that we would have to arrange a meeting
4 between you or the D.A.'s office and him, and they could
5 discuss the money. As far as we were concerned, it was going
6 to be held as evidence.

7 Q. What occurred then when you got back to Robertson
8 County?

9 A. We got back late that night on May 31st. The next
10 morning, I arranged a meeting between General Gay, Mr.
11 Zagorski, myself, and Sheriff Emery.

12 Q. What date would that have been?

13 A. That would have been June 1st.

14 Q. Where was that meeting held?

15 A. The meeting was held in Sheriff Emery's office at
16 the Sheriff's Office.

17 Q. Who was present at that meeting?

18 A. Myself, General Gay, Sheriff Emery, Edmund
19 Zagorski, and a guard on the door - I believe it was Herbert
20 Dodd.

21 Q. Tell the Judge and the jury about what happened
22 then.

23 A. On that day when the meeting started, General Gay
24 asked Mr. Zagorski if he knew his rights and understood what
25 his rights were. Mr. Zagorski replied that he had already had

1 his rights read to him and he did understand what they were.
2 General Gay asked him if he minded talking -- General Gay
3 explained the charges to him that we had against him, and did
4 he mind if we asked him about the murders. Mr. Zagorski
5 replied that he didn't really want to talk about the murders
6 at that time. He'd kind of like to talk to a lawyer first.
7 At that time General Gay asked Mr. Zagorski if he minded
8 talking about his past. Mr. Zagorski said, no. He said back
9 between 1978 and 1980 he --

10 Q. Stop right there. Was he given any advice before
11 he went any further?

12 A. Yes, sir, he was told that he didn't have to talk
13 to us at all. It was on his free will that he did.

14 Q. Was he advised that he had the right to talk to an
15 attorney?

16 A. Yes, sir, he was.

17 Q. What was the substance of the conversation at that
18 time?

19 A. Mr. Zagorski stated that between 1978 and 1980 he
20 did a lot of boating and sailing off of Louisiana. In 1980 he
21 began mercenary training. He said he came to Tennessee to
22 attend a mercenary training school somewhere close to
23 Columbia, Tennessee, but didn't say where it was. He said
24 that he -- he said he was planning on attending a mercenary
25 school close to Columbia, but never did attend it. He was

1 then asked if he knew Jimmy Blackwell. He said, yes, he did.
2 He acted like he was kind of disappointed. He said, I thought
3 Jimmy was one of my friends, but I don't guess he was. He
4 should have kept silent about the knife and the knife case and
5 other things he told.

6 Q. Let's stop right there just a second. When he was
7 talking about the mercenary, did he give the name of any of
8 his associates?

9 A. No, sir, he wouldn't give the name of any of his
10 associates.

11 Q. Was he asked to?

12 A. Yes, sir.

13 Q. Did he talk about how his organization was
14 financed?

15 A. Yes, sir, he was asked how a mercenary organization
16 would finance themselves, and he said that it was a lot of
17 ways to do it, but the biggest way to do it was through drug
18 transactions.

19 Q. Is that when he talked about Jimmy Blackwell?

20 A. Yes, sir.

21 Q. Please repeat again what he said.

22 A. He was asked if he knew Jimmy Blackwell, and he
23 said, yes, he did. He said that he thought Jimmy was his
24 friend, and that he thought Jimmy should have remained silent
25 about the knife case and other information that he told us.

1 Q. At the time that you had talked with him down there
2 at the Sheriff's Office, had he read the arrest warrant?

3 A. Yes, sir, he had.

4 Q. What was the substance of the conversation after
5 this was brought up?

6 A. At that time Mr. Zagorski paused and he said, well,
7 I think I'll just make it easy on you all and tell you what I
8 know about the murders. At that time he was stopped, asked
9 him again if he knew what his rights were, and that he didn't
10 have to talk to us until he talked to a lawyer, and that he
11 could stop talking at any time if he was going to talk to us
12 about the murders until he talked to a lawyer.

13 Q. Do you remember him making any other comments
14 before he stated that?

15 A. No, I don't.

16 Q. Then what did he tell you?

17 A. He said he met Dale Dotson at Lakeland Trout Farm
18 in Hickman County. He said he set up a drug transaction
19 between himself and Dale Dotson.

