

COPY

IN THE CIRCUIT COURT OF BENTON COUNTY,  
ARKANSAS DIVISION I

STATE OF ARKANSAS

PLAINTIFF

vs.

No. CR 93—111—1

DUSTIN DENTON DEFENDANT

EXCERPTED PROCEEDINGS

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APPEARANCES:

DAVID S. CLINGER, PROSECUTING ATTORNEY

and ANDREW R. MILLER, DEPUTY PROSECUTING ATTORNEY

PROSECUTING ATTORNEY'S OFFICE, BENTON COUNTY COURTHOUSE

BENTONVILLE, ARKANSAS Appearing for the State

JOHN C.. EVERETT, ATTORNEY AT LAW

EVERETT, MARES and STILLS

3822 NORTH PARKVIEW DRIVE

FAYETTEVILLE, ARKANSAS

Appearing for the Defendant

MR. EVERETT: May it please the Court. Ladies and gentlemen let me say initially that I don't do a very good job making opening statements to juries. I've always thought that was because the judge tells you, and the lawyers tell you, and Mr. Clinger tells you that what lawyers say to you is not evidence and you really shouldn't consider it to be evidence.

THE COURT: Would you turn that microphone up more towards you? All right. \$

MR. EVERETT: Because of that it struck me that perhaps it's better for the client to come up here and make the opening statement, but Dustin Denton told me he was looking for me to do it instead of him.

Let me say to you that for most of

Mr. Clinger's opening statement I wasn't sure we was trying the same lawsuit because in most cases many of the things said by the prosecutor are admitted and are not for a jury's consideration. This case is significantly different from that for virtually nothing that Mr. Clinger said is subject to agreement by the Defendant other than that Mr. Denton killed - shot and killed Joe Dozier.

I don't believe that I've ever talked to the jury about matters of proof beyond a reasonable doubt, how you approach things in criminal cases; but, ladies and gentlemen, I've tried murder cases off and on for most of my adult life and frankly I've never heard a statement from the State that includes so many maybes and probabilities, and I don't know what the evidence is going to say but I think it might say this. You understand, we're here on a serious mission. This is a murder case and the State of Arkansas is trying to puts Dustin Denton in jail, in prison, for the rest of his natural life; and I would expect that you would expect more evidence from this witness stand other than maybe what happened, or probably what happened, or we're not sure what these people are going to say but they might say, and that bothers me a little bit that the State comes to the jury with that kind of case on the front end.

Now, it's true that you're going to be called upon to judge the manner in which this shooting occurred. It's likewise true that Mr. Denton's and Mr. Dozier's background and their involvement one with the other are important considerations for you, and I need to talk about that. I thought for awhile the State was prosecuting Mr. Denton for

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wearing one of these dusters. I gather he's not charged with that. I then thought that perhaps he was being prosecuted for carrying a gun. I know he's not charged with that. It's suggested to you

that Mr. Denton came barreling into Benton County,

Arkansas, from Westville, Oklahoma, and cut a wide swath, in Mr. Clinger's language, through the thirteen and fourteen year old girl populations of western Benton County, Arkansas. I suggest to you that those things and that thing particularly is simply not true.

I'm going to tell you later in this statement, after I make some preliminary statements to you, what is the truth about those matters. Let me say to you, first, that Dustin Denton was raised in Westville, Oklahoma, as Mr. he was. His parents are Benny and Linda and I

need to tell you some about his because it's important to you, I think who the aggressor is likely to be in and what likely happened.

Benny and Linda Denton spent in the with government service in The National Security Agency. - They both had top security clearances. Mr. Denton held one significantly greater than that,

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greater than that, a crypto clearance with a code word behind it. But about twenty—three years ago they decided that it was no place to raise a family like they were living so they moved to Westville, Oklahoma, and had three children. The oldest was Dustin Denton. He was twenty-two years old in 9 when he was an inmate at the

Benton county jail They have a son Levi Denton, who is a senior in high school this year; and their third son, the smallest one, is Casey, who is jn about the tenth grade. The Denton family ran a farm over in Westville — still does. Mr. Denton works at a feed store, Mrs. Denton works at a bank, and they've been employed in those capacities forever.

It's true that the family was close to the church, the boys were raised in the church. They went to school in Westville, Oklahoma. Mr. Denton graduated high school there, I guess, about three years ago. You'll hear from his school about his performance there. He got a scholarship to Oklahoma State University, proposed to be an engineer, discovered that he was fighting with a short academic stick at Oklahoma State University, did not do well, changed schools and started

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attending Northeastern State University in Tahlequah, Oklahoma, where he was a student on February the 19th, 1993.

Unlike the assertions by the prosecutor that Mr. Denton moved into western Benton County, Arkansas, and cut a wide swath through the young female population of Benton County, the truth of the matter is that Dustin Denton had one girlfriend through high school - her name was Melinda Eigo -- it was a pure relationship, and had4 precious little experience with girls generally. Be all that as it may — and it's important that you remember these dates as opposed to guessing at them that maybe this was the date or probably this was the date. I'm going to tell you some real dates.

On September the 18th, 1992, Dustin Denton, attending a high school football game in Westville Oklahoma, first met Misty Pearson. How that happened was he was sitting there at the game and Misty Pearson sits down by the side of him and starts talking to him. She was then fourteen years old. You'll see her. She's now fifteen. She doesn't look like she's fifteen years old and she didn't look like she was fourteen years old at the time. But she came and sat by Dustin Denton and

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started visiting with him and he visited with her through that game. After the game was over he went riding around with her. In McCrory, Arkansas, in 1964 we rode around with

girls. I know what that means. You get in a vehicle and travel through Westville, Oklahoma, and talk to each other, and that's what they did.

