

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
PIKEVILLE

UNITED STATES OF AMERICA

-vs-

CASE NO. 83-8

EDGAR JONES, JASON MOORE, GERMAN STUMBO,
DREXIL HALL, TEDDY KINNEY, BENNY CAUDILL,
KENNETH ROLLAND a/k/a POSTMAN,
RANNY BLANKENSHIP, EUGENE TACKETT, HAROLD
MOORE, HERMIT NEWSOME, TIM MILAN, MOSE
MEAD, DONAHUE HALBERT, AUSTIN "BO" MOORE,
PEBO GAYHEART, LINVILLE MOSLEY, RAYMOND
HALL, VAN B. PATTON

TRANSCRIPT OF TRIAL

BEFORE: THE HONORABLE G. WIX UNTHANK

DATE: FEBRUARY 6, 1984

VOLUME TWENTY-FOUR

DALE SOERTEL MOORE SHAW & ASSOCIATES

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1 him; and we'll be here to so testify, Your Honor.

2 MR. PAFUNDA: Your Honor--

3 MR. SELF: I don't think there's any
4 issue that that's the gun Drexil Hall had.

5 MR. PAFUNDA: If they want to they can
6 bring in Trooper Forsythe. What they've done with
7 Mr. Blanton is not to--the gun that Drexil Hall had
8 in his hand. They're going to the statement that
9 Mr. Blanton made about the rifle.

10 In passing the gun around
11 there has been prejudice to everybody here. I join
12 in Mr. Kirkland's remarks.

13 THE COURT: All right. Gentlemen, let
14 the record reflect the objections and responses.
15 It'll be overruled. This jury has been told they're
16 not to consider anything as evidence until it's been
17 admitted into evidence.

18 All right. We'll be in
19 recess until one o'clock.

20 THE MARSHAL OF THE COURT: Yes, Your Honor.
21 All rise. This court's recessed until one o'clock.

22 (Court recessed at 11:52 a.m.)
23
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1 For the Defendant Drexil Hall and
2 Austin "Bo" Moore:

3 BERNARD PAFUNDA, ESQ.

4 For the Defendant Ranny Blankenship:

5 ELDRED E. ADAMS, JR., ESQ.

6 For the Defendants Jason Moore, German Stumbo,
7 Teddy Kinney, Kenneth Rolland and Raymond Hall:

8 WILLIAM D. KIRKLAND, ESQ.
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1 REPORTER'S NOTE: The Court
2 was called to order at
3 9:00 A.M., E.S.T.

4 THE MARSHALL OF THE COURT: All rise.
5 Hear Ye, Hear Ye. All persons having business
6 before the United States District Court of the
7 Western District of Kentucky draw nigh and give
8 attention, and you shall be heard. Order is commanded,
9 and the Court is now in session. God save the United
10 States and this Honorable Court. Be seated please.

11 Your Honor,
12 all Defendants, all counsel are present, and the Jury
13 remains in the Jury Room at the request of the United
14 States.

15 MR. SELF: May it please the Court,
16 two things.

17 THE COURT: Yes, sir.

18 MR. SELF: At the - - on Friday - -
19 on Thursday the United States advised the Court
20 that pursuant to the request of the Defendant, Edgar
21 Jones, that it had agreed to make available for the
22 Defendants, copies of all the other covert tapes
23 that were made by the United States in the course of
24 this investigation, Your Honor, that pertain to the
25 unindicted co-conspirators for any other matters that

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1 related to this investigation or spin-off investi-
2 gations other than - - the only other ones that I
3 am aware of are some tapes that concern an investi-
4 gation regarding the Defendant, Scotty Hamilton,
5 which has already been before this Court.

6 They do not contain, to my
7 knowledge, statements of any other unindicted co-
8 conspirators. Those are here, and they are avail-
9 able at this time.

10 A final inventory is being
11 prepared at this time, and I will make those avail-
12 able to the Defendants at the first break, Your
13 Honor, along with a log of those tapes.

14 This included two - -

15 THE COURT: (Interrupting) You do not
16 have to furnish an inventory of the tapes to the
17 Defendants.

18 MR. SELF: Thank you, Your Honor.

19 THE COURT: You furnish an inventory
20 to the Court.

21 MR. SELF: Yes, sir.

22 The tapes that I mentioned
23 on Thursday that we were not going to provide but
24 that I would examine to see if they contain any
25 Brady type material concerning tapes with the

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1 confidential informant. I am providing those to the
2 Defendants also, Your Honor, because the individual
3 is now deceased.

4 So, can I object to the
5 inventory this morning? Mr. Harwell gave me an
6 inventory of the tapes provided to them, and as best
7 I can determine, Your Honor, these are the tapes
8 containing all of the statements of any of the
9 Defendants in this case that I am aware of; and this
10 was provided to them some months ago.

11 What we are providing to
12 them today are tapes made by Special Agent Kemp
13 during the course of his undercover investigation
14 which contains statements by some of the co - -
15 unindicted co-conspirators in this case.

16 Again, it is our position
17 that those do not contain either Brady, Jencks or
18 Giglio material, Your Honor. But we are providing
19 them at an abundance of precaution to help expedite
20 this case, Your Honor.

21 The other matter, Your
22 Honor, has to do with the statement of the witness,
23 Danny Blanton, and Mr. Kehrli would like to address
24 the Court on that.

25 THE COURT: All right.

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1 MR. KEHRLI: Your Honor, on Thursday,
2 upon request of Mr. Pafunda, we made a representation
3 we were not aware of any other statements of Mr.
4 Blanton in our possession. I was wrong. We double
5 checked, and there had been a statement, that had
6 been misplaced in another file provided to Kentucky
7 State Trooper Forsythe. We have served copies of
8 that statement upon all defense counsel this
9 morning, which consists of an eight-line statement.

10 And at this time I would
11 request that the Court make this statement a Court
12 Exhibit so that it would be included as part of the
13 record. And the Government would not have any objec-
14 tion, in fact, would move the Court to allow Mr.
15 Pafunda and Mr. Thomas to reopen their cross-examina-
16 tion, and ask any cross-examination questions based
17 upon this statement that they so desire.

18 THE COURT: All right. Any of the
19 reopening questions are limited strictly to the
20 statements.

21 MR. SELF: Let the record reflect that
22 this is one typed sheet page entitled "Statement from
23 Danny Blanton on February 16th, 1982 at 1200 hours
24 by Detective R. O. Forsythe".

25 THE COURT: All right.

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1 MR. HARWELL: May Your Honor please.
2 Aubrey Harwell on behalf of the Defendant, Edgar
3 Jones.

4 The Court had asked to be
5 prepared and delivered to the Court this morning a
6 list of tapes that the Government had given us during
7 the court of discovery. With Your Honor's permiss-
8 ion, I would like to hand this to Ms. English for
9 filing.

10 THE COURT: Let it be filed. Has a
11 copy of that been given to the Government?

12 MR. HARWELL: Yes, sir. We gave it to
13 them this morning early, Judge.

14 MR. SELF: Yes, Your Honor.

15 THE COURT: All right, sir.

16 MR. HARWELL: If the Court please, one
17 other brief matter in response to that which Mr.
18 Kehrli said, which I would like to get on the record,
19 if I might.

20 Has Your Honor got a cold
21 this morning?

22 THE COURT: Yes, sir. I spent all
23 weekend - -

24 MR. HARWELL: (Interrupting) It sounds
25 like what I had on Friday.

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1 THE COURT: I might need that micro-
2 phone before the day is out, gentlemen.

3 MR. HARWELL: May the Court please.
4 Comes now the Defendant, Edgar Jones, and respect-
5 fully move the Court for an order striking that por-
6 tion of the trial testimony of Danny Blanton which
7 relates to the telephone call he allegedly received
8 from Phillip Booth Monday night, February 15th,
9 1982.

10 Further moves the Court
11 to admonish the Jury to disregard that part of
12 Danny Blanton's testimony. The grounds for the
13 motion, may the Court please, we state that the
14 Pre-Trial Conference on December the 15th, 1983,
15 this Honorable Court ordered the Government to
16 produce statements of alleged co-conspirators made
17 in the course of and furtherance of the charge of
18 conspiracy.