20 Q. What was the substance of that particular
21 arrangement?

22 A. Mr. Dotson was to buy two hundred pounds of
23 marijuana from him for a hundred and fifty dollars a pound.

24 Q. He said two hundred pounds?

25 A. That's what he said.

1 Q. Okay.

2 A. He said on April 23rd he met Dale Dotson and
3 another man, who was later identified to him as Jimmy Porter,
4 at Spot, which is located just outside of Bucksport. He said
5 Mr. Dotson and Mr. Porter were driving a red Datsun pick-up
6 truck with a camper topper on it, and he and another one of
7 his mercenary friends had another car there. He said they
8 left. He and his mercenary friend got in their car and Porter
9 and Dotson followed them in the pick-up truck. He said they
10 got on I-40, drove towards Nashville. When they got to
11 Dickson, they picked up another car that had two more
12 mercenary friends in it. They drove to Nashville, got on I-65
13 headed north towards Kentucky and stopped about eight miles
14 south of the Kentucky line on I-65.

15 Q. Would that have been in Robertson County?

16 A. That would have been in Robertson County.

17 Q. What did he say happened at that point?

18 A. He said at that point everybody exited their
19 vehicles and were standing on the side of the road, and one of
20 his mercenary friends told him to take Porter and Dotson's
21 pick-up truck and go to the Welcome Center and wait. He also
22 said that one of his mercenary friends took his .308 rifle
23 with suppressor and his web gear, and they went off into the
24 woods as he was driving off.

25 Q. What did he say his job was?

1 A. He said he was to go to the Welcome Center and
2 stand by there in case any of the F.B.I. or any police agency
3 showed up, he was supposed to come back and take care of them,
4 meaning kill them.

5 Q. He did say kill?

6 A. Yes, sir.

7 Q. What did he say happened next?

8 A. He said he stayed there somewhere between thirty
9 and forty-five minutes, and then his mercenary friends showed
10 up there. They gave him five thousand dollars, his web gear
11 and his suppressor, and his rifle back, and told him to take
12 the pick-up truck and leave. He said that he did that and
13 drove to Ironton. Before he got to Ironton, he let one of his
14 mercenary friends off, I believe it was in Lexington. I'm not
15 sure on that.

16 Q. Did he say that he was given any other property,
17 belonging to anybody else, any other weapons?

18 A. Yes, sir, he said he was given a .357 magnum Colt.

19 Q. Now, tell the jury what web gear is.

20 A. Web gear is just a military type belt, which would
21 hold a canteen, ammo pouches, just stuff that you would use in
22 the military.

23 Q. Would he ever reveal the names of his associates in
24 this particular event?

25 A. No, sir, he wouldn't.

1 Q. What did he say that he did up in Ohio?

2 A. He said he met with James Rodney Bruce and was
3 going to stay there for a little while. He said he spent
4 approximately forty thousand dollars up there.

5 Q. He did say forty thousand dollars?

6 A. Yes, sir.

7 Q. Did he tell you what he bought up there?

8 A. He said he bought a lot of weapons, ammunition,
9 horses, a truck, and two motorcycles; numerous things.

10 Q. Was he asked about the red pick-up truck that he
11 drove up there and why he got it?

12 A. Yes, sir, he was. He was asked why he drove the
13 red pick-up truck which Porter and Dotson occupied, instead of
14 going off in his vehicle. He said that it was common in large
15 drug transactions to exchange vehicles between the people that
16 were making the transaction, and he didn't think nothing about
17 it.

18 Q. Was he again asked to name his associates?

19 A. Yes, sir, he was. He was asked, if he wasn't
20 involved in the murders, would he name his associates. He
21 said, no, he couldn't name his associates. He also stated
22 that he didn't say that he wasn't involved in the murders.

23 Q. Was there any talk about the money?

24 A. Yes, sir, there was. He asked General Gay if he
25 could have his money back; that was his, that he had earned

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Q. Detective Perry, did you have another occasion to talk to the defendant, Mr. Zagorski, after June 1st when you first talked to him?

A. Yes, sir, I did. I had an occasion to talk to Mr. Zagorski on June 27th in the morning. We were preparing for a preliminary hearing. I was in General Gay's office, and Mr. Zagorski got word to the jailers that he wanted to speak to myself or Sheriff Emery. The jailer, in turn, called me at General Gay's office, and I returned to the Sheriff's Office. I went into the maximum security cell or just outside of it where Mr. Zagorski was being held and asked him what he wanted.

Q. Did you talk with him then?

A. Yes, I did. I talked with him, and it was very brief; probably about three minutes. He said that he and two other men had been hired to kill Jimmy Porter, and that John Dale Dotson's death was a mistake.

