

1 your right hand to be sworn.

2 DALLAS MALLORY

3 (having been first duly sworn by the Court, testified as  
4 follows:)

5 THE COURT: You may be seated right there, please.

6 DIRECT EXAMINATION BY MS. LEFTWICH

7 Q. Can you state your full name for the Court.

8 A. Dallas Wade Mallory.

9 Q. And Mr. Mallory, do you live in Columbia?

10 A. Yes.

11 Q. And how long have you lived in Columbia?

12 A. My whole life.

13 Q. And how old are you?

14 A. Twenty-seven.

15 Q. And so you lived in Columbia in October, November of  
16 2001 when Kent Heitholt was killed; is that correct?

17 A. Um-hum.

18 Q. Yes?

19 A. Yes.

20 Q. And you were still present in Columbia in October of  
21 2005 when Ryan Ferguson's trial occurred; is that correct?

22 A. Yes.

23 Q. Now, what high school did you go to?

24 A. Rock Bridge.

25 Q. And when did you graduate?

**EXHIBIT**

29

1 Q. Now, when you said they took you across the street,  
2 upstairs above an office, when you talk about "they," are you  
3 talking about detectives?

4 A. Yes, the detectives.

5 Q. Do you remember who they were?

6 A. Yeah. Wright; Liebhart; Short, Mr. Short I think his  
7 name is; and -- what's the other detective? I believe there's  
8 another one.

9 Q. But there was another one?

10 A. Yeah, there was five.

11 Q. And they all escorted you across the street?

12 A. Yes.

13 Q. And when you got up the stairs, did you go to an  
14 interview room or an office?

15 A. Small office slash interview room. It didn't look like  
16 an interview room. It was the third door on the left when I  
17 walked in. And it didn't have any barricades or anything; didn't  
18 have a lock on the door.

19 Q. And after you got over there and they started  
20 questioning you, what did you initially tell the police about  
21 whether or not you had seen Chuck Erickson in the downtown area  
22 of Columbia on Halloween of 2001?

23 A. Initially I told them what they wanted to hear, saying  
24 that -- Chuck said he came up to me, and I don't remember any of  
25 that. They said that I saw -- he saw me that night afterward,

1 and I don't remember any of that.

2 I asked them, "How did he see me?"

3 They said, "You were in a police officer uniform."

4 And I was, like, well, go ask him that and, of course,  
5 he said he saw me. And I don't remember any of that; him seeing  
6 me afterwards. But months later this picture came up, and that's  
7 what triggered the whole police uniform.

8 Q. Okay. Now when you said initially -- you said initially  
9 you told them what they wanted to hear. But before that did you  
10 tell them you didn't see them?

11 A. Yes. They were screaming at me, yelling at me, telling  
12 me I was a liar; that I knew information, and I wasn't telling  
13 the truth. And I was telling the truth. And they still drilled  
14 me and drilled me and got in my face. I was crying hysterically,  
15 telling them I wanted to leave. They wouldn't let me leave.  
16 They said if I was to leave and go back to my car, they would put  
17 my car in hold. And the Columbia Police Department would all be  
18 looking for my car so they could come pick me up and keep  
19 questioning me.

20 I did ask to call my dad and asked to go home. They  
21 refused to let me and told me I wasn't telling the truth and I  
22 couldn't leave until I told the truth. And the whole time I'm  
23 very upset, not knowing what's going on. The whole world has  
24 stopped. I don't have a clue why I was there. They wouldn't let  
25 me use a phone. They wouldn't let me eat. It was very

1 ridiculous.

2 Q. So eventually you told them that you must have seen  
3 Chuck downtown?

4 A. Right. On second thought maybe I did see him. Well, if  
5 I did, where did I see him at? They told me I saw him in a car  
6 that I was driving with two females, which I couldn't have been  
7 driving. And I don't think I had two females with me. Would  
8 have been nice, but I don't think I did.