19 In addition to that, the
20 Government represented to the Court that they had
21 advised defense counsel of all such statements
22 when they became aware of them if they were not
23 disclosed at the mini-hearing.

24 The Government failed to
25 produce and notify defense counsel of that statement

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1 allegedly made to Danny Blanton by Phillip Booth
2 on the evening of February 15th, 1982.

3 For that reason, may the
4 Court please, we submit that should be stricken
5 from the record. And in accord with Your Honor's
6 wishes, I have a written motion for filing, Judge,
7 and I have served the Government.

8 THE COURT: All right. Let the motion
9 be denied.

10 MR. HARWELL: Thank you, Judge.

11 THE CLERK OF THE COURT: Your Honor,
12 for the record, the statement of Danny Blanton of
13 February 16th, 1982, has been marked as Court
14 Exhibit No. 3.

15 THE COURT: Thank you.

16 All right, gentlemen, the
17 motion for the presentence report is denied on the
18 following grounds:

19 One, the motion is untimely.
20

21 Two, it is contrary to
22 public interest in the statute.

23 Three, the main in the
24 presentence report contains nothing which is not --
25 which was not available to counsel by other means.

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1 MR. PAFUNDA: Your Honor, as a question,
2 if it please the Court. The Court's Exhibit - -
3 Danny Blanton's statement has just been made a
4 Court Exhibit; is that going to the Jury? Or is
5 it just a Court Exhibit for the record?

6 THE COURT: A Court Exhibit.

7 MR. PAFUNDA: Thank you.

8 THE COURT: The purpose of a Court
9 Exhibit, in a sense, is something similar to avowal.
10 It is similar to it, but the Court makes a Court
11 Exhibit out of it just to make sure that is in the
12 - - the parties haven't placed it in the record, but
13 the Court has placed it in the record, gentlemen,
14 for the benefit of the Court of Appeals.

15 MR. PAFUNDA: Thank you.

16 MR. ADAMS: Your Honor, I don't know
17 if this would be the time or not. This is sort of
18 a housekeeping matter. But has the Court had an
19 opportunity to consider whether or not we will be
20 having Court on Friday? The only reason I bring it
21 up at this time is that is Lawrence County's motion
22 hour. And if the Court is inclined to have Court
23 Friday, I would need to make arrangements. And,
24 again, I don't know if this is the appropriate time
25 or not, but I just bring it to the Court's attention.

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MR. SELF: Also, if the Court may.
We may keep in mind, Your Honor, that the February session of the Grand Jury is scheduled to meet here Friday. And if we do have Court, Mr. Harwell is using the room downstairs that the Grand Jury normally uses in the basement, and it may come to a situation where we have a housekeeping problem as far as space.

THE COURT: Gentlemen, I doubt very much we will have Court Friday. I just -- if it hadn't been for all the people and everything, we wouldn't have had Court this morning.

But let's go. We will just go and see and go as far as we can. I don't anticipate we will have the trial Friday.

MR. SELF: The United States is ready.

THE COURT: Pardon?

MR. SELF: The United States is ready,
Your Honor.

THE COURT: All right. Mr. Marshall, bring the Jury in.

REPORTER'S NOTE: At this time the Jury entered the Courtroom at 9:10 A.M., E.S.T.

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1 THE MARSHAL OF THE COURT: The jury's back
2 in the courtroom, Your Honor, and all present.

3 THE COURT: Thank you, sir. Where is
4 the witness who was in the witness stand?

5 THE MARSHAL OF THE COURT: He's outside.

6 MR. DAUSE: The witness is waiting out
7 there waiting for the Marshal to call him.

8 THE COURT: All right. Have him brought
9 back.

10 THE CLERK OF THE COURT: Mr. Blanton, sir,
11 you have been previously sworn in this trial. Do you
12 recognize yourself to be under the same oath as the
13 first day that your oath was executed, sir?

14 THE WITNESS: I do.

15 THE CLERK OF THE COURT: Please take the
16 stand.

17 (Reporter's Note: The witness complied.)

18 MR. THOMAS: Your Honor, I was the last one
19 to question Mr. Blanton.

20 THE COURT: All right.

21 MR. THOMAS: I'm finished.

22 THE COURT: All right. Let's see, let's
23 go back. I think the gentleman wanted to-- Do you
24 desire any additional cross-examination?

25 MR. PAFUNDA: No, Your Honor, not at this

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1 time.

2 THE COURT: Who was the other one?

3 MR. THOMAS: Your Honor, I don't.

4 THE COURT: All right.

5 MR. WALBOURN: Thank you, Your Honor.

6 THE COURT: Fine.

7

8 CROSS-EXAMINATION

9 BY MR. WALBOURN:

10 Q. Mr. Blanton, my name is
11 E. J. Walbourn. I would like to ask you some questions,
12 but let me say first if I ask you something that you
13 don't understand, you can't hear me or you think the
14 question is unfair, would you please stop me and we'll
15 go through it again, okay.

16 A. Okay.

17 Q. Mr. Blanton, after you took
18 your coal truck to the tippie what did you do with that
19 truck?

20 A. I let it stay at the tippie
21 for two or three days. The following morning I had to
22 be in Prestonsburg court at nine--nine o'clock. They
23 had some warrants out.

24 Q. I understand that. Would
25 you just tell me what you did with the truck, please,

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1 sir.

2 A. It set there at the tippie
3 for two or three days.

4 Q. All right. And then after
5 two or three days what did you do with the truck?

6 A. I went and got it and
7 brought it home.

8 Q. Did you drive it home or
9 was it towed?

10 A. No, sir, I brought it.

11 Q. How long did it stay at your
12 house before you had the repairs made on it that you've
13 testified previously about?

14 A. When I got it home that day
15 I started pulling the engine out of it. It stayed
16 down two or three weeks because I couldn't get that one
17 fellow to work on it after I took it to his garage.

18 Q. All right. Did you take
19 your engine or did you take the whole truck to the
20 garage?

21 A. I took the engine and trans-
22 mission, all of it; pulled it together.

23 Q. Sir, where did you take your
24 truck to be worked on?

25 A. The cab part and stuff like

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1 that?

2 Q. The motor and transmission.

3 A. I took it to Tom Isaac's
4 garage there. Dean Hughes was the one who was going
5 to overhaul it.

6 Q. Is that where the work was
7 done on that motor and transmission?

8 A. No, sir. Dean took two or
9 three weeks about doing it, and he never would do it.

10 Then Rodney Blackburn--
11 We went down there every day. We kept piddling at it.
12 We finally tore it all down there, all except the cam.
13 We cleaned it up.

14 It laid down there for a
15 week. He never would fool with it. I got some other
16 boys to overhaul after he wouldn't fool with it over a
17 week.

18 Q. Okay. Was that overhaul
19 work there done at Dean's or was it taken somewhere
20 else?

21 A. No. It was taken down to
22 David May's garage. Junior Estep and a Parson boy
23 overhauled it in evenings after they got off of work.

24 Q. Okay, sir. Now, you testi-
25 fied last week concerning a bullet hole that was placed

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1 in the engine, is that correct?

2 A. Yeah. It was the back part
3 of the engine.

4 Q. All right. Exactly where
5 was that location, sir?

6 A. It was-- I don't know what
7 part of the truck--what you'd call it. It covers the
8 gears on the back of the engine where the cams and
9 things bolts up, your timing gears.

10 Q. Okay. Would this be towards
11 the rear part of the engine?

12 A. It was in the main back of
13 it.

14 Q. Close to the transmission?

15 A. Yes, sir. It was straight
16 up, you know, I guess it was about ten inches, nine,
17 something like that.

18 Q. How many bullet holes, sir,
19 did you find in your motor and transmission?

20 A. Well, there was one great
21 old big hole. I had a picture of it and give it to
22 Captain Lykins.

23 I had two or three pictures
24 of it. There was one big hole. It could have been two
25 bullet holes. It might have been just one, I don't

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1 know.

2 Q. Okay. Sir, the picture
3 you gave to Captain Lykins, that showed the location
4 of what you believed to be the bullet hole?

