

1 Q IN APRIL OF 05, YOU MADE APPLICATION FOR A WIRE TAP?
2 A CORRECT.
3 Q YOU SIGNED AN AFFIDAVIT?
4 A CORRECT.
5 Q AND YOU STATED IN THAT AFFIDAVIT THAT YOU HAD TRIED
6 ABOUT EVERY INVESTIGATIVE MEANS YOU COULD AND YOU STILL DIDN'T
7 HAVE ENOUGH?
8 A CORRECT.
9 Q AND YOUR ONLY HOPE, MY WORDS, WAS TO DO A WIRE TAP TO
10 SEE IF YOU GOT SOMETHING GOOD?
11 A THE WIRE TAP WAS ONE OF THE LAST POSSIBILITIES TO DO
12 THIS.
13 Q AND THE AFFIDAVIT WAS ACTUALLY ACCOMPANIED BY AN
14 AFFIDAVIT FROM DETECTIVE CHAMBERS?
15 A CORRECT.
16 Q AND YOU REVIEWED DETECTIVE CHAMBERS' AFFIDAVIT BEFORE
17 IT WAS FILED, AND YOU INCORPORATED IT BY REFERENCE INTO YOUR
18 AFFIDAVIT, CORRECT?
19 A CORRECT.
20 Q AND, MY WORDS AGAIN, YOU VOUCHED FOR THE ACCURACY OF
21 WHAT DETECTIVE CHAMBERS SAID?
22 A CORRECT.
23 Q AT THIS POINT IN TIME, DID YOU KNOW THAT ANY OF THE
24 EVIDENCE HAD BEEN LOST OR DESTROYED?
25 A I BELIEVE THAT I WAS AWARE THAT SOME OF THE EVIDENCE

1 HAD BEEN MISPLACED. I BELIEVE THAT I WAS AWARE THAT THE
2 EVIDENCE IN DEKALB COUNTY HAD BEEN DESTROYED BY THE DEKALB
3 COUNTY POLICE DEPARTMENT. I WAS ALSO AWARE THAT, I BELIEVE
4 IT'S A TASSEL OR SOMETHING THAT WAS AFFIXED TO A HAT, THAT IT
5 HAD BEEN MISPLACED BY THE POLICE DEPARTMENT. I WAS ALSO AWARE
6 THAT SOME OF THE BALLISTIC ITEMS, WHILE BEING TRANSPORTED FROM
7 THE CRIME LAB TO THE POLICE DEPARTMENT, THAT THERE WAS SOME
8 QUESTION AS TO WHETHER OR NOT THOSE ITEMS WERE STILL AT THE
9 CRIME LAB OR AT THE POLICE DEPARTMENT.

10 Q THEY COULD NOT BE FOUND. IS THAT YOUR STATEMENT?

11 A THAT'S CORRECT.

12 Q DID YOU STATE IN YOUR AFFIDAVIT THAT THE BERETTA
13 FOUND AT THE SCENE OF THE CRIME WAS THE MURDER WEAPON?

14 A I BELIEVE THAT THAT'S THE IMPRESSION I WAS UNDER.

15 Q THAT'S THE IMPRESSION YOU WERE UNDER?

16 A YES.

17 Q THAT IS WHAT YOU TOLD THE JUDGE, CORRECT?

18 A THAT'S CORRECT.

19 Q AND WHO PUT YOU UNDER THAT IMPRESSION?

20 A FROM THE TOTALITY OF THE EVIDENCE THAT I RECEIVED AT
21 THAT POINT.

22 Q WHICH WAS WHAT?

23 A YOU WANT ME TO DESCRIBE ALL OF IT?

24 Q WELL, LET ME BE MORE SPECIFIC. DID ANY BALLISTICS
25 EXPERT FROM THE CRIME LAB SAY THAT THE BERETTA FOUND AT THE

1 SCENE WAS THE MURDER WEAPON?

2 A I BELIEVE THAT THE INFORMATION THAT I RECEIVED WAS
3 THAT THE BULLET, THE GUN USED TO SHOOT SCOTT DAVIS -- EXCUSE
4 ME. DAVID COFFIN -- WAS A GUN FORMERLY OWNED BY HIM. THAT WAS
5 THE GUN THAT WAS FORMERLY OWNED BY HIM, THE BERETTA, AND THAT
6 IT WAS IN FACT THE MURDER WEAPON.

