

1 leave. Call your next witness.

2 MS. COLSTON: All right. David Brown.

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4 DAVID BROWN

5 was called as a witness by and on behalf of the  
6 State, and after being first duly sworn, was examined  
7 and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. COLSTON:

10 Q David, if you will, speak up so the jury  
11 can hear you and tell us your name.

12 A David Wayne Brown.

13 Q Where do you live at?

14 A 520 Burnett Ferry Road.

15 Q 520 Burnett Ferry Road?

16 A Uh-huh.

17 Q Mr. Brown, do you know Timothy Mark Free?

18 A Yes.

19 Q How do you know him?

20 A He is my best friend.

21 Q He is your best friend? Is he still your  
22 best friend?

23 A I would like to think so, yes.

24 Q Okay. And do you remember the night --  
25 well, do you remember Isaac Dawkins getting killed?

1           A     Yes, ma'am.

2           Q     Do you remember where were you when you  
3 found out about it?

4           A     My house.

5           Q     Okay. When had it happened in relation to  
6 when you found out about it?

7           A     I just -- that was the first I heard about  
8 it was that day.

9           Q     The first you heard about it. Did you hear  
10 that he had died?

11          A     Yes, ma'am.

12          Q     All right. The night before --

13          A     Uh-huh.

14          Q     -- that Isaac Dawkins died, January 11th,  
15 2000, were you with Mark Free?

16          A     I believe that Mark was with his girlfriend  
17 that day as far as --

18          Q     Do you think he was --

19          A     He wasn't with me.

20          Q     He wasn't with you?

21          A     Uh-uh.

22          Q     He didn't stay with you that night and --

23          A     No, ma'am.

24          Q     -- spend the night with you?

25          A     Uh-uh.

1 Q He didn't go stay at your house all day and  
2 then go over to his sister's house and come back?

3 A Well, he stayed -- He -- He -- I seen him  
4 that day, and he left with Meka.

5 Q Uh-huh. You saw him that day, but he  
6 wasn't over at your house?

7 A Uh-uh.

8 Q And he didn't spend the night with you?

9 A No.

10 MS. COLSTON: All right. Thank you so much.

11 \*\*\*\*\*

12 CROSS-EXAMINATION

13 BY MR. ABERNATHY:

14 Q Is that all you know about this, Mr. Brown?

15 A Yes, sir.

16 Q When did you first talk to the police?

17 A It was months after all of it.

18 Q You remember seeing him that day, and you  
19 remember seeing him leave with his girlfriend. Other  
20 than that you don't remember anything?

21 A I don't remember anything. I know that I  
22 got a phone call at my house. Mark got a phone call  
23 at my house saying that the boy had been shot and  
24 killed.

25 Q The next day.

1 A The next day. That's --

2 Q And that is pretty much all you know about  
3 this?

4 A Yes.

5 \*\*\*\*\*

6 REDIRECT EXAMINATION

7 BY MS. COLSTON:

8 Q And that next day, was that the day -- was  
9 Mark arrested that day?

10 A He was arrested later that night.

11 Q Later that night?

12 A Uh-huh.

13 Q And he was at your house that day when he  
14 had been arrested?

15 A Yes. Yeah, he was there that day.

16 Q All right. But the day before on the 11th,  
17 he was not?

18 A No, I seen him that day.

19 Q You saw him?

20 A Yeah.

21 Q But he did not spend the night with you?

22 A Uh-uh.

23 MS. COLSTON: All right. Thank you.

24 \*\*\*\*\*

25 RECROSS-EXAMINATION

1 BY MR. ABERNATHY:

2 Q When Mark received that phone call and  
3 y'all found out about this tragic incident, how did  
4 Mark seem?

5 A He just seemed shocked.

6 Q Shocked?

7 A Yeah.

8 Q You all, I guess, were somewhat shocked?

9 A I didn't know the boy.

10 Q You didn't know him?

11 A Uh-uh, no, sir.

12 Q All right.

13 MR. ABERNATHY: Nothing further.

14 THE COURT: Thank you, Mr. Brown. You are  
15 free to leave.

16 MS. COLSTON: We have a witness outside,  
17 Your Honor, that can testify to the arrest of  
18 Mark Free on the 12th. If we need to call him,  
19 we will, but I thought maybe that would be  
20 something that Mr. Abernathy would stipulate.

21 THE COURT: Show him the arrest --

22 MS. COLSTON: It is the booking report from  
23 the 12th where Mr. Free was arrested on the  
24 12th.

25 MR. ABERNATHY: I can stipulate to that,

1 Your Honor.

2 MS. COLSTON: I figured you would. So --

3 THE COURT: Is that -- do you want to  
4 introduce that into evidence?

5 MS. COLSTON: Yes, sir. State's Exhibit  
6 36.

7 THE COURT: Any objection?

8 MR. ABERNATHY: Well, I don't know, Judge.  
9 Let me look at that.

10 THE COURT: Yeah, look at it.

11 MR. ABERNATHY: At this point, I don't  
12 think that is admissible.

13 THE COURT: Well, it may not be.

14 MS. COLSTON: I could just call the witness  
15 to testify to that.

16 THE COURT: Well, he is willing to  
17 stipulate --

18 MR. ABERNATHY: Judge, I will stipulate  
19 that he was arrested on the 12th.

20 THE COURT: -- to the fact that he was  
21 arrested --

22 MR. ABERNATHY: I would object to that  
23 being -- that is not admissible. That is police  
24 stuff.

25 MS. COLSTON: All right. So the

1 stipulation is we agree that -- can you explain  
2 what the stipulation is to the jury?

3 THE COURT: I will explain. Ladies and  
4 Gentlemen, a stipulation means everybody agrees  
5 it is the truth. It means that nobody has to  
6 produce any evidence other than the stipulation  
7 itself to prove that something is true. Parties  
8 have agreed, stipulated that Mark Free was  
9 arrested on January 12th of the year 2000. You  
10 don't have to hear any other evidence to accept  
11 that as true. You will accept that as a fact.

12 MR. ABERNATHY: Thank you, Judge.

13 THE COURT: Okay? Call your next witness.

14 MS. COLSTON: Adam Elrod.

15 THE COURT: Withdraw 36 or --

16 MS. COLSTON: Yes, sir. I withdraw 36.

17 THE COURT: Okay.

18 \*\*\*\*\*

19 ADAM ELROD

20 was called as a witness by and on behalf of the  
21 State, and after being first duly sworn, was examined  
22 and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLSTON:

25 Q Mr. Elrod, if you will please speak up so