At the time Mr. Dustin Denton was riding in a vehicle she was driving, which was a pickup truck, and as it turned out was owned by Joe Dozier, though he didn't know that at the time. Incidentally, some of you are old enough to remember when President Nixon was impeached there was a senator from Tennessee named Howard Baker that kept asking witnesses that came before this committee: "What did the President know and when did he know it?" To a great extent that's important in this case. To a great extent it's critical that you understand what Dustin Denton knew and when he knew it, much as Senator Baker thought it was important.

In any event, that evening terminated pretty uneventfully and Mr. Denton had no contact with Misty Pearson the next coming week; but on Friday night of the next week, one week after they first

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met, Misty Pearson called Dustin Denton. I don't

mean to skip around on purpose, but it occurs to me it's important for you to know that by this time Dustin Denton no longer lived with his parents, Benny and Linda Denton, he had rented on a farm in Westville and lived by himself. She called him and asked him to come to her place in Siloam Springs, Arkansas, on Wright Street where I she lived at least some of the time with her mother named Kim Pearson. Kim Pearson is an important - witness, too, and I'll tell you exactly what she's going to say, as to probably or maybe what she's going to say.

So he goes over there. By this time it's the - it's seven, eight days after the lath, so it's about the 26th or 27th of September. It's a Saturday night. And he goes to Misty Pearson's house in Westville — in Siloam Springs, Arkansas, and he — I'm not sure you'd call it a date. He stayed there in the house that evening visiting with Misty Pearson and a girl named Jackie Vernon. She's also a critical witness, and in a minute I'll tell you exactly what she's going to say as opposed to speculating or telling you what she may say or I hope she says.

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Jackie Vernon was there, Misty Pearson was there, Dustin Denton was there. During the course of that evening, on several occasions, boys came to the window of the apartment, knocked on the window, would whisper to Jackie Vernon or whisper to Misty Pearson, and obviously something was awry in this situation. Mr. Denton didn't really know what it was at the time, but during the course of the evening he had been advised that there was a man named Joe Dozier. As a matter of fact, he had been told that in the week in the middle that he had made a critical mistake because he had gone out with Joe Dozier's girlfriend and wise people don't do that. I think you'll conclude that wise people really don't do that.

But in any event, as it turns out, Joe Dozier and at least six and probably seven of his running mates, so to speak, were outside the apartment that night watching the apartment, knowing that Misty Pearson had a boy over there and it wasn't Joe Dozier. Dustin Denton leaves the apartment about 2:00 o'clock in the morning. It is true that he drives an old

beat—up truck. It's also true that the beat-up truck will run faster than my 1989 Chevrolet automobile. Dustin Denton and his father

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and his brother work on vehicles and trucks, and as an incidental proposition — and I know I'm skipping around again — Benny Denton, for virtually all of his adult life, has collected and sold guns. Dustin Denton and both his brothers, from as soon as they were old enough to safely handle firearms, handled and owned and shot and knew how to handle and own and shoot firearms. Firearms were not uncommon in the household, as is true in most farm families, as a matter of fact, at least several farm families. Dustin Denton was quite comfortable with them and very capable with them. The evening of September 27th or 28th of 1992 is when the first involvement directly between Dustin Denton and Joe Dozier reared its ugly head first, and here's what happened and here's what the witnesses will say exactly. This ain't no probably and they may not maybe say this, this will be the testimony and it will be the testimony from people who were with Joe Dozier.

Here's what happened. Dustin Denton comes out of Misty Pearson's apartment about 2:00 o'clock in the morning. He's going to Westville, Oklahoma. That's where he lives and that's where he's going

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home to. He gets in his pickup and immediately at least two and probably three vehicles follow him and maneuver themselves around him, so at 2:00 o'clock in the morning — this is on Sunday morning by this time --- in Siloam Springs, Arkansas, one gets in front of him, two behind him, and seven people come bailing out of these automobiles. Two of them approach Mr. Denton's pickup, beat on the window, and in words he can clearly understand — and are as descriptive, as you would imagine that they would be descriptive - instructs Dustin Denton to get out of that truck, and they tell him what they're going to do to him. Those two people were Ray Dozier, who is

Joe Dozier's brother, sitting in the courtroom, and Joe Dozier.

Mr. Denton, frankly, in my judgment - and I think you will believe this -- had absolutely nothing in his background that prepared him to deal with people like this. There was no part of how he was raised, or what his family was, or how he grew up that prepared him to deal with these people.

Mr. Denton had the good sense to lock his doors and not get out of the truck. He was fortunate enough, with the benefit of hindsight,

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that he had a rifle in the truck. He didn't carry a rifle in the truck, but he and a man named or — Heath Hamilton, who is a fellow about his age, for as long as they've been grown—up kids, have target shot and shot guns and had guns, and it so happened he had a rifle in the front of his pickup truck. Well, the Dozier's tell him to get out of there because he's made the critical mistake of going out with Joe Dozier's girlfriend, and they tell him what they're going to do him. They're going to whip his ass, is what they tell him.

Well, Mr. Denton doesn't get out of the truck, that's a given. What he does do is roll down the window, the gun's not loaded, points the gun out the window of the truck and says, "Boys, you'd better leave me alone, get out of here and leave me alone." Well, at some point they do that, though the testimony of Ray Dozier is that they weren't really scared of guns and they didn't care, and they beat around on his windows a lot and cussed at him, but they did withdraw from the truck; at which point Mr. Denton put his truck in gear, pulled up through a lady's yard and he takes off for Westville, Oklahoma.