5 A. Yes, sir.

6 Q. Did anyone else, to your
7 knowledge, take pictures of the motor or transmission?

8 A. No, sir, but there was
9 about five or six other people that seen it, you know.
10 There was more than that, probably--

11 Q. Okay.

12 A. --maybe ten or twelve.

13 Q. When did you take this
14 picture, sir?

15 A. Just as soon as I got
16 Oliver Hall to pull it out of the--the engine out of
17 the truck. He hauled it down to Dean's and down to
18 Tom Isaac's garage, where Dean Oosley was supposed to
19 overhaul it.

20 Q. Okay, sir. I believe you
21 testified as to some other bullet holes. Were there
22 any holes placed in the cab portion of the--of your
23 truck?

24 A. There was some that come
25 through the back of the--shot up, I guess,--come

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1 through the floor. They was all at different angles.
2 There was some that come through the--the hood. Some
3 shot into the radiator.

4 Q. Okay. Were there holes in
5 the hood of your truck?

6 A. There was one or two in
7 the side of it on the--on the left side.

8 Q. Okay. On the left side of
9 the hood?

10 A. Yeah. The left-- The left
11 side facing McDowell side.

12 Q. All right. Were there any
13 bullet holes in the fenders on that truck?

14 A. I don't know exactly where
15 they was at. There was some in the cab. What I'm
16 calling the cab is the hood and stuff like that. It's
17 all built together. The hood and fenders is all built
18 together. It's a Fiberglas job.

19 Q. Okay. You said it was
20 Fiberglas?

21 A. Yeah.

22 Q. And is that one of those
23 where you can lift up and the hood and the fenders
24 all come up and the front all comes up at one time?

25 A. Yes, sir.

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1 Q. Were there any holes in
2 those--in that piece of the truck?

3 A. Yes, sir, there was some.
4 There was some about the radiator.

5 Q. All right. Were any pic-
6 tures, to your knowledge, taken of that?

7 A. The state police took pic-
8 tures of it that day. I don't know whether they took
9 any of that or not.

10 Q. The pictures you have pre-
11 viously identified in this case, those only show
12 bullet holes to the back end of your truck, is that
13 correct?

14 A. Yes, sir.

15 Q. Now, last week I believe
16 Mr. Dause was asking you to identify various people
17 over there. You didn't-- You said you didn't know
18 the man in the red shirt.

19 MR. WALBOURN: Harold, would you stand up.
20 (Defendant Harold Moore complied.)

21 Q. I understand your testimony
22 to be, sir, you do not know this person?

23 A. I didn't know him until I
24 realized who he was.

25 MR. WALBOURN: Okay. You may sit down.

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1 (Defendant Harold Moore complied.)

2 Q. Hermit or Kermit Newsome,
3 how long have you known Mr. Newsome?

4 A. He lived in around the
5 McDowell area there for three or four years, I'd say.

6 Q. Have you always known his
7 name or just known his face?

8 A. I always knowed him as a
9 Newsome. He was usually a mine foreman, you know.
10 He was a boss of the mine, is how I know him.

11 Q. Okay. Last week you were
12 identifying some people that were up there on the
13 picket line. You identified Jason Moore, Phillip
14 Booth, Phillip Moore and Drexil Hall as the individuals
15 who were doing the shooting, is that correct?

16 A. Yes, sir, I believe it is.
17 I think there was one more.

18 Q. Pardon?

19 A. I believe I identified one
20 more, Barry Moore. He ain't here. I think I did.

21 Q. All right. But in-- But
22 with the exception of those five people, are those
23 five people the only ones you recall presently who
24 either had a weapon or were shooting that day? Is
25 that correct?

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1 A. That's right. That's the
2 only ones I can remember.

3 Q. Mr. Blanton, getting back
4 to that portion of your truck, the hood and the fenders
5 that pulls up, what would be your best recollection as
6 to the number of bullet holes that were in that section?

7 A. I'd say it was three or
8 four, maybe five at the most.

9 Q. All right. Now, those--
10 that section that pulls up, that does not include the
11 doors, does it?

12 A. No, sir, it don't.

13 Q. All right. Did you get
14 that portion of your truck repaired?

15 A. Yes, I did.

16 Q. Who repaired that, sir?

17 A. Johnny Hall, I think his
18 name is. They call him Johnny Moore Hall.

19 He done it and another boy
20 helped him, repair the front end.

21 Q. All right, sir. Do you
22 know if he worked for someone or does he work for
23 himself?

24 A. He works for hisself.

25 Q. About when do you recall,

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1 if you recall, did you get that portion of your truck
2 repaired?

3 A. It was the same time they
4 was doing the engine. I took the hood to him the
5 following day or a day or two after that, or maybe the
6 day I took it off. Maybe he come and picked it up.

7 Q. Okay. Did you just take
8 him the hood or did you take him that whole section?

9 A. I took him the whole thing.

10 Q. All right. Mr. Blanton,
11 if you recall, in addition to the metal fragments that
12 we introduced or were introduced in court yesterday--
13 last week and the photograph you testified you gave to
14 Captain Lykins, did you give any other things to
15 Captain Lykins?

16 A. I gave him pieces of metal
17 that I thought was the bullet.

18 Q. Yeah. Those were the ones
19 you took out of your oil pan, I believe?

20 A. Yes, sir.

21 Q. All right. In addition to
22 those or the picture you testified about, did you give
23 anything else to Captain Lykins?

24 A. I don't remember if I did.

25 Q. Okay, sir. Mr. Blanton, the

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1 three or four or five bullet holes that you told us
2 about that were in the Fiberglas portion where, sir,
3 to the best of your recollection were those holes?

4 A. Well, they was up and down
5 the side. There was different--different angles, and
6 they was at different heights on the hood and stuff.

7 Q. Okay. You say up and down
8 the side. Which side are we talking about?

9 A. The left side, the driver's
10 side.

11 Q. The left side. That would
12 be towards the McDowell side?

13 A. Yes, sir.

14 Q. And I understood your testi-
15 mony to be when you brought your truck to a stop in
16 the road it was pointed down the Mc--towards the Mud
17 Creek side?

18 A. Yes, sir, I did.

19 MR. WALBOURN: Thank you very much.

20 THE COURT: Next, gentlemen.

21

22 CROSS-EXAMINATION

23 BY MR. SPENCER:

24 Q. Mr. Blanton, my name is
25 Ed Spencer, and I want to ask you a few questions.

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1 Mr. Blanton, how many times
2 did you see Linville Mosley on the fifteenth?

3 A. That was the first day?

4 Q. Yes, sir.

5 A. I think I seen him one time
6 on the picket line.

7 Q. What time?

8 A. I'd say it was around ten
9 o'clock, something rather like that.

10 Q. How many pickets were on
11 the hill at ten o'clock?

12 A. I don't know. It would be
13 a guess, twenty-five, thirty people; maybe more or
14 maybe less.

15 Q. Is that the only time you
16 saw him?

17 A. I seen him the morning of--

18 Q. I meant on the fifteenth.

19 A. No. That's the only time
20 I ever seen him or think I've seen him. When I thought
21 I seen him was up there on the fifteenth at about ten
22 o'clock.

23 Q. And you thought you saw him
24 on that day?

25 A. (Nodding his head in the

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1 affirmative.)

2 Q. Okay. Did you see--we'll
3 say Phillip Booth?

4 A. I don't recall seeing
5 Phillip the first day.

6 Q. Would you name some of the
7 people you saw on the picket line so--on the first day.

8 A. I may have seen Drexil. I
9 seen Ricky Moore and I seen Harry Moore and Smitty Joe
10 Mitchell. I don't know, there could have been more,
11 could have been less. It's hard to remember them
12 unless you just see them and you think about that.
13 Just to sit here and name you all of them or part of
14 them would be impossible.

15 Q. How about on the sixteenth,
16 did you see Linville on the sixteenth?

17 A. I seen--I seen him up there
18 running I'm pretty sure.

19 Q. Whereabouts?

20 A. He was running away from
21 the fire.

22 Q. What day was that?

23 A. That was the sixteenth,
24 you done said.

25 Q. Yeah.

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1 A. I seen him that morning at
2 the tipple, Edgar's tipple.