7 Q WHO TOLD YOU THAT?

8 A I DON'T RECALL SPECIFICALLY WHO TOLD ME THAT.

9 Q BUT SOMEBODY TOLD YOU THAT?

10 A YES.

11 Q IS IT LIKELY DETECTIVE CHAMBERS?

12 A I DON'T KNOW.

13 Q HAVE YOU EVER SEEN SUCH A REPORT?

14 A SUCH A --

15 Q REPORT FROM THE CRIME LAB, THAT THAT WAS THE MURDER
16 WEAPON?

17 A I DO NOT REMEMBER SPECIFICALLY READING ONE.

18 Q YOU DIDN'T?

19 A RIGHT.

20 Q AND YOU DON'T DENY MAKING THAT STATEMENT?

21 A IF THAT'S ON MY AFFIDAVIT, I MADE THE STATEMENT.

22 Q UNDER OATH?

23 A YES.

24 Q YOU WERE ABLE TO CONVINCE THE COFFIN FAMILY TO
25 INCREASE THE REWARD TO \$300,000?

1 A THAT'S CORRECT.
2 Q AND YOU BELIEVED THAT WAS EITHER IN APRIL OR JUNE OF
3 2005?

4 A YES.

5 Q DO YOU BELIEVE IT WAS PRIOR TO THE WIRE TAP?

6 A YES.

7 Q SO THAT, IF I TOLD YOU THE WIRE TAP WAS IN APRIL OF
8 05, WOULD THAT REFRESH YOUR RECOLLECTION AS TO WHEN THE REWARD
9 WAS INCREASED?

10 A YES. IT WOULD HAVE BEEN ABOUT THE SAME TIME.

11 THE COURT: MR. MORRIS, I'M SORRY TO INTERRUPT YOU.
12 WOULD YOU CARE TO ESTIMATE ABOUT HOW MUCH LONGER THAT YOU
13 THINK YOU MIGHT BE?

14 MR. MORRIS: I HAVE A FEW PAGES LEFT, JUDGE. I
15 THINK IT'S A GOOD TIME TO BREAK, AS LONG AS MR. HOWARD IS
16 AVAILABLE IN THE MORNING.

17 THE WITNESS: JUDGE, DO YOU PLAN TO START BACK AT
18 9:30?

19 THE COURT: YES.

20 THE WITNESS: THE ONLY REASON I WAS ASKING IS
21 TOMORROW IS MY STAFF MEETING, BUT I'LL BE HERE.

22 THE COURT: OKAY. WE'LL BE ADJOURNED UNTIL TOMORROW
23 MORNING AT 9:30.

24 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED FOR THE
25 DAY, TO BE RECONVENED AS ORDERED BY THE COURT.)

1 (WHEREUPON, THE FOLLOWING PROCEEDINGS OCCURRED ON
2 APRIL 13, 2006.)

3 THE COURT: GOOD MORNING. PLEASE BE SEATED. ON
4 YESTERDAY WHEN WE ADJOURNED FOR THE DAY, WE HAD THE
5 WITNESS UNDER CROSS-EXAMINATION, AND, MR. MORRIS, YOU MAY
6 RESUME YOUR CROSS-EXAMINATION.

7 MR. MORRIS: THANK YOU, YOUR HONOR.

8 BY MR. MORRIS:

9 Q MR. HOWARD, YOU TESTIFIED THAT, IN APRIL OF 2005, YOU
10 PERSONALLY APPROVED AND MADE AFFIDAVIT FOR A WIRE TAP, CORRECT?

11 A THAT'S CORRECT.

12 Q ON THE CELL PHONE AND THE LAND LINE OF SCOTT DAVIS?

13 A YES.

14 Q HE WAS LIVING IN CALIFORNIA AT THE TIME?

15 A YES.

16 Q AND I BELIEVE YOU DESCRIBED IT AS A NATIONWIDE WIRE
17 TAP. WHAT IS THAT?

18 A WELL, IT'S THE TERM WE USE TO DESCRIBE SOMETHING THAT
19 IS COMPLETELY LOCAL BEING HERE IN OUR JURISDICTION.

20 Q SO THE LINES WERE TAPPED IN CALIFORNIA. WHERE WERE
21 THEY LISTENED TO?

22 A IN CALIFORNIA.

23 Q AND WAS THE CONVERSATION IN CALIFORNIA IN SOME
24 FASHION PIPED TO ATLANTA ALSO?

25 MS. ROSS: OBJECTION ON RELEVANCE, YOUR HONOR, FOR

1 THE PREINDICTMENT DELAY.

2 THE COURT: MR. MORRIS?

3 MR. MORRIS: I DON'T KNOW HOW LONG IT TOOK HIM TO
4 GET THE INFORMATION.

5 THE COURT: OVERRULED.

6 THE WITNESS: I DON'T BELIEVE SO. I BELIEVE IT WAS
7 MONITORED IN CALIFORNIA.

8 BY MR. MORRIS:

9 Q AND YOU SAID YOU DID THIS BECAUSE YOU WERE HOPING
10 THAT THERE WOULD BE INFORMATION THAT YOU COULD DISCOVER ON THE
11 COCONSPIRATORS?