Well, under normal circumstances, I think you

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*Note: Matt Drake did not testify, when Denton tried to pass Matt in the passing lane on the left Denton lost control and went into the ditch.*

would believe, that that would be the end of that encounter, but it wasn't — not with these people. Three cars followed him down Highway 59 south from Siloam Springs, Arkansas, going to Westville. One of them is a pickup truck driven and occupied by Joe Dozier. One of them is a red Chevy Camaro, and it's kind of important that you remember a red Camaro, which was driven by Matt Drake, and it's important that you remember Matt Drake's name. I'll get to that later, about why that's important And the testimony of the people that were with Joe Dozier that night will show you, not probably but absolutely, what happened was that they managed to pass Dustin Denton - and this was a high speed chase. Mr. Clinger talks about Mr. Denton racing, it's a good thing he did race or he'd be laying in a ditch in Watts, Oklahoma, right now.

What happened was that they got in front of him, and then when Mr. Denton was trying to go on to Westville, Oklahoma, they just progressively -- the vehicle driven by Joe Dozier, progressively moved left and run him off the road into a culvert, disabled his vehicle. They were standing up on the roadway above Mr. Denton, they say. Some of their testimony is they were just having fun with him,

*Note: Matt Drake was to testify at the civil trial and was in the court holding room but was never called to take the stand.*

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they were just playing with him, and maybe that's right. I don't think that's the way reasonable people would think that they were doing, but that's what they were doing, just playing with them.

He gets put of his vehicle. It's 2:00 o'clock, 3:00 o'clock in the morning by this time, in the middle of the night on Highway 59 at Watts, Oklahoma. He remembers there's a pay phone at Watts. He gets out of the truck and goes to the pay phone and takes his gun with him, fortunately - takes his gun with him to the pay phone. He gets on the phone and calls the police. That's what he's supposed to do, that's how he's been raised, and that's what he does. The Joe Dozier clan, seven of them, three vehicles, come up to him on the telephone, cuss him some more, want to fight him some more. He's got his gun, he points it at them again, and they leave. The police come, he tells them what happened. That's the first thing that happened.

Ladies and gentlemen, from that day, September the 26th - or 27th of 1992, until February the 19th of 1993, virtually every time that Dustin Denton had a date with Misty Pearson, saw her or was in her company, he was chased back to

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Westville, Oklahoma, by Joe Dozier in the company of several other people, who would routinely give him the finger when he comes up on the street to them, cuss at him, tell him they're going to whip him, tell him they're going to kill him, routinely so many times that you cannot count, and nobody specifically remembers, and the people that are Joe Dozier's friends will tell you that.

There were at least two other, and perhaps three other, personal confrontations between Joe Dozier and Dustin Denton. One occurred at the Siloam Springs Junior High School, shortly after this first occurrence, sometime in the fall of 1992 when Mr. Denton was there to pick up his girlfriend, Misty Pearson. She was getting out of class. Well, he and Misty Pearson and Jackie Vernon in his truck were again hemmed in by Joe Dozier in the company of a man named V who is kind of an interesting fellow. The reason why he's interesting is because his nickname is Buglet, and you'll hear him talked about as Buglet in the company of Verl Bush and Joe Dozier, and Mr. Dozier again tells him to get out of that truck, he's going to whip him, he's with his girlfriend and he's made a big mistake. This guy

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is 6—2, 245 pounds This fellow is 5—10, weighing 130 pounds

Verl Bush will tell You if he testifies like he has before, that Mr. Denton said, "I don't want to fight you, I'm not here to fight"; and Mr. Bush will tell you that Joe Dozier was there for that precise purpose, to fight him. 1c. Denton had a 4 in the ve didn't pull it on anybody I don't know if Dozier knew it was in there or not. But in any event, Dozier finally let him go, let him loose, let him get loose.

There were at least — well, it would serve little purpose for me to recite to you exactly every time Mr. Dozier, in the company of his friends, chased, harassed, threatened, stopped and intimidated Dustin Denton and Misty Pearson and Jackie Vernon. You'll hear that testimony from the witness stand, and I think it's critically important that you listen to it, and I think you inevitably must conclude that Dustin Denton was being harassed, and intimidated, and threatened by a man who had the full capability of whipping him or killing him. There will be other evidence on the point but I don't see any purpose now of describing precisely to you each one of those

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occurrences. There were several.

Let me talk to you about the involvement of the police. The background behind Misty Pearson and her relationship with Joe Dozier, as Mr. Clinger has recited it to you is substantially

rF accurate. They were romantically involved, she was flr 'it. pregnant, she did have an abortion. Her family,

her mother's name is Kim Pearson, and her remote family, her grandparents, who are her guardians — and she lived one sometime and the other sometime — didn't like Mr. Dozier very much; and

Ms. Pearson will tell you for sure, not probably and not maybe but for sure that on several

occasions, at least a half a dozen occasions, she had called the police and said: "Look, this man is out here stalking us, watching us. Do something. Get this guy away from us."