3 Q. Was that on the sixteenth?

4 A. Yes, sir. That was that
5 morning.

6 Q. How far is the tipple from
7 this mine?

8 A. Rough guess, probably two
9 miles, maybe two and a half from the mine site.

10 Q. What type of truck did you
11 own?

12 A. Nine thousand Ford tandem.

13 Q. What year?

14 A. '74.

15

16

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1 Q Is this the first picket
2 line that you ever crossed?
3 A No, it wasn't.
4 Q You crossed several of
5 them, though, haven't you?
6 A No, I wouldn't say I
7 crossed many. They would either sit up there until
8 I got by or something like that.
9 Q But you went through
10 several of them?
11 A Yes, sir.
12 Q Would you say that --
13 that you are one of the first in the McDowell area
14 to cross the picket line?
15 A I don't know whether I
16 would be or not. McDowell -- it has got a lot of
17 people in it.
18 Q Did you ever see Linville
19 with a weapon in his hand or anything?
20 A Not that I recall.
21 Q Did you talk to Linville
22 about this?
23 A As far as I know, I
24 have never spoke to him unless it was downstairs to
25 this courtroom.

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1 Q How long have you known
2 him?

3 A Practically all of my
4 life. He went to school at the same place I did.

5 Q And you are telling the
6 Court and the jury that there is approximately
7 thirty to forty people in the picket line. Is that
8 correct?

9 A There could have been
10 that many. There might have been less. There
11 might have been more.

12 Q But you have -- you have
13 made several statements, haven't you?

14 A Yeah, I made a guess at
15 it.

16 Q And in your statements
17 and your testimony the number of pickets has run
18 between twenty-five and forty. Would that be a
19 correct statement?

20 A From the first day to the
21 second.

22 MR. DAUSE: Your Honor, I would ask
23 that counsel specify time that he is talking about
24 in the questions.

25 Q On February 16, you gave

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1 a statement to R. O. Forsythe, and you listed
2 approximately -- you saw forty pickets. Would that
3 be correct?

4 A. I don't remember it.
5 Now on the first day I don't think there was that
6 many there. There could have been.

7 MR. SPENCER: Your Honor, could I have
8 the Marshall give him a copy of this to look at?

9 THE COURT: All right.

10 Q According to that
11 statement.

12 A. That is on the 16th.
13 I would say there was forty up there. There might
14 have been more. There might have been less. But
15 I -- I thought you were talking about Monday there.
16 That was one of the biggest gangs that has ever
17 been there.

18 Q Okay. You give-- you
19 stated then in the civil complaint that you filed
20 with Dan Jack Combs that there were thirty-five
21 people there. Is that correct?

22 MR. DAUSE: Objection, Your Honor.

23 THE COURT: Sustained.

24 Q On the statement that you
25 made on May the 13th, 1982, you stated that there

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1 were twenty-five pickets up there. Is that
2 correct?

3 A. Would you say again?

4 Q. Twenty-five.

5 A. What date was it?

6 Q. That was the 15th.

7 A. There could have been
8 twenty-five. There could have been a little bit
9 more. And there could have been a little bit less.
10 They kept going and coming.

11 Q. I see. Have you ever
12 worked at a union job?

13 A. Yeah, I sure have.

14 MR. SPENCER: I have no more questions.

15 THE COURT: Next.

16
17 CROSS EXAMINATION

18 BY MR. ADAMS:

19 Q. Mr. Blanton, my name is
20 Eldred Adams. I am from Louisa. And I will give
21 you the same admonition Mr. Walbourn gave you. If
22 you can not understand my questions or something
23 is unclear, would you please feel free to stop me.
24 Is that all right, sir?

25 A. Yes, sir.

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1 Q Can you hear me all
2 right?
3 A Yes, sir.
4 Q All right. Now, Mr.
5 Blanton, I believe you testified to earlier that
6 you had gotten a call from Phillip Booth on either
7 Monday or Tuesday night?
8 A Monday night was the --
9 the first calls came Monday night.
10 Q All right. And I
11 believe you indicated that you got more than one
12 call from Mr. Booth?
13 A It was three or four.
14 There might have been some more. We just hung the
15 phone back up. We didn't --
16 Q (Interrupting) All
17 right. That was four calls from Mr. Booth?
18 A Well, I would say they
19 were all from -- I made a statement they was from
20 Mr. Booth, the ones I talked to. I didn't talk to
21 all four of them.
22 Q All right. But you
23 talked to Mr. Booth three or four times?
24 A Yes, sir.
25 Q Now, what time did Mr.

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1 Booth call you?

2 A. I think they started about
3 seven o'clock, something like that. It was after
4 dark.

5 Q. All right. And how --
6 what was the last call? When did you get the last
7 call from Mr. Booth?

8 A. I would say it was about
9 eight thirty or nine o'clock, something like that.
10 I told him I had a tape there. I was taping it.
11 I was going to give it to the federal men.

12 Q. Now, let me ask you did
13 Mr. Booth identify himself?

14 A. Identify what?

15 Q. Did Mr. Booth say this
16 is Phillip Booth or --

17 A. (Interrupting) No, sir,
18 he didn't.

19 Q. All right. Was it
20 apparent from the conversation that you knew who he
21 was?

22 A. Yes, sir, I did.

23 Q. I mean it was apparent
24 that he knew that you knew who he was?

25 A. Yes, sir. I would say

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1 because I called him by his name a couple of times.

2 Q And he acknowledged it?

3 A He just went on talking
4 and stuff.

5 Q And he even called you
6 back after that?

7 A Yes, sir.

8 Q Now, did Mr. Booth at
9 that time appear to be under the influence of
10 alcohol?

11 A Well, you asked me a
12 question. Knowing Phillip and everything -- like
13 I say, I knowed him real well. Phillip was all the
14 time drinking just about.

15 Q Uh-huh.

16 A He gives the appearance
17 he always had it or he was drinking it. He had it
18 in his vehicle or something or another. He wanted
19 everybody to know he was drinking.

20 Q Uh-huh. In other words,
21 what you are saying is he was probably drunk.

22 MR. DAUSE: Objection to speculation,
23 Your Honor.

24 THE COURT: Sustained.

25 Q All right. Mr. Blanton,

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1 from the tone of his voice and the tone of
2 conversation, did he appear to be drinking?

3 MR. DAUSE: Same objection.

4 MR. ADAMS: I think that is a valid
5 question, Your Honor. I asked him -- I think under
6 the collective factual --

7 THE COURT: (Interrupting) Well, if
8 he can answer, let him answer; but please don't specu-
9 late.

10 MR. ADAMS: Yes, sir.

11 Q Did it appear from his
12 voice and the nature of the conversation that he
13 had been drinking?

14 A Well, you see, you asked
15 a question there. Like I told you, about every
16 time I seen Phillip, he was a-drinking.

17 Q Okay.

18 A Now, there's a difference
19 in drinking and drunk. He wasn't drunk. He might
20 have been drinking, but he was not drunk.

21 Q All right. Now, I
22 believe you indicated you sued -- filed a lawsuit
23 over the coal truck, over your coal truck?

24 A Yes, sir. I think Dan
25 Jack is the one that handled that.

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1 Q Now, Mr. Combs handled
2 that. Is that right?
3 A I believe so.
4 Q All right. And he has
5 a beard?
6 A Yeah, he is a little
7 short fellow.
8 Q Short, beard, and has got
9 a bald place?
10 A Yeah.
11 Q All right. Now, isn't it
12 a fact, sir, that Coal-Mac sent you to Mr. Combs?
13 A No. Mr. Combs come to
14 me because I was in trouble down -- they had
15 warrants for me, and he was supposed to meet me at
16 nine o'clock Wednesday morning at the courthouse
17 steps down there because they had some warrants.
18 Q All right. But wasn't
19 he Coal-Mac's lawyer?
20 A I would say he was.
21 Q And did Mr. Frank
22 Justice indicate that he wanted you to file a suit?
23 MR. DAUSE: Object?
24 THE COURT: Gentlemen, didn't we
25 have an admonition to the jury and a discussion on

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1 this matter?