Q. Did he tell you anything else about the murders?

A. Said the murders occurred in Boiling Springs, which is just outside of Bucksport.

Q. Is that in Hickman County?

A. I believe it's in Humphries County.

Q. Did he talk with you any more about the murders at that time?

1 A. No, sir, at that time, he didn't.

2 Q. Did you have another occasion to talk with the
3 defendant, Mr. Zagorski?

4 A. Yes, sir, I did.

5 Q. Tell the Judge and the jury about those
6 circumstances and what happened.

7 A. I got word from the jailer again on another date.
8 I believe it was July 1st. I'm not sure on the date.

9 Q. Was it sometime in August after the preliminary
10 hearing?

11 A. Yeah, it was after the preliminary hearing. I went
12 to Lieutenant Wilson's office downstairs. Mr. Zagorski was
13 brought into Lieutenant Wilson's office, and we sat down and
14 started talking. I asked him, I said, well, what do you need,
15 Ed? He said, as I told you, myself and two other men were
16 hired to murder Jimmy Porter. He said, one of the men is from
17 Florida, but he wouldn't name the man. He said that he picked
18 the two defendants up, and they drove to a place on the side
19 of the road in Boiling Springs. He exited the vehicle that
20 they were in. Then Jimmy Porter and Dale Dotson exited the
21 vehicle, and within five seconds after they exited the car,
22 they were shot to death. Said then their bodies were put in
23 plastic bags and brought up here in Robertson County and
24 dumped.

25 Q. Did you or any other law enforcement official in

1 Robertson County, during the searches up here, find any bags?

2 A. None.

3 Q. How wide a search did you conduct?

4 A. We conducted a very thorough search of the crime
5 scene, and probably five to six hundred yards around the crime
6 scene in every direction.

7 Q. Did you find any bags from the Ohio authorities of
8 this type, bloody bags?

9 A. No, sir.

10 Q. When you went up to Ohio, did you go through and
11 check thoroughly the red Datsun pick-up truck?

12 A. Yes, sir, myself and Sheriff Emery did.

13 Q. Why did you do that?

14 A. To check for bloodstains.

15 Q. Tell the jury about your investigation into that.

16 A. When we went to inspect the red Datsun pick-up
17 truck, I took several pictures of it. It had carpet in the
18 back with padding under it. We inspected the carpet and did
19 not find but one place that it was stained. We cut that stain
20 from the carpet, cut the carpet out, and the padding also was
21 stained, so we cut the carpet padding out, too. I sent both
22 to the crime lab.

23 Q. Where exactly was this carpet?

24 A. It was in the bed of the truck at the back end of
25 it.

1 don't know -- because maybe their activities or interest were
2 in the marijuana area. But have you noticed throughout the
3 course of this trial who initiated the marijuana talk? That
4 man. Or have you noticed that the talk turns to marijuana
5 around that man?

6 Don't forget this when you go back there to
7 deliberate, that the law applies to everybody everywhere, no
8 matter if it's on the street, no matter if it's on the church,
9 at the church, at the store, the courthouse, country club,
10 even the 113 mile marker in Robertson County. The law applies
11 everywhere. First degree murder is first degree murder no
12 matter where it is. Don't forget that.

13 When you go back there to deliberate, consider the
14 different accounts of the murders that Mr. Zagorski gave to
15 different people at different times. To Martha Beasley he
16 said that he was there at the murders and that he knew who did
17 it and that his job was to blow away any officers that came.
18 You recall what he stated to Rodney Bruce. He summed it up in
19 two simple words, zip, zip. And the three statements he made
20 to Detective Perry about the incident. The first statement
21 was made after Mr. Zagorski had read the arrest warrant and he
22 explained why some of his belongings were found here in
23 Robertson County.

24 You remember that first statement that he gave
25 Detective Perry. He testified that he met the men down the

1 Bucksnort area with another unidentified cohort of his. Mr.
2 Porter and Mr. Dotson were in their red pick-up truck. They
3 caravanned up to Dickson and met two more of Mr. Zagorski's
4 unidentified cohorts. All three of them came up to Robertson
5 County, and they just happened to stop eight miles south of
6 the Kentucky state line, which is right around the 113 mile
7 marker.

8 Mr. Zagorski told Detective Perry that he was
9 ordered to go to a rest stop up in Kentucky and to blow away
10 any officers that came. I don't know what good he could do in
11 Kentucky blowing away officers up there, when Kentucky is at
12 least eight miles north. But somehow somebody got his web
13 gear, somebody got his .308 with a suppressor on it that
14 really doesn't make much difference anyway, and they went in
15 the woods in Robertson County with John Dale Dotson and Jimmy
16 Porter.

