

REPORTER'S RECORD

VOLUME V OF V

TRIAL COURT CAUSE NO. F96-02380-N

1	THE STATE OF TEXAS	)	IN THE DISTRICT COURT OF
2		)	
3	VS.	)	DALLAS COUNTY, TEXAS
4		)	
5	CHRISTOPHER RADKE	)	195TH JUDICIAL DISTRICT

\*\*\*\*\*  
8 APPEARANCES:

9 HON. JOHN VANCE  
10 CRIMINAL DISTRICT ATTORNEY  
11 Dallas County, Texas

12 MS. TERRIE MCVEA  
13 133 N. Industrial Blvd.  
14 Frank Crowley Courts Bldg.  
15 Dallas County, Texas

and

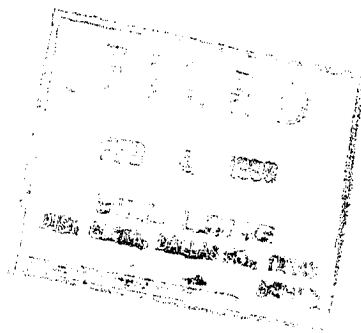
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18 Frank Crowley Courts Bldg.  
19 Dallas County, Texas  
20 APPEARING FOR THE STATE OF TEXAS

21 MS. CATHERINE SHELTON  
22 Attorney at Law  
23 Dallas County, Texas

and

24 MR. CARL STEINBECK  
25 Attorney at Law  
Dallas County, Texas  
APPEARING FOR THE DEFENDANT

\*\*\*\*\*  
26 On the 27th through 30th days of October, 1997,  
27 that the above-styled and -numbered cause came on to be  
28 heard in the said Court, HONORABLE JOHN NELMS, Judge  
29 Presiding, and the following proceedings were held, to  
30 wit:



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## P R O C E E D I N G S

October 30, 1997

Dallas County, Texas

(Whereupon, these proceedings took  
place before Judge Nelms, as  
follows:)

THE COURT: You may call your next  
witness.

Please raise your right hand.

(Witness sworn.)

THE WITNESS: I do.

JOSEPH NUNEZ,

the witness hereinbefore named, being first duly  
cautioned and sworn to testify the truth, the whole  
truth, and nothing but the truth, testified on his oath,  
as follows:

DIRECT EXAMINATION

BY MR. STEINBECK:

Q. Please state your full name.

A. Joseph Henry Nunez.

Q. Where do you reside?

A. 7340 Skillman.

Q. Where are you employed?

A. Processors Unlimited.

1 Q. And do you know Chris Radke?

2 A. Yes.

3 Q. How do you know him?

4 A. I worked with him at Medaphis Physician  
5 Services.

6 Q. During what time frame?

7 A. From about August of '95 to March of '96.

8 Q. Did you get to know Chris very well there at  
9 work?

10 A. Yes.

11 Q. Okay. What about his wife Diana Radke?

12 A. Excuse me?

13 Q. Did you get to know his wife at all or have  
14 any interaction with her?

15 A. Not as much as I had with Chris. I knew her  
16 because I went over and met her a few times.

17 Q. All right. What interactions did you see her  
18 have with Chris?

19 A. What do you mean?

20 Q. Well, what did you see happen between Chris  
21 and Diana?

22 A. They argued. You know, she would call him a  
23 lot at work.

24 Q. How often would she call?

25 A. Boy, a lot. She paged his pager and cell

1 phone, and even in the office, she called him, I don't  
2 know, many, many times a day.

3 Q. And how would Chris respond to her constantly  
4 calling him?

5 A. Well, he was like, you know, what's up, you  
6 know, what do you need? And she would just call him all  
7 the time over anything, really.

8 Q. Did Chris ever get mad and yell at her on the  
9 phone or anything like that?

10 A. No, he never -- no, he never got angry and  
11 slammed the phone or anything.

12 Q. He always remained peaceful?

13 A. Yeah.

14 Q. And what was the response that he often told  
15 her before they hung up?

16 A. Well, you know, they would argue -- and I  
17 always kind of found it -- they always said, I love  
18 you. I mean, you know, I always thought it was weird to  
19 argue and then I love you.