The one incident that I think is most probative of this occurred on the very same night that Dustin Denton was run off the road in Watts, Oklahoma, and here's what happened. Mr. Denton wasn't there, of course, but Joe Dozier — at least Joe Dozier — and some of the people that ran Dustin Denton off the road came back to

Misty Pearson's house that night, broke in her r

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house, and the police had to be called to remove him from the house. It's kind of interesting how the police removed him from the house. They sent

four officers over there, handcuffed him—the officers

Cuffed him and two of them held guns on him and one of them handcuffed

him and the other stood outside kinda keeping guard. The police knew this man was dangerous. But that happened the same night they ran Dustin Denton off the road. Joe Dozier came back to Misty Pearson's house, broke into the house and the police had to come to get him out. *(NOTE: There was a well worn path to the window of Misty's Room where the kids came and went at all hours, any of her friends or Joe's could tell you that it was used as her own personal door, Also had Brian Bishop testified he would have told the jury that he asked Misty if Joe could come talk to her; before Joe approached the Window. She told him to get into the closet.)*

Kim Pearson will tell you on several occasions she asked for the police help in this matter. Dustin Denton, on that very same occasion, went to the Siloam Springs police and reported what happened in Watts, Oklahoma. He reported it to the Siloam Springs police, he reported it to the police in Oklahoma, who were called to the scene after Dustin Denton called the police and asked for help there standing on the road at 2:00 o'clock in the morning in Watts, Oklahoma. Dustin Denton will tell you and other people will tell you that on several occasions, nobody knows exactly how many, Mr. Denton reported this harassment, this chasing, to the police in Siloam Springs, Arkansas, and

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asked them to help him.

More importantly, you'll hear evidence that not only did Mr. Dozier chase and threaten and harass Dustin Denton in Siloam Springs and eastern Oklahoma, but he even chased him in the company of a man named Duane Woods — sometimes I get these people's names mixed up, it might have been another Woods to Tahlequah, Oklahoma, where he's going to college and chased him over there, harassing him, intimidating him, chasing him



where he's going to school, and Mr. Denton had to pull into a cycle shop, you'll hear this testimony, and called the police.

Well, there came a time early on in this when the Denton family and, frankly, Dustin Denton, to recognized it might not be the best idea to continue this. It so happened there was an Oklahoma state trooper in Adair County, Oklahoma named Gary Fain, and he'll testify, and his testimony is going to be critical. He was there with Benny Denton. He knew these people. So there was a meeting in Westville, Oklahoma, between Gary Fain, the trooper, Benny Denton, the daddy and Dustin Denton and his brother Levi.

Let me tell you about Levi while I'm on the subject. Dustin Denton was not the first Denton son that had a date with Misty Pearson. Levi had dated her some several weeks before Dustin had a date. He had gone out with her on one occasion, met her at a rodeo and, amazingly enough, was treated precisely the same, chased by Joe Dozier; and some several days after he had the date with her Joe Dozier accosted him in the parking lot at Wal-Mart in Siloam Springs, Arkansas, and expl to him that he was looking for Levi Denton, he was looking for Levi Denton because Levi Denton had gone out with his girlfriend and he owed Levi Denton an ass—whipping. By the way, Levi had the good sense to deny that he was Levi Denton and say he was somebody else, but in fact he was Levi. And by the way, kid, you go tell Levi Denton that that's what he's got coming and you tell his brother Dustin I'm going to kill him. That's what happened to Levi Denton, and that's for sure. That's not probably and there's no maybes about that.

Gary Fain. Gary Fain talks to Dustin Denton, and Levi Denton and Benny Denton, and he knows about the occurrence at Watts. He knows of the occurrence at Watts and he knows the problem that's

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been created with Dustin Denton and Joe Dozier, and he says to Dustin Denton: "Dustin, you quit carrying that gun. If you keep carrying that gun I'm going to have to put you in jail. Quit carrying that rifle, and don't you go back to Siloam springs, Arkansas, anymore and it would be a good idea if you ran this little girl off and found you another girlfriend."

Well, Dustin took some of his advice. He did not sever his relationship with Misty Pearson, hut he quit carrying a rifle. And Misty Pearson at that time moved from Wright Street in Siloam Springs, Arkansas, back out southeast of Siloam Springs where her granddaddy lived and her grandmother lived so that Dustin Denton would not have to come to Siloam Springs, Arkansas, and he did not.

He did one other thing. He did two other things. It so happened that Dustin Denton had an uncle named Wesley Miller, who was a lawyer in Tahlequah, Oklahoma. Dustin Denton asked Gary Fain, "What can I do to protect myself? What could I do?" "Well, you can't carry that rifle, cut that out." He goes to his lawyer,

Wesley Miller, his uncle —— he's not his lawyer, he -Th

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doesn't pay him any money, but he is a lawyer and he is Dustin Denton's uncle — and explains this matter to Mr. Miller, who promptly tells him that he would be wise to get

another girlfriend. with the benefit of hindsight, we would all agree with that. But he explains to him also that you can't carry a gun in Oklahoma, it's a misdemeanor — carrying a gun is a misdemeanor — and that Mr. Denton, like anybody else in this situation, has kind of a Hobson's choice to make. Mr. Miller tells him this. If you've got to carry a gun -- you can protect yourself, that's the law of this state, but you can't carry a gun. You've got a hard choice to make. Do you want to carry a gun and run the risk of being charged with a misdemeanor or are you going to not carry a gun and get whipped or killed? Well, you know what his choice was.

In any event, the other thing he did was that he bought a handle, as Mr. Clinger explained to you. At least it's some defense. It had happened amongst these people, these young people in Westville, Oklahoma - Siloam Springs, Arkansas, too, for that matter - that this business of carrying a handle — they called it a club - was

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pretty common amongst these young people. You'll hear testimony that Joe Dozier routinely carried a club. Dustin Denton bought him a handle. Sometimes he kept the handle in his house, used it to prop up the window with, sometimes he kept it in the front seat of his pickup, as Mr. Clinger said he did, and sometimes he kept it in the back of the pickup, which is where it was on February the 19th, 1993, and I'll talk more with you about that.