17 After that time, you recall he told Detective Perry
18 that his cohorts gave him five thousand dollars and told him
19 to take that red pick-up truck, and gave him the .357 magnum.
20 That's close to being the truth. That's close.

21 You recall he also told Detective Perry that there
22 are different ways to finance a mercenary organization;
23 primarily, the main way, was through drug deals. You recall
24 what he said to Detective Perry about Jimmy Blackwell. He
25 said he was mad at Jimmy Blackwell. He betrayed him about the

1 knife case, that he should keep silent. One time he said,
2 okay, I'll make it easy on you. Another time he told
3 Detective Perry during the course of that interview something
4 to the effect that, I didn't say that I wasn't involved in the
5 murders.

6 Then you recall the substance of another statement
7 that Detective Perry testified to, a conversation that he had
8 on July 27th with Mr. Zagorski after Mr. Zagorski stated that
9 he wanted to talk to him. Mr. Zagorski implicated himself in
10 a murder for hire situation during that conversation. You,
11 recall that. He stated basically that he and two other men
12 were involved in the murders and that he was hired to kill Mr.
13 Porter. He stated that Mr. Dotson's death was a mistake and
14 that he wasn't to have been killed. Murder for hire. He also
15 testified that the murders occurred in Red Boiling Springs.

16 Detective Perry also testified to the substance of
17 another conversation on August 1st where Mr. Zagorski further
18 implicated himself in a murder for hire situation. Mr.
19 Zagorski indicated that the murders occurred again in Boiling
20 Springs, and after Mr. Dotson and Mr. Porter were killed, they
21 were brought up here in Robertson County in plastic bags and
22 dumped here. He further indicated to Detective Perry at that
23 time that Mr. Porter and Dotson got out of their vehicle, and
24 you recall he said they were killed within five seconds after
25 the car stopped. Five seconds after the car stopped.

1 unless we have met that burden. I'm not going to talk about
2 that anymore.

3 He talked about some of the things that Mr. Gay
4 said to you in his opening argument to you earlier this
5 morning. He talked about Mr. Gay saying that the proof showed
6 that they drove to Robertson County, that they walked into the
7 woods, that there was no marijuana, and that the victims, Mr.
8 Porter and Mr. Dotson, were executed by the defendant. Well,
9 is that backed up by proof or is that backed up by theory or
10 probability? Just ask yourselves that question. Mr. Walton
11 asked you some questions earlier. I might ask you some
12 questions later on myself.

13 But remember the, aside from all the other
14 testimony that you've heard in this case, and I'm not just
15 wanting to eliminate that simply because I don't mention it,
16 but remember that Mr. Zagorski, when he got down here from
17 Ohio after he had waived extradition to come back to
18 Tennessee, told General Gay and Detective Perry and the
19 Sheriff, Sheriff Emery, that yes, we met down in Hickman
20 County, just like Marsha Dotson and Jimmy Blackwell said that
21 they were supposed to -- they overheard the conversation. We
22 met down there in Hickman County. They, Dotson and Porter,
23 were in Porter's pick-up truck. I was with another mercenary.
24 We drove through Nashville, drove up toward the Kentucky line.
25 Somewhere along the line we picked up another vehicle with

1 mercenaries in it. That was out of Mr. Zagorski's very own
2 lips. That's in view of all the hard, hard evidence that we
3 have introduced here as exhibits.

4 Mr. Gay said they walked into the scene where they
5 were murdered. All right. You heard the testimony of
6 Detective Henderson wherein he said with a four-wheel drive
7 truck on the May the 6th of 1983, the Sheriff's Office went
8 back there and got mired up, had to have the four-wheel drive
9 truck pulled out.

10 Now, you all have been living in the state of
11 Tennessee for a long time, most of you; probably all of you.
12 Last spring, reflecting on your own common knowledge and
13 experience, was a very, very, very wet spring, extremely wet
14 in the spring, looked like it was never going to stop raining.
15 You remember that, I'm sure. Later on in the summer, it
16 looked like we were never going to get any rain. It was an
17 odd year.

18 At the time these people were murdered by Mr.
19 Zagorski, we were in a wet spring. What did Mr. Baggett say,
20 there's no way to get back to where the bodies were, unless
21 you went through three fences, went through a locked gate, or
22 went way down the road somewhere and crossed a gate. No, I
23 didn't see any signs of tire tracks or anything at all. No
24 evidence whatsoever that any kind of vehicle whatsoever got
25 back there to dump two dead bodies here in Robertson County.