12 A YES.

13 Q WHO WERE THE COCONSPIRATORS?

14 A I DID NOT KNOW THE NAMES OR THE IDENTITIES OF THE
15 COCONSPIRATORS, AND THAT WAS ONE OF THE REASONS FOR THIS WIRE
16 TAP, AS AN INVESTIGATIVE TOOL TO DISCOVER THE IDENTITIES OF ANY
17 POSSIBLE COCONSPIRATORS.

18 Q WELL, YOUR OFFICE HAD AN IDEA OF WHO YOU WERE
19 INVESTIGATING, CORRECT?

20 A SOME LIKELY PERSONS.

21 Q AND WHO WERE THOSE LIKELY PERSONS?

22 A POSSIBLY JAMES DAWES AND POSSIBLY THE BROTHER OF THE
23 DEFENDANT.

24 Q AND THERE WERE OTHERS; WERE THERE NOT?

25 A THERE MIGHT HAVE BEEN SOME OTHERS. THOSE WERE TWO

1 THAT COME TO MY MIND.

2 Q YOUR AFFIDAVIT ACTUALLY NAMED THE DEFENDANT'S FATHER,
3 TOO, DIDN'T IT?

4 A I DON'T KNOW WHETHER OR NOT IT DID, BUT HE WAS
5 CERTAINLY ONE OF THE PERSONS THAT WE THOUGHT MIGHT BE IN THE
6 REALM OF POSSIBILITIES.

7 Q AND THE AFFIDAVIT THAT YOU SIGNED WOULD BE OBVIOUSLY
8 THE HIGHEST AND BEST EVIDENCE OF WHAT YOU BELIEVED AT THAT
9 TIME?

10 A YES.

11 Q IN YOUR AFFIDAVIT YOU STATED THAT IT WAS NECESSARY TO
12 DO THE WIRE TAP BECAUSE OF YOUR BELIEF THAT THERE WOULD BE
13 CONTINUING CRIMES COMMITTED BY THESE PEOPLE. DO YOU RECALL
14 THAT?

15 A YES, I BELIEVE THAT'S PART OF WHAT THE AFFIDAVIT
16 SAYS.

17 Q WHAT EVIDENCE DID YOU HAVE THAT CRIMES WERE
18 CONTINUING TO BE COMMITTED?

19 A WELL, THE EVIDENCE THAT WE HAD WAS BASED UPON OUR
20 INABILITY NOT TO BE ABLE TO LOCATE THE IDENTITIES OF THE
21 COCONSPIRATORS. WE BELIEVED THERE MIGHT BE AN ONGOING CRIMINAL
22 ENTERPRISE TO CONCEAL EVIDENCE IN THIS CASE.

23 Q DID YOU HAVE ANY EVIDENCE OF AN ONGOING ENTERPRISE TO
24 CONCEAL?

25 MS. ROSS: AGAIN, YOUR HONOR, I'M GOING TO OBJECT ON

1 RELEVANCE. IF HE WANTS TO ESTABLISH A TIME LINE, THAT'S
2 FINE. HE HAS ABANDONED AND WITHDRAWN HIS MOTION TO
3 CHALLENGE THE WIRE TAP. HE SEEMS TO JUST BE GETTING
4 INFORMATION ABOUT THE WIRE TAP. IF HE WANTS TO ESTABLISH
5 A TIME LINE, GREAT. THIS IS A FISHING EXPEDITION ON A
6 MOTION HE ABANDONED.

7 THE COURT: MS. MORRIS?

8 MR. MORRIS: THE WITNESS SAID ON DIRECT OF MS. ROSS
9 THAT PART OF THE NEED FOR THE DELAY WAS THE NEED TO
10 CONTINUE INVESTIGATING. I'M MERELY QUESTIONING HIM ABOUT
11 THAT NEED.