The chasing, the intimidating) the threatening continued from the fall of 1993 uninterrupted through Christmas, through New Year's, up in January, up in February — uninterrupted until February the 19th, 1993, as a matter of fact. Sometime later in 1992 Mr. Denton purchased a weapon at a gun show in Tulsa, Oklahoma. It was a .357 caliber Ruger revolver. It was not — that is to say, I don't as much about guns as you people do. It was not an automatic weapon, it was a weapon that had a — it was a revolver. That's all I can tell you. He bought that. He remembered what Gary Fain told him, that he couldn't carry a weapon, he was going to put him in jail if he did, and he bought a shoulder holster and he wore the weapon and the shoulder holster a lot of the time.

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He wore it not -- well, let me do it this way. He wore it most of the time when he was with Misty Pearson. He wore it most of the time when he was with Misty Pearson. He target shot with it routinely, he was capable with it, he was competent with it. He knew how to shoot firearms and knew how to shoot this firearm, and he wore it in a shoulder holster.

Now, Mr. Clinger would have you believe that Mr. Denton came over with his .357 in his shoulder holster and his long duster coat and he ran roughshod through the young girls in western Benton County, Arkansas, and then just in cold blood killed Joe Dozier. Let me tell you how it really happened. Let me tell you what really happened. It is true, as Mr. Clinger says it's true, that the relationship between Dustin Denton and Misty did not go as smooth as silk. It was it had its rough spots in it. They professed their love, one for the other, they talked of getting married on several occasions — I don't know that Mr. Denton ever took a position on that particularly — and it came to Mr. Denton's

knowledge that Mr. Dozier also had this prior relationship with Misty Pearson at least wanted to

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continue that relationship with Misty Pearson. During the time of, say, October up till late January and February, 1993, Mr. Denton had been told by Misty Pearson and by other people, and I'll tell you who they are in a minute.

THE COURT: Excuse me just a minute. [ off-the-record discussion was had.] MR. EVERETT: I was saying to you that

Dustin Denton had been told by Misty Pearson and other people that anybody that dates Misty Pearson was in big trouble; they were in serious risk of getting whipped and beat up by Joe Dozier. He had been told that by Misty Pearson, he had been told that by other people who had personal knowledge about it, and you'll hear from some of those people. You'll hear from a guy named Robert Alberty, who had the bad judgment to go out with Misty Pearson, and you will hear what he got. You'll hear what he got as a matter of two or three days ago. You'll hear from Troy Pilcher over in Oklahoma that had the bad judgment to be accused of going out with Misty Pearson. You'll hear what he got, and you'll hear from some other people, too, several other people that dated, or talked to, or were friendly with Misty Pearson and as a ***Note: None of these people testified that they had fought or had any trouble with Joe, NOT ONE.***

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consequence of that they got beat up, or threatened, or whipped, or intimidated by Mr. Dozier or the people that ran with Mr. Dozier.

You'll hear that, and Dustin Denton knew that, and he didn't know it probably, or he didn't know it maybe, that's the absolute fact of the matter and you'll hear the witness stand - you'll hear the testimony from the witness stand.

You will hear that Dustin Denton became so scared of this man, that he became' so scared of this man that he routinely would call the police for escorts back to Westville, Oklahoma. You'll hear from a radio dispatcher in Westville named Tony Barker who will say to you that he several times had to dispatch an escort to get Dustin Denton back home. Now, all of us can stand in the courtroom today, this is --- what is this,

***Note: We have documentation form Westville Police Station that shows that Anthony (Tony) Barker did not even Work at the station when he claims he sent out dispatches to Dustin Denton to get him escorted back to Westville. These documents prove he committed perjury.***

November the 3rd, 1993, and say, well, Dustin Denton, you should have broke up with this little old girl. You know, the cure is worse than the disease. Why did you keep dating this girl having that kind of experience with her ex And I don't really have a good explanation for you about why people do that, but suffice to say that he did not do that.

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You will hear from a police officer — you'll hear from two other police officers, as a matter of fact, one named Tim McCollom, one named McGlothlin. Chief McCollom is the chief of police in Watts, Oklahoma. Chief McGlothlin is the assistant chief of police in West Siloam Springs, Arkansas. And you'll hear both those police officers testify about their involvement with Joe Dozier. ***Note: No records at either place of any involvement with Joseph Wade Dozier***

You'll hear Chief McCollom say that he found him over at Westville one time trying to fight some of McCollom's kinfolk. McCollom told him to get out of there and go home and he wanted to fight Mccollcm.

You'll hear assistant chief McGlothlin say that sometime about a week before February the 19th, 1993, he talked to Joe Dozier and he told him if he didn't cut this out he was going to take him to Jay, Oklahoma. That's where the jail is. And you'll hear him testify that Joe Dozier said, Well, I'll just get him in Arkansas. I'll get him in some other state, Mcclothlin. It's none of your business."

You will hear Gary Fain say that when he talked to the Denton people - he investigated this guy Joe Dozier, and he investigated by talking to

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the Siloaxu Springs, Arkansas, police and other police authorities.

MR. CLINGER: Your Honor, I'm going to have to object to that. That is rank hearsay and, unless there's some good faith exception to that, that's totally inadmissible.

THE COURT: Well, this is opening.

MR. EVERETT: It's an evidentiary ruling. My dog is still in that fight, Judge. I think it's perfectly admissible.

MR. CLINGER: Your Honor, if it please the Court, I have quite a bit of case law on that that indicates that those statements must be referring to admissible evidence.

THE COURT: Well, this is not evidence. This is opening.