1 Ladies and gentlemen, when you retire to consider
2 your verdict, you should consider each count separately. As
3 to count number one and count number two, you will first
4 determine whether the defendant is guilty of first degree
5 murder. If you find the defendant not guilty of first degree
6 murder as charged in count number one and count number two of
7 the indictment, or if you have a reasonable doubt thereof,
8 then your verdict must be "not guilty" as to first degree
9 murder, and then you will proceed to determine his guilt or
10 innocence of the lesser included offenses.

11 If you find the defendant not guilty of any of the
12 lesser included offenses or if you have a reasonable doubt
13 thereof, then your verdict must be "not guilty."

14 I will now proceed to explain to you what in law it
15 takes to constitute the offenses charged in this indictment.

16 First degree murder. Any person who willfully,
17 deliberately, maliciously, and with premeditation kills
18 another person is guilty of murder in the first degree.

19 For you to find the defendant guilty of murder in
20 the first degree, the State must have proven beyond a
21 reasonable doubt:

22 1. That the defendant unlawfully killed the
23 alleged victim;

24 2. That the killing was malicious; that is, that
25 the defendant was of the state of mind to do the alleged

1 wrongful act without legal justification or excuse. If it is
2 shown beyond a reasonable doubt that the alleged victim was
3 killed, the killing is presumed to be malicious in the absence
4 of evidence that would rebut the implied presumption;

5 3. That the killing was willful; that is, that the
6 defendant must have intended to take the life of the alleged
7 victim;

8 4. That the killing was deliberate; that is, with
9 cool purpose; and

10 5. That the killing was premeditated. This means
11 that the intent to kill must have been formed prior to the act
12 itself. Such intent or design to kill may be conceived and
13 deliberately formed in an instant. It is not necessary that
14 the purpose to kill pre-exist in the mind of the accused for
15 any definite period of time, It is sufficient that it
16 preceded the act, however short the interval. The mental
17 state of the accused at the time he allegedly instigated the
18 act which resulted in the alleged death of the deceased must
19 be carefully considered in order to determine whether the
20 accused was sufficiently free from excitement and passion as
21 to be capable of premeditation. Passion does not always
22 reduce the crime below murder in the first degree, since a
23 person may deliberate, may premeditate, and may intend to kill
24 after premeditation and deliberation, although prompted and to
25 a large extent controlled by passion at the time. If the

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(Whereupon, at 6:46 p.m. the jury retired to begin its deliberations.)

THE COURT: Court will be in recess pending deliberations of the jury.

(Whereupon, at 6:50 p.m. the jury returned to open court.)

THE FOREMAN: Your Honor, we were wondering if it would be possible that we get a good definition, explanation, of what would constitute a mitigating circumstance?

THE COURT: Mitigating circumstances are within your province, if there are any. You have heard the evidence of the case, and no additional evidence was produced at the sentence hearing, so you may consider all of the evidence that was presented in the entire case. The law sets out certain mitigating circumstances which have no particular applicability in this case, but you're not limited to those, so you can consider any mitigating circumstances that in your judgment would comply with the instructions given.

THE FOREMAN: I think, what we're trying to get at is just what is the meaning of the word mitigating?

THE COURT: Mitigating would mean any circumstance

1 which would have a tendency to lessen the aggravation, which
2 would have any tendency to -- (Pause) -- give a reason for the
3 act. I cannot think of a better definition right now, except
4 that it's opposed to aggravating and would have a tendency to
5 lessen or tend -- not "to", necessarily, but tend to justify,
6 and to take away any of the aggravation of the circumstance.

7 THE FOREMAN: Thank you, Your Honor.

8
9 (Whereupon, at 6:52 p.m. the jury
10 returned to the jury room to continue
11 its deliberations.)

12
13 (Whereupon, at 8:52 p.m. the jury returned
14 to open court to report its verdict.)

15
16 THE COURT: Have you reached a sentence?

17 THE FOREMAN: Yes, Your Honor, we have.

18 THE COURT: Is it unanimous?

19 THE FOREMAN: Yes, Your Honor, it is.

20 THE COURT: All right, would you read the sentence,
21 please?

22 THE FOREMAN: Your Honor, do I have to read the
23 whole page or just the sentence?

24 THE COURT: Just the part of the sentence.

25 THE FOREMAN: We, the jury, unanimously find that