20 Q. Was there a time -- tell the Judge about the  
21 time that you observed Chris looking through the phone  
22 book.

23 A. Chris came in one day, and he was just kind of  
24 upset, and he -- the first thing he did -- I was  
25 standing there processing the mail, and he got the phone

1 book and he started looking through the phone book for a  
2 defense attorney or a lawyer or whatever. And I go:  
3 What's wrong? And he goes: You know, I'm going to  
4 divorce Diana. She came home last night -- I came home  
5 last night, and she was threatening to kill herself, and  
6 I had to take the gun away from her. And I told him,  
7 you know, you need to get rid of that gun, but he said  
8 that he had to take the gun away from her because she  
9 was threatening.

10 Q. He was looking through a phone book you  
11 said --

12 A. Yes.

13 Q. -- to find a lawyer?

14 A. Yes.

15 Q. Do you know if he ever called a lawyer?

16 A. Yeah, he did call a lawyer. I don't know what  
17 happened after that. Obviously, they didn't divorce.

18 Q. What was Diana's reputation there at the  
19 workplace?

20 A. She had come up one time upset, and that's  
21 pretty much what everyone knew about her at work.  
22 They'd asked me, you know: What's up with Chris's  
23 wife? And, you know, I said: I don't know.

24 It wasn't a good reputation at work, but they  
25 didn't know her.

1 Q. Did Chris ever exhibit any kind of behavior  
2 other than peaceful behavior at work?

3 A. No. He was always peaceful. If anything, I  
4 was the one who got more upset than him over, you know,  
5 stuff that went on at work. I'd get mad, but Chris was  
6 always good about it.

7 Q. Are you married yourself?

8 A. Not anymore, no.

9 Q. How long were you employed there at that  
10 business?

11 A. Six years.

12 Q. Thank you.

13 MR. STEINBECK: Nothing further.

14 MS. MCVEA: I just have a few  
15 questions, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. MCVEA:

18 Q. Would you consider yourself a good friend of  
19 the Defendant, Christopher Radke?

20 A. I got to be.

21 Q. Okay. And how often would you go to his  
22 house?

23 A. Less than a dozen times.

24 Q. So it's fair to say you socialized with him?

25 A. Yes.

1 Q. Okay. Now, you said that the Defendant told  
2 you that his wife threatened to kill herself with a gun;  
3 is that what you said?

4 A. Yes.

5 Q. When did he tell you this?

6 A. Approximately two weeks before, but not more  
7 than a month before it happened.

8 Q. Before Diana's death?

9 A. Yes.

10 Q. And you said in response to that, he was  
11 looking for a divorce attorney; is that what you  
12 testified to?

13 A. Yes.

14 Q. He wasn't looking for a doctor, correct?

15 A. No.

16 Q. At least what you could see, he was looking up  
17 divorce attorneys; is that correct?

18 A. Yes.

19 Q. He wasn't looking for a doctor?

20 A. No.

21 Q. He wasn't looking for a counselor, correct?

22 A. Not that I remember.

23 Q. Okay. Not that you could see?

24 A. No.

25 Q. He was looking for a divorce attorney,

1 correct?

2 A. Yes.

3 Q. Now, you didn't see her do this, did you?

4 A. No.

5 Q. So you're taking his word that she did this,  
6 correct?

7 A. Yes.

8 MS. MCVEA: That's all we have, Your  
9 Honor.

10 REDIRECT EXAMINATION

11 BY MR. STEINBECK:

12 Q. Did you ever remember having any conversations  
13 with Chris about in terms of getting back with Diana?

14 A. No. I don't understand: "the terms of getting  
15 back with Diana."

16 Q. Did you ever have any conversation about the  
17 follow-up of what they did to get back together?

18 A. Well, she -- I know another time she called up  
19 crying that, you know, she was upset, you know, I'm  
20 sorry, I'm sorry, that --

21 MS. MCVEA: Your Honor, I'm going to  
22 object. That's nonresponsive.

23 THE COURT: Sustained.

24 Q. (By Ms. McVea) Was there any conversations  
25 you had subsequent where you actually inquired about the



1 status of their relationship after that day that you  
2 learned that she had --

3 A. No.

4 Q. -- used the gun?

5 A. No.

6 Q. You guys weren't that close, were you?

7 A. Yeah, we were. It's just that I was having  
8 problems of my own, you know, and I was off in my own  
9 world, you know. I can't remember.