MR. EVERETT: Well, let me tell you something that's going to be in reading and writing for you that ain't hearsay evidence, okay? Gary Fain writes in his own handwriting what police officers call a bolo. Bolo is B—O—L—O. It says be on the lookout for. And you'll see the bolo, and it says be on the lookout for Joe Dozier and it describes him. And it says, will fight policemen, will definitely fight policemen. And it talks about

28 ***Note: Never produced, Never found, No evidence that it ever existed was produced.***

Dozier's background, his criminal background, and you'll see that in reading and writing, and I'll show it to you, and that ain't hearsay, and you'll hear Gary Fain get on the witness stand and say he published that amongst the police officers in eastern Oklahoma for them to be on the lookout for this guy, not for Dustin Denton, for a police officer to be on the lookout for him. You'll hear him testify to that. ***Note: Police Documents gathered by William Dozier show that No Records Exist for Joseph Wade Dozier in Adair County Oklahoma, Benton County Ark. Or Washington County Ark.***

Most importantly, and as you get up closer to February the 19th, 1993, you'll be the testimony of two girls whose testimony I think is critically important to this case. One is named

Jackie Vernon. Jackie Vernon is a girl about fourteen or fifteen years old. She is Misty Pearson's friend, but more importantly she is and was Joe Dozier's close friend. And she'll tell you that about a week before February the 19th, 1993, she was with Joe Dozier and he said to her, "Dustin Denton and I are going to have to fight, and one of us are going to have to die, and I ain't leaving until one of us does." That's what she'll say.

MR. CLINGER: Your Honor, I believe that underscores the danger of allowing an attorney free

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carte blanche to talk about anything, whether it's admissible or not. That's not admissible. That's strict hearsay.

MR. EVERETT: I will argue the evidence point now, if I need to, your Honor. There's an issue in this case about who the aggressor was and when he says that that is admissible evidence.

THE COURT: Well, ladies and gentlemen, at this point, what Mr. Clinger said on opening is not evidence, what Mr. Everett says on opening is not evidence. These are statements designed to try to outline for you what they anticipate the evidence in the case will show. The Court will rule on the evidence as it's introduced.

MR. EVERETT: May I proceed?

THE COURT: You may proceed.

MR. EVERETT: More importantly, ladies and gentlemen of the jury, 'a girl named Kim Harrison, who lives in Sayer, Oklahoma----and that's a far piece out there, it's not very close to anything -- and she was some kind of shirttail kinfolk to Jackie Vernon and happened to be here during the time of this conversation and she'll corroborate that, and she doesn't know anybody. - She's completely neutral in this case. ***Note: According to her school records she was going to school in Watts Oklahoma from Nov. 1992 to the end of the school year. She went back to Sayer and started the 1993/1994 School year.***

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Well, obviously the case involves the occurrences of February the 19th, 1993, and I want to describe those for you and tell you what I believe the proof will show and what you're going to — what the proof will show. In the early morning, in the decently early morning, 8:00 or 9:00 o'clock or so — well, let me do it this way. You will remember that northwest Arkansas suffered a serious snowfall on Valentine's Day 1993. I hope you will. And we had a like -- a bunch of snow, maybe ten or twelve inches. It was a lot of snow. As a result of that school kids didn't go to school Mr. Denton wasn't going over to Northeastern State Oklahoma. The roads were not impassible by February the 19th, but

they had been impassible on the 14th and 15th because of the snowfall. Misty Pearson called Dustin Denton the morning of February 19th and asked him to take her and her grandmother, Maxine Pearson, around to the flea shops, and to Wal-Mart, and to eat lunch and that sort of thing and he agreed to do so. And he cam over here and had his duster on and nobody arrested him between Westville, Oklahoma, and Siloam Springs, Arkansas, for wearing his duster. He came to see Misty in his pickup truck and they

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spent that day with Maxine Pearson, going to the flea markets and to Wal—Mart and eating lunch.

Sometime up late in the afternoon the proposition was put to Dustin Denton that maybe they ought to go baby-sit Kim Pearson's youngest daughter, whose name is Shelly. She was six years old. Dustin Denton didn't want to do that very much. Shelly Pearson was a handful. She was more than a handful, she's pretty hard to take care of, and Dustin Denton didn't really look forward to spending the evening hours with Shelly. The reason why Kim Pearson needed a baby—sitter, so to speak, was that she was going to a birthday party -- and the timing becomes critically important on this. Well, Kim Pearson did go out and rent some movies. Kim Pearson went out and rented some movies. There were three or four, and some of them were little kid movies for Shelly to watch, and there was Lethal Weapon 3. That's one of the movies she got, that's true.

Dustin Denton and Misty Pearson came to Kim Pearson's apartment. These are the Kenwood Apartments in Siloam Springs, Arkansas. They're on generally the east part of Siloam Springs, about a half block from what I call

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the bypass — it may be called something differently. About 5:00 or 5:15 they arrived. They undertake and start the job of baby—sitting Shelly. Kim Pearson goes to a birthday party and she's supposed to be back in about two hours. Now, that's important. She's supposed to be back in about two hours. That's what she told them and that's what she was supposed to have done. Maybe by this time it's 5:15, maybe 5:30; but somewhere along about 7:00, 7:15 or 7:30, or about that period of time, Kim Pearson is supposed to come back home.

Well, what happened was and what the evidence will show is that sometime during that evening Joe Dozier called the house of Keith and Maxine Pearson. Now, remember they live out in the country south and east of Siloam Springs. He told Mrs. Pearson that he was somebody else, Andrew or somebody, and asked her where Misty was. Misty told Andrew, who turned out to be Joe Dozier, where she was and then Joe Dozier called the apartment on Kenwood. And you'll hear the testimony that during that conversation Misty Pearson allowed Dustin Denton to listen to a part of it: "It's Joe, listen." And you'll hear testimony that

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Mr. Dozier was saying to Misty Pearson that he either had bought or was going to buy a farm and that they were going to get married and have a bunch of kids, and you'll hear

Misty say that she was telling him no, she wasn't interested in that at all, she didn't want to see him anymore, she didn't want him to call her, no. She hung up on him.