9 Q. How long were you with the police at that time?

10 A. I got back to work about 3:45, so approximately five or  
11 six hours I was there being questioned.

12 Q. And how did you get back to work?

13 A. They escorted me back in their car. And I was still  
14 crying all the way back to work and while I was at work and my  
15 boss sent me home.

16 Q. You were still upset when you got to work?

17 A. Yes.

18 Q. And you said your boss took you home. Who is that?

19 A. I'm sorry?

20 Q. Your boss took you home. Who is that?

21 A. My boss was Donna Beck. Her son took me home.

22 Q. Now, after that did you have any more interviews with  
23 the police in regard to this case?

24 A. I think there might have been one more.

25 Q. And what happened the next time you talked to the

1 police?

2 A. Oh, I was just freaked out and scared and didn't know  
3 what to expect. Didn't know who was involved; if they found  
4 something else out. I was still really scared. Mainly scared of  
5 the detectives; the way they treated me and disrespected me.

6 Q. And so were you afraid that was going to happen again?

7 A. Yes, definitely.

8 Q. And at some point did you get interviewed by Jim Miller?

9 A. Yes.

10 Q. And who is he?

11 A. He was a very nice gentleman; very, very nice. He came  
12 at me in a professional way; sat down and talked to me.

13 Q. What was his connection to the case?

14 A. Trying to help out Ryan.

15 Q. Was he an investigator for Ryan?

16 A. Yes.

17 Q. And what did you tell him?

18 A. I told him how the police totally didn't believe me; how  
19 they disrespected me; how I didn't feel comfortable going back in  
20 there and talking to them and let them know I didn't see them at  
21 all that evening afterward, after the party got broken up. I  
22 have no clue how they saw me driving a car supposedly when I  
23 didn't have a license or anything or a car.

24 Q. Okay. And after Jim Miller spoke to you, did he ask you  
25 to sign an affidavit?

1 A. Yes.

2 Q. Show you what's marked as Movant's Exhibit J.

3 (Movant's Exhibit J was marked by the reporter for  
4 identification.)

5 Q. (By Ms. Leftwich) If you could look at this. Do you  
6 recognize that?

7 A. Yes.

8 Q. What is that?

9 A. This is the affidavit I signed with Jim Miller.

10 Q. Is that your signature on that affidavit?

11 A. Um-hum.

12 Q. And does that affidavit reflect what you told Jim  
13 Miller?

14 A. Yes.

15 Q. And does that affidavit reflect what you did and didn't  
16 see on October 31st and November 1st of 2001?

17 A. Yes, that's correct.

18 MS. LEFTWICH: Move for admission of Movant's Exhibit J,  
19 Your Honor.

20 MS. MORRELL: No objection.

21 THE COURT: All right. Exhibit J is admitted.

22 Q. (By Ms. Leftwich) And does the affidavit have a date on  
23 it where you signed it?

24 A. Yes.

25 Q. And what is that date?

1 A. December 6, 2004.

2 Q. 2004?

3 A. Yes.

4 Q. And there's a notary on that affidavit as well?

5 A. (Witness gestures.)

6 Q. Is that "yes"?

7 A. Yes.

8 Q. Now, after you signed that affidavit, did you ever talk  
9 to Ryan Ferguson's defense counsel? Any of his attorneys?

10 A. Is that Hays and Crane?

11 Q. No, they're the prosecutors --

12 A. No, I didn't.

13 Q. And after you signed the affidavit, did the police or  
14 prosecutor -- did the police or prosecutors talk with you after  
15 the affidavit?