10 Q. Did you ever give any advice to Chris on what  
11 he should do about her?

12 A. Yeah.

13 Q. What was that?

14 A. I thought he should leave her.

15 Q. Thank you.

16 MR. STEINBECK: Nothing further.

17 MS. MCVEA: Nothing further, Your  
18 Honor.

19 THE COURT: All right, sir. You may  
20 step down.

21 (Whereupon, the witness was then  
22 excused and proceedings resumed, as  
23 follows:)

24 THE COURT: Have you been sworn?

25 THE WITNESS: No, sir.

1 (Witness sworn.)

2 THE WITNESS: I do.

3 THOMAS GENISON,

4 the witness hereinbefore named, being first duly  
5 cautioned and sworn to testify the truth, the whole  
6 truth, and nothing but the truth, testified on his oath,  
7 as follows:

8 DIRECT EXAMINATION

9 BY MR. STEINBECK:

10 Q. Please state your full name.

11 A. Thomas Henry Genison.

12 Q. Where do you reside?

13 A. Richardson, Texas.

14 Q. Your address?

15 A. 1706 Arvada, A-r-v-a-d-a.

16 Q. Where are you currently employed?

17 A. Duncan Donuts.

18 Q. And what store is that at?

19 A. It's in Plano at Coit and Park Lane.

20 Q. How long have you been employed there?

21 A. Almost a month.

22 Q. And can you tell us, Mr. Genison, how you know  
23 Mr. Radke.

24 A. An acquaintance friendship.

25 Q. How long have you known him?

1           A.    I think we've been friends for almost five  
2 years.

3           Q.    How did you get to know him?

4           A.    From my buddy Nick.  At his apartment, I met  
5 him.

6           Q.    Okay.  And what's Nick's last name?

7           A.    Earhart.

8           Q.    Did you get to know Chris quite well in those  
9 five years?

10          A.    Yeah.

11          Q.    Could you tell the Judge what kind of  
12 character Chris has for peacefulness.

13          A.    I've never seen him get violent or angry or  
14 anything.

15          Q.    Does he have any kind of mean streak in him at  
16 all?

17          A.    Not that I've ever seen.

18          Q.    And could you tell the Judge what you know  
19 about Chris and that gun that he had.

20          A.    He didn't want it in the house.  He wanted me  
21 to bring it to my house, to keep it at the house, at my  
22 house.  He didn't trust it being in the house.  He  
23 didn't want Diana having access to it.

24          Q.    What time frame was this?  Do you recall when  
25 she died?

1           A.    The first time he asked me to get it was two  
2 months earlier, a month.  And then about every time I  
3 saw him, he kept reminding me to come by the house and  
4 pick up the gun.  Come by the house and pick up this  
5 gun.

6           Q.    You were aware that Chris was on parole at  
7 that time?

8           A.    Yeah.

9           Q.    Did you ever come by to pick it up?

10          A.    No, I never got around to it.

11          Q.    Did you know or have personal knowledge as to  
12 why Chris wanted the gun out of the house?

13          A.    He said that Diana was suicidal, and that he  
14 didn't want her to harm herself.

15          Q.    Did you have any beliefs that that was  
16 accurate?

17          A.    No.  I mean, just what he had told me.

18          Q.    Did you personally observe Diana acting  
19 strange or --

20          A.    Yeah.  She always -- every time I saw her, she  
21 flipped her lid, went out of control, yelled.  She never  
22 tried to have a rational conversation, just always  
23 screaming and shouting.  I tried not to be around it as  
24 much as I could.  It was none of my business to stay  
25 around.