You'll hear evidence that that did cause

Dustin Denton to get mad. He went outside. Then you'll hear testimony that he told Misty Pearson: "Misty Pearson, you choose. If you want Joe Dozier, tell me and I'll hit the road. You choose. It's time for you to choose." He had told her that before. Choose. And she insisted that she was not interested in Joe Dozier, she was interested in Dustin Denton. You'll hear testimony that he told her: "You tell that man you don't want him to talk to you anymore, you don't have any involvement with him anymore, for him to leave me and you alone. Tell him that. Tell him on the telephone that, tell him." And you'll hear testimony that she did through Angie Davis. She called Angie Davis. She told Angie Davis - Angie Davis, I want to connect that with

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Matt Drake. Angie Davis was a girlfriend of Matt Drake. Matt Drake, you will remember, drove the red Camaro when they ran him off the road in Watts, Oklahoma, and on several other chases.

Remember that, Well, I don't know how it happened but Joe Dozier call back to the Pearson residence. I don't know how that happened. But you'll hear the testimony from Misty Pearson and, frankly, from Dustin Denton - Mr. Denton will testify in this case — — that likewise she told him — — and Mr. Denton listened to part of the conversation.

she said, "Do not come over here. I don't want to talk to you. Quit calling." He insisted he was going to come over there. She said, "No, don't come over here. My mama's going to be home."

Thy was that important? Well, that was important because Joe Dozier knew Kim Pearson didn't like him and he's not likely to come if Kim Pearson is there because she's called the police on him halt a dozen times, and you'll hear testimony that she hung up the phone again. And after considering the proposition each of them recognized that there was at least a threat that Joe Dozier may come to that apartment that evening.

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She told him not to but he said he was going to. Those are the facts. Those ain't probably the facts, those are the facts.

Dustin Denton had Shelly Pearson, who is six years old, and his girlfriend Misty there. He said, "I'm going to take you all to Nanny's house, you've got no business being here, but I'm coming back over here." Misty said, "No, don't come back over here." He said, "Sure, I'm coming back over here. There's two reasons I'm coming back. One is that I told Kim Pearson I'd be here; but, more importantly, she's going to be home in a little while. If this guy is going to come over here she doesn't have any business being here by herself, I'm coming back," and he does.

Well, he left the door unlocked. There's a real good explanation for that and that is that he didn't have any keys to the door. How else would he get back in the apartment? He comes back, and nobody knows exactly what time this is but it's probably up around 7:30. As a matter of fact, it's probably about the time that Kim Pearson should already be

there, but she's not there. He goes in the apartment. He has his shoulder holster on. He goes upstairs. This is a two — this is an

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upstairs—downstairs apartment house and it's not very big. There's some to—scale diagrams that you'll see, but let me try to explain it to you as best I can.

When you walk in the front door of the

apartment, the front door faces north towards the parking lot; and it's important when you consider that case that Mr. Denton drove to the apartment that night and parked his old pickup truck right there in the parking lot by the front door of the apartment. It strikes me that if I was going to lure somebody in there to kill him, I probably wouldn't park my truck out there so that he would know at least that Dustin Denton was in that apartment. Doesn't that make sense, whatever else ha, that at least Joe Dozier had to know because there's his pickup truck sitting — and you'll see the pictures of it — had to know that the apartment was occupied by Dustin Denton? Maybe Misty, I don't guess there was any way he'd have known that, but at least by Dustin Denton.

Dustin Denton goes into the apartment. It's about 7:30. He goes upstairs. That's where the bedrooms are. And when you're in the apartment you go in about from here to maybe that jury box --

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maybe a little further than that actually, but not very much - and you turn left up two flights of stairs. It's not a three—unit apartment. The stairs go up about six or seven steps to a landing and then turn back on themselves and go up six or seven more steps to some bedrooms upstairs.

One of the things about the apartment is that if you're downstairs you cannot see out of the apartment toward the parking lot. It's got a sliding glass door on the other side, you can see out toward a playground, but you can't see out toward the parking lot. If you're going to see out to the parking lot you've got to go upstairs to look out the window, which does overlook the parking lot. Dustin Denton gets there about 7:30, goes upstairs, takes his shoulder holster and his gun off and lays them on the bed. He comes back downstairs. He's got his boots on, he's got his pants buckled. He thinks Kim Pearson's going to be there any minute.

A — There's at least three occasions that evening when Dustin Denton went upstairs because he heard cars pull up in the driveway. On one occasion somebody just pulled up, he didn't know who they were. On another occasion a red Camaro pulled up

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in the parking lot, so to speak. Nobody got out of it, they just stayed there awhile and kinda reconnoitered the proposition, sort of looked. Dustin Denton didn't know who that was. We've discovered since then that who that was was Matt Drake. Remember, Matt Drake in the red Camaro, the same one that chased him off — that was with them, with the people that ran him off the road in Watts, Oklahoma, and one of the cars that had chased him all over western Arkansas and eastern Oklahoma.



On the third occasion, and it's the third occasion that's important, he goes upstairs. By this time he thinks — on all these occasions, as a matter of fact, he thinks it may be Kim. And who does he see pull up in the parking lot but Joe Dozier. Now, Joe Dozier is not driving his pickup, the one that he did driven around forever chasing him with. We've discovered since then that the reason he's not driving his pickup is because he had sold it to his brother Ray Dozier about a week before. He's driving his mother's car, which is a - I don't really remember what it is, like a Buick or something. I think it was a gray car.