2 MR. ADAMS: I will withdraw that
3 question, Your Honor.

4 Q Now, when you talked to --

5 THE COURT: (Interrupting) Just a
6 moment. I think I told the jury civil matters take
7 care of themselves. They are concerned with the
8 criminal matter. Isn't that what I told you?

9 All right. Proceed.

10 MR. ADAMS: Your Honor, I had another
11 question. And before you answer, Mr. Blanton,
12 I don't think this violates the Court's admonition;
13 but you wait until the Court rules.

14 THE COURT: All right.

15 Q Did you furnish Mr.
16 Combs the names of the people who you sued for your
17 truck?

18 MR. ADAMS: Is that permissible,
19 Your Honor?

20 MR. DAUSE: Your Honor, I think the
21 content is the same.

22 THE COURT: Would that be attorney/
23 client?

24 MR. DAUSE: I believe it would be,
25 Your Honor.

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1 MR. ADAMS: I don't know if it would
2 or not, Your Honor. I would just like to know if
3 he furnished those or if they were furnished to him.

4 THE COURT: Well, I will sustain the
5 objection.

6 MR. ADAMS: All right. Thank you,
7 Your Honor.

8 Q Now, isn't it a fact,
9 Mr. Blanton, that you don't particularly care for
10 unions?

11 A I think unions is one
12 of the finest things in the country if it is run
13 right.

14 Q All right. But you
15 have run a lot of -- you have run a number of union
16 picket lines, haven't you?

17 A I wouldn't know whether
18 you would call them unions or not -- a bunch of
19 drunks and stuff like that, -- they wouldn't be
20 authorized.

21 Q All right. But you have
22 run a lot of picket lines, haven't you?

23 A Not a lot.

24 MR. DAUSE: Objection, Your Honor.
25 Repetitive.

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1 THE COURT: Argumentative.

2 MR. ADAMS: Thank you.

3

4 CROSS EXAMINATION

5 BY MR. KIRKLAND:

6 Q Mr. Blanton, do you
7 know Jason Moore pretty well?

8 A Yes, I do.

9 THE COURT: Mr. Kirkland, identity.

10 MR. KIRKLAND: Yes, Your Honor. I am
11 William D. Kirkland, and I represent four or five
12 of those guys on the end over there, one of whom
13 is Jason Moore who is on the end on the back side.

14 Q And that is Jason Moore
15 that you know. Is that right?

16 A Yes, sir, it is.

17 Q He lives there in McDowell
18 community?

19 A He might have lived
20 Price at one time. Now he lives at Price or close
21 to Price.

22 Q Okay. Price is on up
23 left of Beaver?

24 A Yes, sir.

25 Q Five or six miles or

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1 something like that?

2 A. Probably.

3 Q. Okay. What -- what
4 connection had you known him in?

5 A. He has always had
6 something to do with the union most of the time, and
7 he drove a truck, and we worked in the same area
8 in the same mines and the same tipples, stuff like
9 that.

10 Q. So over the years,
11 occasionally you would be hauling coal to the same
12 tipple?

13 A. Yes, sir.

14 Q. And you have known
15 basically that he has owned or operated coal trucks?

16 A. Yes, sir.

17 Q. And you have said he
18 has always been involved in the union. Is he
19 pretty much all the time a union officer at that
20 local at McDowell?

21 A. Most of the time he
22 handles some kind of union deal, you know. Might
23 have been the secretary or might have been the
24 president. Something in the union. He might have
25 been the fellow that goes out and sees about if

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1 somebody has got a complaint or something like that.
2 I don't know what you call them. But he had
3 usually held an office.

4 Q Do you recall whether or
5 not he ever took up any complaints on behalf of
6 some of the union members at McDowell and took them
7 up with his employer?

8 A Yeah, I would say he
9 has. I have heard of them, you know. I don't
10 think I have ever been involved in it.

11 Q In fact, isn't it pretty
12 well known that he has had a lot of complaints that
13 he has had to deal with with Edgar Jones?

14 A Yeah. Him and Edgar
15 used not to hit it off too good.

16 Q The fact of the matter
17 is, he and Edgar haven't gotten along for years,
18 have they?

19 A I don't know. You know,
20 I talked to Jason one time before this happened down
21 there. And I haven't talked to him much since then.
22 I mean at that time, he had two trucks hauling for
23 Edgar, and that is all I know.

24 Q Union officers quite
25 often have to take up with the people that belong to

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1 the local, don't they?

2 A. Yes, sir, they do.

3 Q. And they have to take
4 up against the owners of the company?

5 A. Most times that is who
6 you deal with.

7 Q. As far as you know, was
8 Jason pretty good at that - taking up with the
9 members of the local?

10 A. I would say Jason was
11 about as fair as any of them that has ever been
12 up there.

13 Q. Now, you said that he --
14 when you saw him up on the hill, he had a -- was
15 it a knit hat that you call a toboggan or boggan?

16 A. Yeah, it was a toboggan.

17 Q. Was it pulled down just
18 to his forehead or to his hairline?

19 A. I don't know how far it
20 was pulled or I could sit here and swear how far
21 it was pulled and stuff. I know it was Jason. I
22 know he had a toboggan or something like a toboggan
23 on. It may not have been a toboggan.

24 Q. All right. Okay.

25 A. But it was something

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1 similar to it. That is the best I can describe it.

2 Q All right. So you could
3 see his face clearly?

4 A Yeah, I could see him.
5 I don't know about seeing his face clearly. I know
6 it was Jason Moore.

7 Q All right. Now, I
8 believe you stated last week that you saw him with
9 a pistol. Is that right?

10 A Yes, sir, he was one
11 that done some of the shooting.

12 Q How far away from the
13 intersection of the access road and the main highway
14 was Jason Moore when you first saw him?

15 A The only time I seen
16 Jason is when he was shooting. That is the only
17 time. I didn't see him when I come down by the --
18 like I said, I didn't see nobody. I think Drexil
19 was the only one that I identified out of the bunch
20 as seeing there that morning. The truck was turned
21 around, and I was looking back through my mirrors.

22 Q All right. How far
23 was Jason from the point that the access road comes
24 into the main highway?

25 A I would say twenty foot.

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Q

Twenty feet?
Yeah.
Back towards McDowell?
Yes, sir. He was back
there more in the gap and things.
And his pickup truck
was parked up that way, too. Is that right, sir?
Yes, sir. He was
standing closer to his pickup than he was to the
access road.
Now, where he was
standing would be pretty much in the cut-through,
wouldn't it?
Yes, sir, it would. It
would be almost to the end of the cut-through on the
Mud Creek side.
So from where he was
standing, he wouldn't be able to see much of the
access road, would he?
He should be able to
see it about as good as anybody because he was
standing on the side here and looking that a-way.
He would be more -- he could see more than the
ones standing there at the fire.
At the fire. Where was

1 that fire built that you have described for us?

2 A. Well, you know, I said a
3 fire. It may not have been no fire there. But
4 there was some hot ashes and stuff like that and a
5 pile of beer cans and stuff.

6 As far as you come to the
7 gap from McDowell side was on the right hand side
8 almost at the end of the gap, but back up in it a
9 little ways.

10 Q All right. Do you know
11 a fellow they call Postman that used to be a mailman?

12 A Yes, sir.

13 Q And he is the white-haired
14 fellow over there third from the left on the back
15 row?

16 A Yes, sir.

17 Q How long have you known
18 him?

19 A I got to know him on the
20 Ray-Mac job. They hired him to haul coal up there,
21 and he was the one that we hauled with up there.

22 Q He -- did he have his own
23 truck, too?

24 A Yes, sir.

25 Q Was he trying to buy that

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1 truck, pay for it?

2 A. He told me at the time
3 he had bought it. I mean when I talked to him, he
4 was already on the job, and we was hauling coal.
5 And he said he had already bought it. He paid so
6 much down on it, and he was telling me about the
7 payments and stuff.

8 Q. All right. Was that a
9 used truck that he bought?

10 A. I think he said it was
11 used. I believe he said '78 model.

12 Q. Okay. It had to either
13 be used or sit on somebody's lot for four years,
14 didn't it?

15 A. I imagine it would.

16 Q. Now, he wasn't a union
17 member when he was hauling on Ray-Mac, was he?

18 A. No, sir.

19 Q. And were you aware that
20 he later joined the union, or did you know?

21 A. I don't know about
22 joining the union. I know he quit our job and
23 went to work for Edgar Jones down there.

24 Q. Was the work hauling coal
25 on Ray-Mac's job kind of off and on in the fall and

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1 winter of '81?