1 Q. How did Chris react to her behavior?

2 A. He tried to -- he just -- he always stayed  
3 very calm, from what I remember. If it got too out of  
4 hand, then, you know, he would leave with me or I would  
5 leave and he would leave at the same time, you know,  
6 from the house.

7 Q. Did you ever see Diana get physical?

8 A. Just throwing objects, throwing objects at us,  
9 me, him, and the car when we got into it and left one  
10 time on one occasion.

11 Q. What kind of object did she throw at you and  
12 Chris?

13 A. Anything she could find. Anything laying on  
14 the ground. Cans, pots, trash, whatever.

15 Q. Pots, you said?

16 A. Yeah, like floor pots.

17 Q. So stuff that could possibly create injury,  
18 injury?

19 A. Oh, yeah. Heavy stuff, ceramic pots, light  
20 stuff, cans, trash, trash bags, just screaming, flailing  
21 her arms, you know.

22 Q. And your testimony is that Chris always  
23 remained calm?

24 A. Always.

25 Q. Do you have any opinion as to what Chris had

1 in terms of care and love for Diana?

2 A. I know he loved her very dearly. I know he  
3 loved his son. He was kind of tormented over the  
4 situation and how she was always freaking out, but he  
5 couldn't leave her because he had a baby with her.

6 MS. MCVEA: I object, Your Honor, as  
7 nonresponsive.

8 THE COURT: Sustained.

9 A. He didn't want to leave his son.

10 MS. MCVEA: I object.

11 MR. STEINBECK: That's fine. Please  
12 don't answer the question.

13 Q. (By Mr. Steinbeck) In your opinion, was Chris  
14 faithful to her?

15 A. Yes.

16 Q. How did he seem to treat her?

17 A. I always saw him treating her good. I never  
18 saw him abuse her, not verbal or physical or anything.

19 Q. Thank you.

20 MR. STEINBECK: Nothing further.

21 CROSS-EXAMINATION

22 BY MS. MCVEA:

23 Q. Sir, how long have you and the Defendant been  
24 friends?

25 A. Almost five years.

1 Q. What's your date of birth?

2 A. 3/23/74.

3 Q. Okay. So is it true that back on -- in 1996  
4 you were convicted of theft check of over 20 in Criminal  
5 District Court No. 4, is that true, and you received  
6 probation?

7 A. It was over ten.

8 Q. Over ten. Is that true?

9 A. Yes.

10 Q. Okay.

11 A. Except to what --

12 Q. You answered the question. Thank you, sir.  
13 How often did you socialize with the Defendant?

14 A. Probably once a week.

15 Q. Okay.

16 A. Sometimes more. Sometimes at least once a  
17 week.

18 Q. Are you a married man?

19 A. No, ma'am.

20 Q. At the time you socialized with him, was he  
21 married, was Christopher Radke married?

22 A. I knew him before he was married, and --

23 Q. Well, after he was married, how often did you  
24 socialize with him?

25 A. About as frequently as before.

1 Q. So about once a week?

2 A. At least.

3 Q. Okay. And so would you go often to his home?

4 A. I tried not to go to his home because -- you  
5 know, as often as I could.

6 Q. Okay. But did you go to his home?

7 A. Yes.

8 Q. While he was married?

9 A. Yes.

10 Q. How often did do you that?

11 A. Maybe 20 or 30 times. I never went to their  
12 new house, only to the house --

13 Q. That they had before, they moved on Sunset?

14 A. It was off of Beltline and I-30.

15 Q. Okay. You said you went there at least 30  
16 times. So the time that he was married, how often, on  
17 average, did you go to his home?

18 A. Every now and then. I tried to leave some  
19 space for them because they were a young, married  
20 couple.

21 Q. Would you say once every two weeks, a couple  
22 of times a month?

23 A. Yeah, maybe two or three times a month, or  
24 sometimes I'd go there when she wasn't there. But for  
25 the most part, you know, I wouldn't go around when she



1 was.

2 Q. Well, the times that you went there, you said  
3 that you had seen Diana Radke, I guess to use your  
4 words, "flip her lid"?