Mr. Denton's pickup is parked west - the

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apartment house is south of the pickup, not very far. You could easily throw a rock. As a matter of fact, you could throw a rock underhanded from the pickup to the front door of the house. Mr. Dozier pulls his car up and parks right next to the pickup. Now, you've got to keep in mind that Mr. Dozier has to know whose pickup that is. He gets out of his car and he looks in the pickup like this. Mr. Denton has these tinted or shaded windshields so you can't see in them unless you get up close. He looks in there, wplYs around the pickup, sees the club, the axe handle, in the back of the pickup, picks it out, starts toward the apartment.

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Mr. Denton sees this from the upstairs window.

Here's Joe Dozier with an axe handle going to the apartment. Well, he knows he's in trouble. It doesn't take a rocket scientist to figure that out. He grabs his shoulder holster, does not remove the gun from that shoulder holster, and starts downstairs. He gets to the landing. By the time he gets to the landing, Dozier's standing at the very bottom of the stairs with a club. And you'll hear the testimony about this. I won't repeat the words now, but I may have to later.

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Mr. Dozier explained very vividly to Mr. Denton what he was about to do with that club and how it might be a good idea for Mr. Denton to shoot himself with that gun because it wasn't going to hurt near as bad as it was when he took that club and beat his brains out. He starts up the stairs, gets to about one or two stairs, and Mr. Denton shoots, maybe two times, maybe three times. Nobody really knows.

Let me tell you what we do kn9w. We know that there were six shots fired and five of them hit Joe Dozier. Let me tell you something else we know. We know that one of the shots was in the kneecap. We know that one of the shots was in the shoulder, one in the arm, one in the chest and one behind the ear exiting through the mouth. That's what we do know.

If the scientific experts testify like they have said they would in their writings, they will tell you that nobody can tell the sequence of those shots, nobody can tell which shot was fired first, or second, or third, or fourth or fifth. Now, I wonder if Mr. Clinger knows something that hasn't been produced to me because he's told you that he knows the sequencing of the shots, and I don't

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think he does but he might.

In any event, Mr. Denton shoots him, shoots at him, two or three times. Now, it's interesting, this part of -- the scientific part of this case is kind of interesting. You'll see that the lab reports show that there was gunshot powder or residue on Mr. Denton's right hand, not on both hands. He didn't shoot him like that. He shot like this. That's what happened.

Mr. Denton didn't know if he hit him three

times, or two times, or one time. I think he knew he did not hit -- he did not miss him all the

times, for Mr. Denton no longer kept coming up the stairs. He was at the bottom of the stairs. And you'll hear from Mr. Denton -- and obviously Mr. Denton was the only one there at the time. You'll hear what he was saying and what he was doing with that club: "Now you're really in trouble, you've shot me, you no good son of a bitch." You'll hear that. And Mr. Denton comes down the stairs and what does Mr. Dozier do? With the club he hits him. And Mr. Clinger's told you there's no evidence of marks on Dustin Denton, but you listen to the testimony and you listen to the witnesses and you listen to how they tell you that

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Mr. Denton can't hardly walk on his left leg.

That's what happens at the bottom of the stairs.

And he shoots him three more times. That's the facts. Those are the facts, that's what happened.

Mr. Clinger says to you, and it's true, that Mr. Denton goes back upstairs to get a speed loader. That's the truth. Why that? There's two reasons you'd do that. One of

the reasons is you're a cold-blooded, black-hearted murderer, you shot him six times and you're afraid to shoot him six more. That's one reason. But let me suggest to you that there's a better reason when you listen to the evidence and that is this. That never, never in Mr. Denton's relationship with Joe Dozier had he ever been approached by Joe Dozier just by himself. There was always one or two with him, and sometimes as many as seven, sometimes including a red Camaro that he had just recently seen at the parking lot. Isn't that a better reason? Doesn't that make sense? If you've been harassed, and threatened, and beat on and run off the road by seven people, you're not going to stand there with an empty gun for God's sake. That's what really happened.

Let me tell you some other evidence that's

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critical on the point. Mr. Denton immediately calls 911. You'll listen to the tape, and when you listen to it you keep in mind -- and I want you to listen to it not only for the words that were spoken, but the demeanor in which he spoke them. Listen to the tape. As a consequence of that, of course, the emergency medical technicians arrive on the scene very quickly, maybe within four or five minutes, maybe longer.

THE COURT: Three minutes, counselor.

MR. EVERETT: I'm about through, Judge.

You'll discover that Joe Dozier lived for quite awhile. He was taken to Siloam Springs Hospital. They med-evacked him to Springdale and he died in Springdale. You'll hear the EMT technicians and one police officer say that they asked Mr. Dozier: "Were you somewhere you were not supposed to be?" And Mr. Dozier said, yes, he was — yes, he was. Now, is that consistent with the theory that he had a date and he was coming over there to see his girlfriend? That's out of Mr. Dozier's mouth. "Were you where you were not supposed to be?" "Yes, sir, I was where I wasn't supposed to be." You'll hear one of the EMT technicians, a man named John Shoptaw, say he came

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up on the scene and Joe Dozier said, "Get out of here, you son of a bitch." Now, you ask yourself if that means the fight was out of him when Mr. Denton shot him the — you'll hear that testimony from the EMT people, not from me.

The Judge is going to make me quit, and I'm through anyway. It is said by people that study jurors that juries are the conscious of communities, and I believe they are, and that's what this case is about. Is it the conscious of Benton County, Arkansas, to say under these circumstances Mr. Dozier is a victim of his own misconduct and that Mr. Denton acted in self—defense? Is that the conscious of this community? I think it is.

I appreciate you listening to me. I want you to listen very carefully to the evidence because it's critically important that you judge the credibility of these people.

Your Honor, that mercifully concludes my opening statement.

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