2 A. Well, they would have
3 us up there everyday and things. But some days
4 would be better than others and things. Some days
5 you might get six or seven loads, and some days
6 you might get one or two or something like that. And
7 I have went all the way back and not get a load and
8 stuff. You know, it is just according to how the
9 equipment and stuff broke down. Some days you would
10 have good days; some days you would have bad ones.

11 Q. Would it be hard to make
12 truck payments just getting a load here and there
13 and once in a while?

14 A. It was tough.

15 Q. Now, do you know German
16 Stumbo, the fellow on the end of the front row on
17 the left side?

18 A. Yes, sir, he has got a
19 red shirt on with white checks in it.

20 Q. All right. How long
21 have you known German?

22 A. German grew up there. He
23 is a little older than me. I would say just about
24 all of my life.

25 Q. Has he been a coal miner

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b2

1 most of his life as far as you know?

2 A. That is about the only
3 thing I have ever known him to do.

4 Q He has done a little of
5 trucking coal, too?

6 A. I don't know, here lately
7 he owns some trucks, but I don't know back then
8 about him driving a truck. I don't remember him
9 that much as driving one. Now, he could have. Mostly
10 I ever know German doing was working in the mines.

11 Q All right, mostly
12 underground?

13 A. Yes, sir.

14 Q And what about his daddy,
15 Stiffy Stumbo? Do you know him?

16 A. Yes, sir.

17 Q Everybody knows Stiffy,
18 don't they?

19 A. I guess. Everybody in
20 that area probably does.

21 Q Stiffy is just a good
22 old, retired U.M.W.A. miner, isn't he?

23 A. I reckon he is retired.
24 He did work in the mines.

25 Q Is he a strong union

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1 fellow - Stiffy?

2 A. Yes, sir.

3 Q About as strong a retired
4 miner as you will ever find. Isn't that right, sir?

5 A. Yes, sir.

6 Q And proud of it?

7 A. Yes, sir.

8 Q Most of his kids are
9 union miners, too, aren't they, Stiffy's kids?

10 MR. SELF: I am going to object. I
11 think this goes way beyond the scope of direct
12 examination.

13 THE COURT: Sustained.

14 Q Do you know Raymond Hall,
15 another fellow I represent over there?

16 A. Yes, sir.

17 Q Dark-haired fellow?

18 A. Yes, sir.

19 Q How long have you known
20 him?

21 A. I have knowed Raymond
22 about as long as the rest of them has, you know. I
23 knowed him -- I got to know him better I think when
24 he come out of the service or he was running around
25 up there at McDowell, and stuff. As he got older --

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1 I mean something like eighteen or sixteen or somewhere
2 in there, I got to know him better than I did when
3 he was a boy. I think he is a little bit older
4 than me, too.

5 Q All right. He looks like
6 he is. I would say he is ten years older maybe.

7 Is he -- is he a coal
8 miner, too?

9 A. I don't know. I guess
10 you would call driving a truck being a coal miner.
11 He worked in the mines some. He worked up in Ohio
12 or Michigan somewhere for quite a while, too.

13 Q He married into some of
14 German's family, didn't he?

15 MR. SELF: Objection, Your Honor.
16 Again beyond the scope of direct examination.

17 THE COURT: Sustained.

18 Q Do you know whether or
19 not Raymond Hall is related to German?

20 A. Yeah. They married
21 sisters.

22 Q Okay. Do you know whether
23 Raymond Hall is a union member there at the local
24 at McDowell?

25 A. I don't know whether union

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1 members or not, you know. At the time the union
2 was in McDowell there, and I would say they belonged
3 to it. I don't know.

4 Q I believe last week you
5 said up there when you ran through the picket line
6 that you saw a Ray Hall up there.

7 A Ray and Raymond -- I meant
8 to say Raymond. But Ray -- I might have said Ray,
9 but it was Raymond who I was talking about.

10 Q All right. Well, you
11 know Ray Hall, don't you? He is an older fellow?

12 A That is his dad.

13 Q All right. Well, did
14 you see his daddy up there?

15 A No, I didn't.

16 Q Okay.

17 A I mean I made the
18 mistake. I mean I am sorry about it. I guess because
19 that is his son -- that is his dad, and that is the
20 reason I said Ray because I know Raymond through
21 Ray because Ray hauled coal there for I don't know
22 how many years.

23
24
25
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1 Q Okay. Do you know Teddy
2 Kinney, the second from the last there on the back,
3 the fellow with the bald head?

4 A Yes, sir.

5 Q How long have you know
6 him?

7 A I don't know exactly how
8 many years. I'd say maybe ten years, maybe longer.
9 He comes back out of Ohio or Michigan or somewhere,
10 and started working for Edgar Jones on the tippie
11 up there.

12 Q He's been sort of a tippie
13 operator rather than an underground miner; is that
14 right?

15 A I- - when I got to know
16 Teddy, he was operating a tippie at the time.

17 Q He had been a union officer
18 up there for years.

19 A He had - - I'd say that
20 most of his life he had something to do with the union
21 too.

22 Q Do you know whether he's
23 had any problems or confrontations with Edgar Jones?

24 MR. DAUSE: Objection, Your Honor.

25 THE COURT: Sustained.

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1 MR. KIRKLAND: Your Honor, I think I
2 can ask him if he knows.

3 THE COURT: Sustain the objection.

4 Q Do you know of the offices
5 that Teddy Kinney has held on the local up there?

6 A I don't know what it would
7 be, but I know he's held some offices up there.
8 I don't know what they would be.

9 Q Has he taken up for his
10 local members up there at various times?

11 MR. SELF: Objection, Your Honor,
12 beyond the scope of cross-examination - - or cross-
13 examination, and calls for speculation, unless he has
14 first-hand knowledge, Your Honor.

15 THE COURT: Sustained.

16 Q Do you know whether or not
17 Teddy Kinney is related to German Stumbo?

18 A Yeah. They are some kin.
19 I - - I think they married sisters. I ain't sure.
20 But they are some kin, I believe.

21 Q He and Raymond and German
22 are sort of brothers-in-law or something like that;
23 isn't that what it works out to?

24 A I think so. I ain't for
25 sure about Teddy. But they all live right close

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1 together, and I think it all belonged to their
2 Daddy at one time. Raymond - - Raymond's dad,
3 the property do. And they all live pretty close
4 together.

5 First I say yeah, and I
6 am on the stand. And I would say as far as I know
7 that they are kin or I would take it that they are
8 kin.

9 Q All right. Now, back up to
10 when you ran through the picket line. Did Drexil
11 Hall ever actually get up on your truck?

12 A Yes, sir, twice.

13 Q Twice. Now, how did he do
14 that? Tell me when he first got on it and when he
15 got off and how he got on it again?

16 A The first time was on
17 Monday, first load. I stopped and asked him how
18 he was doing and we talked there, and he said he
19 was up there organizing. And I told him that he
20 ought to organize himself before he tried anybody
21 else.

22 And he kept on talking
23 and stuff. And he told me then, he said, "Now,
24 if you don't come out, we'll have to have bad
25 trouble." And he said - - there was some other

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1 words exchanged. And I told him that I couldn't;
2 that is the only job I had. And if I had somewhere
3 else to go to work, I would, but I didn't have
4 nowhere.

5 Q Did he jump up on the - -
6 you were headed up on the hill at that time; is that
7 right?

8 A No. I was coming off both
9 times.

10 Q Okay. All right, now, the
11 second time, was that on Tuesday?

12 A No. Monday was the second
13 time.

14 Q Monday.

15 A The second time.

16 Q Second time. All right.

17 A I wasn't aiming to stop,
18 because I figured they would start cussing and every-
19 thing. But Willie Moore - - old Willie, he didn't
20 see the pickets, and it was raining and muddy; and
21 he come out in front of me, and he was pretty well
22 drunk. In fact, he had a can of beer in his hand.
23 And I wasn't going to stop. And I got pretty close
24 to him, and I got afraid that he might slip and fall
25 and I'd run over him.