5 A. Yeah. Every time.

6 Q. Okay. Could that be because you were over  
7 there and he had other friends over there, and she  
8 didn't want you-all there? Could that be part of it?

9 A. I was the only person present most of the  
10 times.

11 Q. Well, could it be that she flipped her lid  
12 because she didn't want you there?

13 A. Well, she would have been directing it towards  
14 me, wouldn't she?

15 Q. Well, maybe so, but maybe not. Maybe she was  
16 directing it towards him because she didn't want you  
17 over there.

18 A. Well --

19 Q. Is that a possibility?

20 A. Just as soon as she went -- flip --

21 Q. Just answer yes or no.

22 Is it a possibility?

23 A. Yes.

24 Q. Now, you said that you've never seen -- well,  
25 at least in your presence, you've never seen the

1 Defendant get violent --

2 A. Yes, ma'am.

3 Q. -- is that what you testified to?

4 A. Yes, ma'am.

5 Q. Okay. So you're not saying that he's never  
6 been violent or anything like that, are you, because you  
7 haven't been around him 24 hours a day or seven days a  
8 week?

9 A. Not in my presence.

10 Q. So just not in your presence?

11 A. Yes, ma'am.

12 Q. So you don't know what happened in that house  
13 after you would leave, do you?

14 A. No, ma'am.

15 Q. You weren't present there at 1001 Sunset on  
16 February the 29th, 1996, when Diana Radke was shot and  
17 killed, were you?

18 A. No, ma'am. I never went to that house.

19 Q. Okay. So you don't know what happened --

20 A. I don't even know where that house is.

21 Q. -- and you can't testify to that, correct?

22 A. Yes.

23 Q. Okay.

24 MS. MCVEA: That's all we have.

25

REDIRECT EXAMINATION

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BY MR. STEINBECK:

Q. Tommy, you mentioned her flipping out. She wasn't flipping out as soon as you showed up, insinuating that you weren't welcome there; is that accurate?

A. Well, most of the times when I arrived, she was already flipping out. Like, previously, she had been going off her rocker. Then I remember on one occasion when she was friendly to me, but not more than 20 minutes; then she got real violent before I left.

Q. Did she ever say that you were welcome there at the house --

A. No.

Q. -- or ask you over, anything like that?

A. Well, I don't recall.

Q. Did you ever have an occasion to work with Chris or do odd jobs with him, part of that being in the context that you mentioned?

A. Pardon?

Q. Did you ever work with Chris or have any jobs with him?

A. Yes.

Q. Is that some of the contact you described that you had with Chris --

1 A. Yes. I helped --

2 Q. -- job oriented?

3 A. Only after we had a good friendship.

4 Q. What kind of work did you do with Chris?

5 A. I helped him at his mother's office a couple  
6 of times, and he got me a job interview with ceramic  
7 tiles, previous to that.

8 Q. So some association was not social but was  
9 actually work related?

10 A. No, it was -- our relationship was social, but  
11 when his mother had work to contract out to us, then he  
12 would, you know, invite me, because he knew I was a good  
13 worker.

14 Q. Thank you.

15 MR. STEINBECK: Nothing further.

16 MS. MCVEA: Nothing further, Your  
17 Honor.

18 THE COURT: All right. You may step  
19 down, sir.

20 (Whereupon, the witness was then  
21 excused and proceedings resumed, as  
22 follows:)

23 MS. SHELTON: Excuse me, Your Honor.  
24 Mr. Maduka, who represents one of the gentleman who may  
25 be testifying later on this morning, is here, and, I

1 presume, to be present for his client.

2 May we speak to him for just a second and tell him  
3 what's going on?

4 THE COURT: Yes.

5 MS. SHELTON: Judge Nelms, we have a  
6 question from the Court. There are four of these men,  
7 and so far --

8 How many of the lawyers have we been able to  
9 contact?

10 MR. STEINBECK: Three.

11 MS. SHELTON: We have gotten three of  
12 them?

13 MR. STEINBECK: Yes.

14 MS. SHELTON: There's a fourth that we  
15 haven't been able to contact, but I think I know where I  
16 can find him. How do you want -- do you want all of  
17 them to be here when these --

18 THE COURT: I don't know who these  
19 people are you're speaking of.

20 MS. SHELTON: They are in custody, and  
21 they are charged with various offenses, as the Peavy  
22 witness was. And his attorney was here, and I don't  
23 know his name. It was the gray-haired man.