12 THE COURT: OKAY. OVERRULED.

13 THE WITNESS: WHAT WAS THE QUESTION AGAIN?

14 (WHEREUPON, THE RECORD WAS READ BY THE COURT
15 REPORTER.)

16 A AT THAT TIME I BELIEVED THAT I HAD CIRCUMSTANTIAL
17 EVIDENCE. AT THAT TIME I FOUND OUT FROM THE COLD CASE SQUAD
18 ABOUT THE TELEPHONE CALL BEING PLACED FROM THE HOME OF DAVID
19 COFFIN TO SCOTT DAVIS' RESIDENCE, WHICH CERTAINLY GAVE THE
20 IMPLICATION THAT AT LEAST TWO PEOPLE WERE INVOLVED, BECAUSE THE
21 CALL WOULD HAVE HAD TO HAVE BEEN PLACED FROM ONE PERSON TO THE
22 OTHER. WE HAD NOT BEEN ABLE TO LOCATE THE IDENTITIES OF THOSE
23 PERSONS, AND THAT GAVE RISE TO THE EVIDENCE THAT THERE MIGHT BE
24 AN ONGOING ENTERPRISE TO CONCEAL THE IDENTITY OF THE PERSON WHO
25 RECEIVED THAT CALL.

1 ALSO, AS I INDICATED ON YESTERDAY, THAT WHEN THE
2 PORSCHÉ, WHEN THE VICTIM'S PORSCHÉ WAS REMOVED FROM HIS
3 RESIDENCE, CERTAINLY IT GIVES RISE TO WHAT I BELIEVE IS
4 CREDIBLE CIRCUMSTANTIAL EVIDENCE THAT SOMEONE OTHER THAN THE
5 DEFENDANT HIMSELF MIGHT HAVE BEEN INVOLVED IN REMOVING AND
6 TRANSPORTING THE VEHICLE TO ANOTHER PLACE. SO I FELT AT THAT
7 TIME WE HAD EVIDENCE THAT THERE MIGHT BE SOMEONE ELSE INVOLVED.

8 Q ANYTHING ELSE?

9 A NOT THAT I CAN THINK OF AT THIS TIME.

10 Q YOU KNEW THAT THE PORSCHÉ HAD BEEN MOVED IN DECEMBER
11 OF 1996?

12 A THAT'S CORRECT.

13 Q YOU HAD THE TELEPHONE RECORDS SHOWING THIS TELEPHONE
14 CALL FROM THE COFFIN RESIDENCE TO THE DAVIS RESIDENCE IN 1996?

15 A THE PHONE RECORDS, AS I UNDERSTAND, WERE THERE, BUT
16 PHONE RECORDS ALONE, WITHOUT THE PROPER ANALYSIS AND WITHOUT
17 BEING PLACED IN THE PROPER CONTEXT AS A RESULT OF AN
18 INVESTIGATION, DON'T MEAN VERY MUCH. SO IT WAS ONLY DURING THE
19 PERIOD AFTER IT HAD BEEN TURNED OVER TO THE COLD CASE SQUAD
20 THAT I WAS FULLY ABLE TO UNDERSTAND THE CONTEXT OF THOSE PHONE
21 CALLS.

22 Q WHEN WERE YOU INFORMED OF THE PHONE CALL?

23 A IT WOULD HAVE BEEN SOMETIME AFTER MARCH OF 2005 THAT
24 I WAS INFORMED IN THE CONTEXT THAT IT WAS EXPLAINED BY THE COLD
25 CASE SQUAD.

1 Q IS THIS PART OF WHAT YOU WERE TALKING ABOUT EARLIER
2 WHEN YOU SAID YOU HAD REGULAR MEETINGS?

3 A WELL, THE REGULAR MEETINGS THAT -- I TALKED ABOUT TWO
4 DIFFERENT KINDS OF REGULAR MEETINGS, ONE WITH THE SUPERVISORS
5 IN MY OFFICE WHERE THIS CASE WAS IDENTIFIED AS ONE OF OUR TOP
6 CASES THAT WAS UNINDICTED. THE SECOND KIND OF ROUTINE MEETINGS
7 WERE WITH THE PERSONS INVOLVED DIRECTLY IN THE INVESTIGATION.

