

NO. 3:02-CV-1145-B-AH

DAVID LYNN CARPENTER) IN THE UNITED STATES
) DISTRICT COURT FOR THE
) NORTHERN DISTRICT OF
) TEXAS

Petitioner,

VS.

) DALLAS DIVISION

RICK THALER
 Director, Texas
 Department of Criminal
 Justice, Correctional
 Institutions Division,

Respondent

) CIVIL ACTION NO.
) 3:02-CV-1145-B-AH

ORAL DEPOSITION OF

MANDEE CLOUD

May 5, 2010

Volume 1

ORAL DEPOSITION OF MANDEE CLOUD, produced as a

witness at the instance of the Petitioner, and duly

sworn, was taken in the above-styled and -numbered cause

on the 5th day of May, 2010, from 12:01 p.m. to 2:22

p.m., before Quinlyn Busby, CSR in and for the State of

Texas, reported by machine shorthand, at the offices of

Sorrels, Udashen, Anton, 2301 Cedar Springs Road, Suite

400, Dallas, Texas 75201, pursuant to the Texas Rules of

Civil Procedure.

A P P E A R A N C E S

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1 MANDEE CLOUD,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. ANTON:

5 Q. Would you state your name for the record,
6 please?

7 A. Mande Cloud.

8 Q. And were you the same Mande that testified in
9 the trial of David Carpenter?

10 A. Yes.

11 Q. And at that time, was your name Mande McBay?

12 A. Yes.

13 Q. Now, you understand that we're here today to
14 take a deposition?

15 A. Right.

16 Q. A statement from you regarding some of the
17 events surrounding that trial?

18 A. Yes.

19 Q. Okay. Now, and for the record, I believe
20 you're on -- you're still on medication today?

21 A. Yes.

22 Q. Is that right?

23 A. Yes.

24 Q. What medications are you on?

25 A. This morning I've taken my Gabapentin and

1 Klonopin.

2 Q. Can you spell those for the court reporter?

3 What were they again? Can you repeat?

4 A. Klonopin.

5 Q. Klonopin?

6 A. And Gabapentin.

7 Q. Gabapentin.

8 MR. ANTON: Okay. We'll get those for you.

9 Q. (By Mr. Anton) How do you feel now?

10 A. Nervous, bad.

11 Q. Do you feel -- do you feel out of sorts or
12 woozy?

13 A. A little bit.

14 Q. Okay. If there's anything that's said that you
15 don't understand --

16 A. Uh-huh.

17 Q. -- please don't hesitate to interrupt and say
18 repeat that, okay?

19 A. Okay.

20 Q. And if you get anxious and you need a break
21 just tell us that you need a break?

22 A. Okay.

23 Q. Okay. I want to make sure -- it's most
24 important that you understand everything that's going on
25 and all the questions that are being asked.

1 A. Okay.

2 Q. Okay. Now, as starting off in background
3 regarding your relationship with David Carpenter, you
4 had lived with him for a period of time in the past; is
5 that right?

6 A. Yes.

7 Q. And you remember approximately what years those
8 were?

9 A. See, '92 to '97.

10 Q. Okay.

11 A. I believe.

12 Q. Did you -- do you remember what years he went
13 to prison?

14 A. I mean, '92 to '94, sorry.

15 Q. Okay. And you remember what years he went to
16 prison?

17 A. No, I don't.

18 Q. Okay. Now back in '92 or '94, I believe you
19 also had some children with him; is that right?

20 A. Yes.

21 Q. Okay. And you-all were living in one
22 household?

23 A. Yes.

24 Q. At some point he went to prison?

25 A. Right.

1 Q. And after he returned from prison, did you move
2 back in with him?

3 A. He didn't get out. He stayed in. Whenever he
4 went -- whenever he went in, in '90 -- let's see, my
5 daughter -- '92, '94 -- '94 --

6 Q. It's your recollection --

7 A. -- actually, it was before '92, 'cause that's
8 whenever I had my first child. So we were together like
9 in '90 or '91, and then I left in '94 when my daughter
10 was like six months old. And right after I left, he
11 went to jail. Then whenever he was fixing to get out of
12 jail, this come about.