24 THE COURT: Well, it depends, I guess,  
25 on whether they have pending charges.

1 MS. SHELTON: They do.

2 THE COURT: And secondly, on whether  
3 they might make some admission of some new charge, and I  
4 have no way of knowing that. I would say in an  
5 abundance of caution that each one should have his  
6 attorney present.

7 MR. STEINBECK: There's one, Your  
8 Honor, that is pro se. He's stated that he got his  
9 other attorney fired, his Court-appointed attorney  
10 fired, and the Judge okayed him to go forward.

11 THE COURT: Well, if you bring him  
12 out, I'll be glad to admonish him and tell him I will  
13 appoint him an attorney.

14 MS. SHELTON: Well, then, we just  
15 wanted to get some clarification from you on how you  
16 wanted to handle it. But if they're not going to be --  
17 as Mr. Peavy, we couldn't go into his instant offense  
18 that was pending. None of their pending cases will be  
19 gone into, so I guess we're not going to have a  
20 problem. We can move along with them, then.

21 THE COURT: I will permit either side  
22 to elicit what their in jail for, how long they've been  
23 in jail, but not to go behind the offense.

24 MS. SHELTON: Thank you, Judge.

25 MS. MCVEA: Judge, may we approach for

1 a second?

2 (Off-the-record discussion.)

3 THE COURT: All right. Is this the  
4 gentleman that is pro se?

5 MR. STEINBECK: Yes, Your Honor.

6 THE COURT: Sir, what is your name?

7 THE WITNESS: Tony East.

8 THE COURT: All right. How do you  
9 spell your last name?

10 THE WITNESS: E-A-S-T.

11 THE COURT: E-S-T-E?

12 THE WITNESS: A-S-T.

13 THE COURT: East, like the direction?

14 THE WITNESS: Yes.

15 THE COURT: All right. Mr. East, you  
16 have been called as a witness in a murder trial in which  
17 Mr. Radke is the accused. I'm told by his attorneys and  
18 by the young lady who is the Prosecutor in your own  
19 case, who happens to be one of the lawyers in our case  
20 here, that you do not presently have an attorney; is  
21 that true?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Is this  
24 because you didn't want an attorney, or you wanted one  
25 but you couldn't find one yet, or what is this situation

1 regarding you being represented?

2 THE WITNESS: Well, initially, I was  
3 represented by Ms. Tracy Holmes, which is --

4 THE COURT: The Public Defenders'  
5 Office?

6 THE WITNESS: Yes, sir, a  
7 Court-appointed attorney from the Public Defenders'  
8 Office. And I was dissatisfied with her representation,  
9 and I made an oral request to Judge Entz to be re -- be  
10 able to have --

11 THE COURT: Get a new lawyer?

12 THE WITNESS: Right, get a new  
13 lawyer.

14 THE COURT: And did he deny your  
15 request?

16 THE WITNESS: He denied my request.  
17 He said that I would have to either proceed pro se or  
18 continue retaining Ms. Holmes as my attorney.

19 THE COURT: So what is your plan now  
20 for representation?

21 THE WITNESS: I plan to represent  
22 myself.

23 THE COURT: All right. For the  
24 purposes of this hearing, if you wish, and for this  
25 hearing only, I can appoint a lawyer that you can



1 consult with. You understand that if you become a  
2 witness in the case and take the witness stand, that you  
3 will be asked questions. I'm not -- I can tell you in  
4 advance that I'm not going to permit the Prosecutors to  
5 question you at all about your own case, about any of  
6 the facts of your case or what led to you being charged  
7 or anything. So what they would want to question you  
8 about, I believe, is things that may have occurred in  
9 the jail.