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1 Drexil was standing off
2 to the side.

3 Q Now, is this when you say
4 Drexil was - - shot at your truck?

5 A No, sir, this is not when
6 he shot. This is on Monday, the second load - - the
7 last load I hauled Monday evening.

8 Q All right. Now, let's go
9 to Tuesday when you say Drexil Hall shot at you.
10 Now, do you know what time we are talking about?

11 A Yes, sir.

12 Q And you said that he took
13 a gun out of his pocket.

14 A A small handgun. It was
15 - - it was in a small - - he had a brown - - brown
16 jacket zipped up, and it had two pockets on it, and
17 he had one hand in his pocket. And when I got so
18 close to him, he pulled it out and pointed the gun
19 at me.

20 Q Now, did he jump up on
21 your truck at that time?

22 A I can't say he did. He might
23 have. I don't know. But I can't say he did.

24 Like I said, I kicked it
25 in neutral and let the truck roll, and I laid down

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1 in the seat. And I felt it go across the - - a
2 little hump in the road, and - -

3 Q Isn't that a little unusual
4 to put it in neutral headed down a long, winding,
5 steep hill?

6 A Yeah, but I figured I
7 better do something pretty fast. I couldn't - - I
8 mean, I had enough brakes - - the hill - - was almost
9 at the bottom of the hill, and I had enough brakes
10 on the truck to just about stop it.

11 Q You were at the bottom of
12 the hill as far as access road is concerned, but
13 you were at the top of the hill as far as the main
14 road is concerned; isn't that right?

15 A Yes, sir.

16 Q Goes down there for two
17 or three miles - - or maybe two miles, and then winds
18 around and is steep on one side?

19 A Yes, sir, it is very steep.

20 Q And you want this Jury to
21 believe you kicked it into neutral?

22 A Yes, sir. I figured that's
23 the only chance I had to get it turned around.

24 Q And you didn't just gun
25 it when you got a chance to, you kicked it in

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1 neutral; is that what your testimony is?

2 A Yeah, because it rolled
3 faster in neutral. You'd have to change gears to
4 get it to go as fast as it did, and I didn't have
5 enough time.

6 Q Now, where was it the air
7 line, according to your testimony, was punctured?
8 Where was that air line? Where was the hole in it?

9 A Right under my - - the cab.
10 The line run across the back of the truck, and it was
11 shot in two right there.

12 Q Under your cab?

13 A Yes, sir.

14 Q Now, how do you suppose
15 a bullet got under your cab?

16 A Well, I don't know how it
17 done it. Just like I said, I didn't count the
18 bullets, and I didn't watch that much about - - I
19 just wanted to get to safety.

20 And after I did, I would
21 look back through the mirrors and stuff.

22 Q Now, wouldn't it have to
23 hit the pavement and skip up under your truck to
24 hit a brake line?

25 A Well, see, that would be

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1 all the ones mainly shooting, you know. There's a
2 lot of them that didn't hit the pavement and jump
3 up, because they rang off the bed and off the cab.

4 I assume that that was
5 shot at me too and didn't come off my floor - - off
6 the ground.

7 Q Now, as soon as Pete
8 Barker and his boys down in that carryall jumped out
9 of the truck and started shooting, isn't it a fact
10 that these fellows just took off as fast as they
11 could go heading towards McDowell running and slip-
12 ping and falling and jumping for their cars and
13 trucks?

14 A Yes, sir, they did.

15 Q It was an absolute stampede,
16 wasn't it?

17 A I think they got really
18 scared when they seen Ricky got hit and the blood
19 started flying.

20 Q That's Jason's son?

21 A Yes, sir.

22 Q And blood started flying?

23 A Well, I don't know about
24 flying. I could see that he had gotten hit. I seen
25 it through his hand as he was holding it.

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1 Q And Ricky, Jason's
2 boy, still got a pellet above his left eye, hasn't
3 he?

4 A I don't know about that.

5 Q A shotgun pellet?

6 A I don't know whether he
7 has or not, but they say he has.

8 Q Okay.

9 A I mean, I don't know about
10 saying he has. They said he got shot right along
11 in there with a shotgun pellet.

12 Q Is it fair to say that
13 these fellows who were standing around, the pickup
14 trucks and Jeeps, were absolutely shocked and sur-
15 prised when the bullets started flying, and they just
16 took off running.

17 MR. DAUSE: Object to the question,
18 Your Honor.

19 THE COURT: Sustained.

20 Q Now, you - - did you say
21 your truck was towed away or that it was driven away
22 after this?

23 A Well, see there's a thing
24 I don't consider towed away. They took the grader -
25 or took a piece of equipment - - I think it was a

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1 grader - - and pulled it back off the road.

2 But after they got it
3 repaired and put tires and stuff on it and different
4 things was done to it, I drove it on into the tippie.

5 Q All right. Now, what was
6 your understanding with Ray-Mac about if your truck
7 was damaged running the picket line, how would you
8 be paid for that damage?

9 A I never did have no
10 discussions before this happened about anything
11 like that.

12 Q Was your - - was that load
13 of coal dumped or did it stay in the truck?

14 A No, it was dumped.

15 Q I'm - - well, it was
16 dumped on the side of the road up on the mountain.

17 A No, sir. If it had done
18 that, I would have took the truck on home. I had
19 to take it to Stone Coal and dump it.

20 Q Now, when it was dumped
21 at Stone Coal, that's here right below Pikeville;
22 isn't that right?

23 A Yes, sir.

24 Q Did you park it there and
25 leave it there for a few days?

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1 A Two or three days.
2 Q Who did you call and say
3 come look at my truck and see how it is damaged?
4 A I didn't call nobody.
5 Q You didn't call anybody
6 with Ray-Mac?
7 A No, sir, I didn't.
8 Q You didn't call and say,
9 come and look at my truck and see how it is shot
10 up?
11 MR. DAUSE: Objection, argumentative.
12 Q Well, now, you were asking
13 them for money, weren't you, to fix your truck?
14 A Now, you are going back to
15 what you said about after - -
16 MR. DAUSE: (Interrupting) Object on
17 the relevancy of that question, Your Honor.
18 THE COURT: Let me ask you this - -
19 let me ask you this, gentlemen.
20 Was this in cross-examina-
21 tion?
22 MR. KIRKLAND: It was in direct, Your
23 Honor.
24 THE COURT: I mean direct.
25 MR. KIRKLAND: Yes, sir.

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1 MR. DAUSE: Your Honor, the general
2 context about what Mr. Blanton did with his truck
3 was in direct conversation with Ray-Mac was not.

4 THE COURT: Well, are we getting over
5 into civil, gentlemen?

6 MR. KIRKLAND: No, sir, Your Honor. I'm
7 getting into the question whether this man is tell-
8 ing the truth or not.

9 MR. DAUSE: We agree with the Court
10 that it is more of a civil action, Your Honor.

11 THE COURT: All right, sustain the
12 objection.

13 Q Now, on direct examination,
14 you were asked what it cost to fix your truck, and
15 you said that it cost sixty-five hundred dollars to
16 repair it; do you remember saying that?

17 A I said a little more than
18 sixty-five hundred dollars.

19 Q Who did you pay that to?

20 A Well, that was different
21 people I paid it to. The biggest part comes from
22 Valley Engine. They got the biggest part of it,
23 the pistons, liners, inserts, mains, turning crank,
24 cams, stuff like that.

25 Warren King got some money

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1 out of it for doing the heads. And then the fellows
2 who overhauled the truck got six hundred dollars. I
3 gave him six hundred dollars.

4 Q Who was that?

5 A He's Estep - - Junie
6 Estep and the Parson boy.

7 Q How much did you pay
8 Dean Oosley?

9 A I didn't pay him nothing.

10 Q Now, how long did your truck
11 stay at the Stone Coal at the tippie before you
12 decided to drive it home to McDowell?

13 MR. DAUSE: Repetitive, Your Honor.
14 Object to it.

15 THE COURT: Well, overruled.

16 THE WITNESS: Go ahead and answer?

17 Q Yeah, go ahead and answer
18 that.

19 A Like I said, just as soon
20 as I got cleared up being out at Prestonsburg and
21 different things. I think it was on a Friday, and
22 I went over there and got it.