8 Q AND YOU GET REPORTS FROM THOSE PEOPLE?

9 A YES.

10 Q DO YOU HAVE THOSE REPORTS WITH YOU?

11 A NO. MOST OF THOSE REPORTS WERE USUALLY ORAL REPORTS.

12 Q SOME OF THEM IN WRITING?

13 A I DO NOT RECALL WHETHER OR NOT SOMEONE ACTUALLY
14 BROUGHT ME A WRITTEN REPORT, BECAUSE THE NATURE OF THE MEETINGS
15 CALLED FOR SOME ORAL SUMMATION.

16 Q NOW, YOU TESTIFIED THAT THE WIRE TAP OCCURRED IN
17 APRIL FOR WHAT, ABOUT A TEN-DAY PERIOD?

18 A YES.

19 Q DETECTIVE CHAMBERS WAS IN CALIFORNIA TO HELP CONDUCT
20 THIS WIRE TAP?

21 A CORRECT.

22 Q DETECTIVE CHAMBERS HELD A PRESS CONFERENCE OUT IN
23 CALIFORNIA; DID HE NOT?

24 A YES.

25 Q AND DID YOU KNOW ABOUT THAT AHEAD OF TIME?

1 A NO.

2 Q DID YOU APPROVE OF THAT PRESS CONFERENCE?

3 A NO.

4 Q WHAT WAS THE PURPOSE OF THE PRESS CONFERENCE?

5 A WELL, I DON'T KNOW. I MEAN, I GUESS YOU WOULD HAVE

6 TO ASK DETECTIVE CHAMBERS, BUT I WAS NOT AWARE OF IT UNTIL

7 AFTER IT HAD TAKEN PLACE.

8 Q WERE YOU INFORMED THAT HE STATED AT THE PRESS

9 CONFERENCE THAT AN INDICTMENT AGAINST SCOTT DAVIS WAS IMMINENT?

10 A I BELIEVE YOUR PARTNER, MR. KADISH, INFORMED ME OF

11 THAT FACT.

12 Q DID YOU AUTHORIZE THAT?

13 A NO.

14 Q WAS AN INDICTMENT AT THAT POINT IMMINENT?

15 A NO.

16 Q SO THAT WAS A MISSTATEMENT ON YOUR PART?

17 A YES.

18 Q NOT AUTHORIZED BY YOU?

19 A THAT'S CORRECT.

20 Q WAS IT AUTHORIZED BY ANYONE ELSE IN YOUR OFFICE?

21 A I'M NOT AWARE, BECAUSE, IF THEY DID, THEY CERTAINLY

22 DIDN'T HAVE AUTHORITY TO DO THAT.

23 Q HAVE YOU CHECKED TO SEE WHETHER OR NOT ANYONE GAVE

24 AUTHORITY TO DETECTIVE CHAMBERS TO DO THAT?

25 MS. ROSS: OBJECTION TO RELEVANCE.

1 THE COURT: OBJECTION SUSTAINED.

2 BY MR. MORRIS:

3 Q THE CONVERSATIONS WERE WIRE TAPPED?

4 A YES.

5 Q HAVE YOU LISTENED TO THOSE CONVERSATIONS?

6 A I HAVE NOT LISTENED TO THOSE CONVERSATIONS.

7 Q NONE OF THEM?

8 A NONE OF THEM.

9 Q HAS ANYONE EXPLAINED TO YOU THE CONTENT OF THOSE
10 CONVERSATIONS?

11 A YES.

12 Q WHO?

13 A MY ASSISTANT, SHEILA ROSS.

14 Q WHAT DID YOU LEARN FROM THOSE CONVERSATIONS?

15 A WELL, ONE OF THE THINGS THAT I LEARNED AFTER MUCH
16 DISCUSSION, IT APPEARED THAT THE UNIDENTIFIED ACCOMPLICE THAT
17 WE HAD BEEN LOOKING FOR, THAT PERSON'S SPECIFIC IDENTITY DID
18 NOT SURFACE DURING THE WIRE TAP. WE ALSO FOUND IN LISTENING TO
19 THOSE CONVERSATIONS THAT THE INFORMATION REGARDING THIS
20 INCIDENT WAS CLOSELY HELD BY THE DEFENDANT AND HIS FAMILY, AND
21 I CONCLUDED THAT, BASED UPON THE WIRE TAP, THAT THE LIKELIHOOD
22 OF OUR BEING ABLE TO IDENTIFY THIS ACCOMPLICE IN THE FUTURE WAS
23 NOT VERY GOOD.

24 Q SO YOU DIDN'T GET ANYTHING FROM THE WIRE TAP THAT
25 MOVED YOUR INVESTIGATION FORWARD. IS THAT WHAT YOU ARE SAYING?