10 Now, I don't know whether, in the jail, you have  
11 committed any offenses that you could be charged with.  
12 Only you would know that. If you wish to waive your  
13 rights and take the witness stand and give your  
14 testimony, those will be the ground rules. But if you  
15 make an admission of the commission of some offense that  
16 may have happened in the jail, then possibly that could  
17 be used as a basis for the Prosecution to use against  
18 you. If you've not done anything like that, you  
19 probably don't need to worry about it, because you're  
20 not going to admit it on the witness stand.

21 With respect to any commission of any offense in  
22 the jail, you could also invoke your Fifth Amendment  
23 right, and I would, if I saw that anything like that was  
24 happening, I would advise you. But if, for the purposes  
25 of the hearing, you would prefer to be represented by a

1 lawyer and consult with that lawyer during your  
2 testimony, I have no objection to doing that.

3 What would you rather do?

4 THE WITNESS: I will go ahead and  
5 proceed pro se.

6 THE COURT: Just by yourself?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. And if at any  
9 time you feel that you're being asked to reveal anything  
10 about any offense you might have committed in the jail,  
11 either a violation of jail rules or anything of that  
12 nature, if you will make it known to me, then I will see  
13 that that is not gone into.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Raise your  
16 right hand and take the oath.

17 (Witness sworn.)

18 THE WITNESS: I do.

19 THE COURT: All right. You may take  
20 the witness stand.

21 TONY EAST,  
22 the witness hereinbefore named, being first duly  
23 cautioned and sworn to testify the truth, the whole  
24 truth, and nothing but the truth, testified on his oath,  
25 as follows:



1 matters, and we became friends at that point. He would  
2 come to me for advice on different issues. He was  
3 working on a lot of other people's cases, and he wanted  
4 me and him to work together on the cases.

5 Q. Now, as far as him working on these cases, did  
6 you know how that came about? Were people seeking him  
7 out, or was he seeking them out for legal advice?

8 A. Well, he was basically doing it as a means of  
9 making money within the housing unit, because he wasn't  
10 receiving any money from his family or friends. His  
11 wife had divorced him, and he didn't have any money  
12 coming in from nowhere.

13 Q. But you know for a fact that he was getting  
14 paid to file motions and stuff on other people's cases?

15 A. Yes.

16 Q. And that's something that he was actively  
17 engaging --

18 MS. MCVEA: I'm going to object, Your  
19 Honor, to leading.

20 THE COURT: Sustained.

21 Q. (By Mr. Steinbeck) Did you become better  
22 friends with Chris or Carl Peavy?

23 A. Carl Peavy.

24 Q. Because you guys were cell mates a lot longer?

25 A. Well, no, it was because me and Carl had more

1 in common, and so we used to converse more and spend  
2 more time together. Actually, the only time I ever  
3 really spent time in the presence of Chris is during,  
4 like, we used to play spades and dominos and stuff like  
5 that. But other than that, we really wasn't that  
6 social.

7 Q. You didn't have one-on-one contact with Chris  
8 Radke?

9 A. Well, sometimes we did.

10 Q. But mostly it was Carl Peavy?

11 A. Yes, it was.

12 Q. Please tell the Judge what concern, if any,  
13 Carl expressed regarding his case.

14 MS. MCVEA: Your Honor, I object at  
15 this time. That's hearsay.

16 THE COURT: Sustained.

17 Q. (By Mr. Steinbeck) Did you have a  
18 conversation with Mr. Peavy about his case?

19 A. Yes.

20 Q. What was your impressions about his concern  
21 with his case?

22 MS. MCVEA: I'm going to object again  
23 to hearsay.

24 THE COURT: All right. Whose case are  
25 we talking about, Mr. Peavy's?

1 MR. STEINBECK: I'm asking his state of  
2 mind regarding Carl Peavy's concern about his case.

3 THE COURT: About his own case?

4 MR. STEINBECK: His state of mind about  
5 Carl Peavy's desperation involving his own case.

6 THE COURT: Well, I concede that  
7 Mr. Peavy is a desperate man. That is not an issue  
8 before the Court.

9 MR. STEINBECK: I'll move on, then,  
10 Your Honor. Thank you.

11 Q. (By Mr. Steinbeck) Were you aware of anything  
12 that Carl Peavy knew about Chris Radke's case?

13 A. Well --

14 Q. Did you ever have any conversation?

15 A. -- I know Carl Peavy spent a lot of time with  
16 discussing Chris's case. He was real -- in my opinion,  
17 he was kind of like obsessed with Chris's case, because  
18 he talked about it all the time. At one point he  
19 mentioned to me that he was --