23 Q You went over there and got
24 your truck?

25 A Yes, sir.

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1 Q Before you went to get
2 your truck, did you go out here to Ray-Mac's office
3 and get you some money?

4 A No. You're a liar there.

5 Q No, I'm asking you.

6 A I'm telling you.

7 Q You did not do that?

8 A No, sir.

9 MR. DAUSE: Objection, Your Honor.
10 Repetitive and argumentative.

11 THE COURT: Well, I think he started
12 into the thing fifteen minutes ago, and I sustained
13 the objection. Now he's coming right back into it
14 again, and I still sustain the objection.

15 Q Did you ever ride with
16 Oliver Hall in connection with your truck?

17 A Yes, sir. He pulled the
18 engine out of it.

19 Q Okay. Oliver Hall has got
20 one of these trucks with a hydraulic boom on it;
21 isn't that right?

22 A Yes, sir.

23 Q Now, you said that you
24 dropped the pan - - and this was on direct examina-
25 tion - - the oil pan on the engine of your truck;

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1 is that right?

2 A Yes, sir.

3 Q Where did you do that?
4 Where was your truck parked?

5 A Your truck was parked at
6 the house, and the engine was down at Dean Oosley's
7 garage or Tom Isaac's garage, whatever you want to
8 call it. And there was a Blackman boy there with me
9 with two or three of Dean's buddies there.

10 Q So, the engine was at
11 Dean Oosley's at Martin?

12 A Yes, sir.

13 Q And isn't it a fact that
14 Dean Oosley dropped the pan and not you?

15 A No, sir. Dean wouldn't
16 work on it. That's the reason I took it away from
17 there.

18 Q Well, didn't he drop the pan
19 starting down from the top?

20 A No, sir. See, that's
21 another thing. Dean wouldn't work on it.

22 Me and Rodney Blackburn
23 kept tearing it down, and if we run into something
24 we didn't know how to tear it down, we would go and
25 ask Dean, and he would show us how to tear it down.

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1 Q Didn't you approach Dean
2 Oosley and tell him specifically that you wanted
3 him to swear that there was a bullet hole in the
4 engine so you could collect from Ray-Mac?
5 A No, sir, I didn't.
6 Q You never did do that?
7 A No, sir.
8 Q Didn't he show you that the
9 hole was back up on the back side of the engine,
10 was caused by a bolt coming out, and that is the only
11 reason you were losing oil?
12 A No, sir, he didn't.
13 Q He didn't do that?
14 A No, sir.
15 Q And you didn't try to get
16 him to say that?
17 A No, sir.
18 Q Who else saw this hole that
19 you say was made by a bullet?
20 A Well, Tom Isaac seen it,
21 Rodney Blackburn, Oliver Hall, and two boys that work-
22 ed there for Dean. I don't know their names, but
23 I could sure get them for you.
24 Q I would appreciate that.
25 If you will come to me afterwards, I would sure

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1 like to have a list of those names.

2 A I can give you one of them.
3 He lives close by him, and he can tell you who it
4 was.

5 Q And didn't Dean Oosley
6 tell you that your truck was burned up because it
7 had been running dry of oil?

8 MR. DAUSE: Objection, Your Honor, hear-
9 say.

10 THE COURT: Overruled.

11 A No, he sure didn't.

12 Q He didn't tell you that?

13 A No, sir.

14 Q And you had some broken
15 rings in there?

16 A Yes, sir, I had some broken
17 rings.

18 Q And I believe you said
19 about two weeks later you took this material to Mr.
20 Lykins - - Captain Lykins; is that right?

21 A I don't know about two
22 weeks. As soon as we tore it down and I got the
23 pieces out of the oil pan, I took it to Captain
24 Lykins.

25 Q Now, you say "We took the

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1 pieces out". And you are saying that you dropped
2 the pan instead of Dean Oosley; is that right?

3 A Yes, sir. Dean didn't
4 work on the truck, and that's the reason I didn't
5 pay him nothing.

6 Q He didn't tear part of the
7 top of the engine down?

8 A Dean might have come over
9 there and turned a bolt or something and showed us
10 how to take something off or something like that,
11 but he didn't do no work on the engine to amount to
12 nothing, I mean as far as that. We got some more
13 information off of him than we did work.

14 Q Now, Oliver Hall is the
15 fellow that took the engine out and took it to
16 Oosley, right?

17 A Yes, sir.

18 Q Now, don't you imagine that
19 if there was a bullet hole in it that Oliver Hall
20 would have seen that?

21 A I would say he did. I
22 think I pointed it out to him.

23 Q That's the same Hall - -
24 hole that Oosley said came from the bolt; is that
25 right?

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1 A Yes, sir. There wasn't
2 but one hole in it.

3 Q And that was back up
4 between the transmission and the engine?

5 A Yes, sir.

6 Q Now then, isn't Oliver
7 Hall the same fellow who lifted up your front end,
8 the fiberglass front end, and swung it around on
9 the flatbed truck and took it up to Price to get it
10 fixed?

11 A He might have been.

12 Q And I imagine that if there
13 were bullet holes in that fiberglass front end that
14 he would have seen them, wouldn't he?

15 A I don't know whether he
16 would or not.

17 Q Well, didn't you point them
18 out?

19 A I don't know whether I did
20 or not. You know, this has been almost two years.

21 Q Why did you really have the
22 front end fixed? What is the real reason you had the
23 front end fixed?

24 A Well, the front end was
25 shot up. That wasn't -- that wasn't -- didn't

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1 hurt the front end that bad. It was busted and
2 cracked and things, and I had it fixed what time
3 it was down there.

4 Q All right. Now, who was it
5 that did the fiberglass work on your front end?

6 A I hired Johnny Moore Hall,
7 but somebody helped him, and I don't remember. He
8 was a Hall, but I don't remember his name. He
9 lived the other side of Price Post Office at that
10 time.

11 Q All right. Roger Dean
12 Hall.

13 A I believe Roger was his
14 name.

15 Q He had a little shack right
16 up behind his house there at the Price Post Office?

17 A I think so.

18 Q Now, wouldn't you think
19 if he fixed your fiberglass front end that he would
20 have seen these five - - three, four, five bullet
21 holes?

22 A I'd say he most should
23 have.

24 Q The truth of the matter
25 is you had a big crack on the left side, and your

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1 hood wouldn't hold down right; isn't that the
2 reason?

3 A No. The hood would hold
4 down right, but it was broke there.

5 Q Now, isn't it true that
6 the reason you had your engine overhauled was
7 because it was overheating?

8 A No, sir, it wasn't.

9 Q It was not overheating.

10 A No.

11 Q Do you remember on the way
12 back from Stone Coal in Martin you stopped at Betsy
13 Layne and put water in the radiator?

14 A No, sir, I don't.

15 Q At the car wash?

16 A No, sir, I don't remember.

17 Q You don't remember that?

18 A (Witness shaking head
19 negatively).

20 Q Do you remember that Oliver
21 Hall was riding behind you in your pickup truck?

22 A I don't know whether he was
23 or not. I know there was two or three boys that went
24 over there with me to get the truck.

25 Q And you don't remember

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1 putting water in your truck on the way back?

2 A No, sir. I might have put
3 the water in there, and it might have been heating
4 up because the radiator had a bullet hole or two in
5 it.

6 Q Who fixed your radiator?

7 A Hawkins Welding Machinery
8 down here behind the IGA Market.

9 Q Where? Which IGA Market?

10 A Down there at Betsy Layne.

11 Q Now, as a matter of fact,
12 the reason Oosley wouldn't go ahead and fix your
13 engine was that you owed him forty-five hundred
14 dollars; isn't that a fact?

15 A I didn't owe him a thing.

16 Q Never did. Didn't owe
17 him a thing; is that right?

18 A Not that I know of.

19 Q Don't you bear a reputation
20 of being a deadbeat?

21 MR. DAUSE: Objection to that question,
22 Your Honor.

23 THE COURT: Sustained. The Jury will
24 not consider this.

25 MR. DAUSE: Move to strike the question.

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