16 A. I believe so.

17 Q. And who spoke to you?

18 A. Haws.

19 Q. Do you remember?

20 A. Yeah, I think his name was Haws.

21 Q. And who else?

22 A. Crane.

23 Q. Kevin Crane, the prosecutor?

24 A. Yeah.

25 Q. And where was that interview; do you remember?

1 A. It was upstairs in the office.

2 Q. Here at the courthouse?

3 A. Yes.

4 Q. And what happened at that interview when you spoke with  
5 them?

6 A. The same thing. They drilled me with a lot of  
7 questions. Showed me a lot of pictures and layouts; I have no  
8 clue why they showed me that. But they proceeded to say I was  
9 lying to them and I knew something that they wanted to hear, and  
10 I didn't.

11 Q. And what was your response to them?

12 A. I was just kind of freaked out still. I just didn't  
13 want to be there at all. I don't like -- they were very rude.

14 Q. So what did you tell them?

15 A. I don't even remember. I just told them what they  
16 wanted to hear so I could get out of there quicker and call my  
17 dad.

18 Q. Is that what you did; you called your dad?

19 A. Yeah.

20 Q. Now, were you subpoenaed by the State to testify at  
21 trial by Kevin Crane's office?

22 A. Yes.

23 Q. And were you subpoenaed by Ryan's attorneys?

24 A. Yes.

25 Q. You think you were?

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A. I think so.

Q. And did you come to the courthouse that day?

A. Yes. For four days in a row, I sat out there every day.

Q. And were you ever called to testify?

A. No.

Q. The State didn't call you?

A. No.

Q. The defense didn't call you?

A. No.

Q. And if you would have been called to testify on that day, would you have testified to the same information you did here today?

A. Yes.

Q. And the same information that's in the affidavit?

A. Proudly. Yes.

MS. MORRELL: I'm sorry; I couldn't hear that last answer.

THE WITNESS: Proudly. Yes.

Q. (By Ms. Leftwich) Proudly, is that what you said?

A. Yes.

MS. LEFTWICH: I have nothing further, Your Honor.

THE COURT: Cross-examination.

MS. MORRELL: Yes.

1 A. No.

2 Q. That you recall?

3 A. No.

4 Q. And when you went to the prosecutor's office here at the  
5 courthouse, you spoke to Kevin Crane and Ben White, is that  
6 right, or whoever -- another investigator?

7 A. I think it was Haws.

8 Q. You think it was Haws?

9 A. Bill Haws or --

10 Q. Do you know -- do you remember what he looked like?

11 A. Older gentleman; kind of grayish hair.

12 Q. And did you speak with him on more than one occasion?

13 A. No. It was just that time up there.

14 Q. And this was after you had signed the affidavit of Jim  
15 Miller; correct?

16 A. Yes.

17 Q. And you said that you were still in a state of  
18 scaredness?

19 A. Yes.

20 Q. Could you tell me what you mean by that?

21 A. They accused me of not telling the truth; I was still  
22 lying; I knew something that they didn't know. And I told them  
23 and told them I didn't.

24 And Kevin Crane proceeded to yell at me, and I just  
25 froze up like I don't want to be here. It's just like what

1 happened down at the investigation office. And I just wanted to  
2 get out of there as soon as possible so I didn't have to deal  
3 with them, and I wanted to go home. I'd be safe.

4 Q. And here in this courtroom today testifying, are you  
5 scared?

6 A. Yeah, I'm nervous right now.

7 Q. And are you testifying to -- you took an oath to tell  
8 the truth here today?

9 A. Yes.

10 Q. And is that what you're doing?

11 A. Yes.

12 MS. LEFTWICH: I have nothing further, Your Honor.

13 THE COURT: Further cross-examination.

14 MS. MORRELL: Briefly, Your Honor.

15 RE-CROSS-EXAMINATION BY MS. MORRELL

16 Q. You stated you're 27 years old right now? You're  
17 27 years old right now?

18 A. Yes.

19 Q. So in 2001, and I don't know when your birthday was, but  
20 you were 20?

21 A. Yep.

22 Q. And you stated that you do not recall how you got home  
23 that night; is that right?

24 A. Yes.

25 Q. And so do you recall -- you do not recall what time you