20 MS. MCVEA: I'm going to object, Your  
21 Honor, to hearsay.

22 THE COURT: What was your objection?  
23 It was hearsay?

24 MS. MCVEA: Yes, Your Honor.

25 THE COURT: Overruled. You may

1 continue.

2 A. Well, at one point he mentioned to me that he  
3 was thinking about testifying against Chris and lying on  
4 Chris.

5 Q. (By Mr. Steinbeck) Lying against Chris?

6 A. Lying on Chris to try to get probation,  
7 because he was on drugs when he was out on the street,  
8 and he was thinking about trying to get out and  
9 reestablish his family. He knew he was facing a lot of  
10 time in prison, and he was real concerned about that.

11 Q. So under no uncertain terms, you can recall  
12 him stating that he was going to lie on Chris Radke's  
13 case?

14 A. Yes, he did. He did state that he was  
15 thinking about it. But after he saw my expression,  
16 since me and him was friends and we had so much in  
17 common about the law, I thought -- I think he thought  
18 that I would agree with him. And after he saw my  
19 expression of disbelief and shock, he said that he was  
20 just thinking about it, that he would never do a thing  
21 like that.

22 Q. Did he -- did you observe him telling Chris  
23 that he could actually do the exact opposite, he could  
24 help him on his case?

25 A. Yes. At first, that's -- that's the basis of

1 him -- of his discussions with Chris. He had been  
2 trying to lead Chris on to believe that he could help  
3 him have the case resolved, to get a favorable decision  
4 in Chris's favor. And at one point I went down to  
5 Chris's cell one day, and I was going to ask him for a  
6 cup of coffee or something -- I forgot exactly what I  
7 was going to his cell for -- but when I went to his  
8 cell, Carl was down there going through his legal  
9 papers, and --

10 Q. Chris Radke's legal papers?

11 A. Right, Chris's legal papers.

12 Q. Okay.

13 A. And I didn't think nothing of it at the time  
14 because, you know, he was saying that he was trying to  
15 help Chris work on his case.

16 Q. I see.

17 A. But Chris wasn't in the cell, so --

18 Q. Where was Chris at?

19 A. I'm not sure. I think he was either in the  
20 shower or downstairs talking to one of his friends or  
21 something. But, you know, like I said, I didn't think  
22 nothing of it at the time, because he had been working  
23 on lot of people's case under the pretense that he was  
24 trying to help them. So I didn't think there was  
25 nothing wrong with it, because he had been talking to



1 Chris. But later on I found out that Chris had not  
2 given him consent to go through his legal papers.

3 Q. How was Chris's reaction to that when he found  
4 out?

5 A. Well, he didn't find out that I knew about  
6 this until after Carl Peavy had been moved out. And  
7 Chris found out that Peavy was testifying against him,  
8 and then I found out about it, and that's when I  
9 mentioned it to Chris that I had seen him one day going  
10 through his papers. And Chris told me that he didn't  
11 have no business going through his papers; that he  
12 hadn't given him consent to do that.

13 Q. Now, how did you know it was Chris's file?

14 A. Because I know what Chris's cell is. I know  
15 that he sleeps on the bottom. And he has this folder --  
16 he has these brown folders that he keeps his legal  
17 papers in, and he has these little things on them,  
18 little stickers; and that's the folders, the folders  
19 that he was going through.

20 Q. Okay.

21 A. They were sitting on the bottom bed. There's  
22 two beds in each cell, and he was sitting on the bottom  
23 bed with these folders.

24 Q. Now, do you know if Mr. Peavy was supposed to  
25 be having access to go into another cell?