13 Q. Okay.

14 A. So he didn't get out during that time. I had
15 seen him prior to that and he had went to prison
16 whenever I was younger.

17 Q. Okay. Do you remember indicating that in 1995
18 that he had started a relationship with another woman?

19 A. Yes.

20 Q. Okay. And you weren't cohabitating[sic] with
21 him -- living with him at that time?

22 A. No, I moved out.

23 Q. Okay. Now, back prior to 1995, were you taking
24 any medications then?

25 A. No.

1 Q. Okay. Were you under any doctors care?

2 A. No.

3 Q. Okay. Were you suffering any of this kind of
4 problems, anxieties or disorders that you have today?

5 A. Yes.

6 Q. Could you describe those briefly?

7 A. Like OCD. Very -- my house had to be clean.
8 Panic attacks, mood swings, depression. I just -- I
9 didn't understand at that time what -- I knew I wasn't
10 right, but I didn't understand what to do, you know.

11 Q. And -- and during the time that you were living
12 with David Carpenter, were you seeing a physician for
13 any of those complaints?

14 A. No, I wasn't.

15 Q. Do you remember discussing any of those
16 problems with David?

17 A. No, we just always joked because how clean I
18 kept the house.

19 Q. After David went to prison and then was
20 released in 1995, from then on, did you ever live with
21 him again?

22 A. No, not that I remember.

23 Q. Okay. And if you can recall from the time that
24 he was released in -- from prison, what kind of contact
25 did you have with him? How frequently would you see

1 him?

2 A. I'm not remembering him being out in '95.

3 Q. Prior to the time -- well, after he -- let's --
4 let me rephrase it this way. After he went to prison,
5 what kind of contact would you have with him?

6 A. We would write.

7 Q. Just write letters?

8 A. Yeah. Might have went and seen him a couple
9 times.

10 Q. Okay. Was he -- and you don't remember him
11 coming over to visit you?

12 A. No.

13 Q. And --

14 A. He wanted to but...

15 Q. How often would you talk with him on the phone,
16 if any?

17 A. I don't remember.

18 Q. And --

19 A. I mean, we did talk on the phone, yes, 'cause
20 he would try to get back with me or whatever. But I
21 don't know how many times or anything like that.

22 Q. Did you have -- do you remember having frequent
23 contact with him after he went to prison?

24 A. Just writing.

25 Q. Okay. And in those letters, did you discuss

1 any of the problems that you were having?

2 A. No, I didn't.

3 Q. In -- I believe in 1997 you went to see a
4 doctor; is that right?

5 A. Right.

6 Q. And do you remember what the diagnoses was at
7 that time?

8 A. At that time it was just depression. That's
9 all he had diagnosed me with.

10 Q. And what kind of medication or medications did
11 he put you on?

12 A. He had me on Zoloft and he had tried me on
13 Buspar, but I couldn't take the Buspar.

14 Q. Okay. And before you started taking the
15 Zoloft, how did you feel? I mean, what was it -- what
16 was it about your condition that you felt needed
17 medication?

18 A. I just -- I knew it wasn't -- I wasn't right.
19 I was depressed and the mood -- like I say, I've had the
20 mood swings all my life and just -- I had to get help.

21 Q. Okay. So starting 1997 you were on Zoloft?

22 A. Right.

23 Q. And then he prescribed a second drug for you?

24 A. Yeah.

25 Q. And that was what?

1 A. That was Buspar and it didn't work for me.

2 Q. And why did it not work for you?

3 A. Whenever I would wake up in the mornings I
4 would -- my whole body would just like shake or
5 whatever.

6 Q. Okay. And from the time you started taking
7 those medications, did you have any contact with David
8 Carpenter?

9 A. I might have wrote him.

10 Q. Okay. Do you recall ever writing him about the
11 fact that you were taking medications or had been to the
12 doctor?

13 A. No, I don't.

14 Q. Okay. You don't remember that ever coming up
15 in conversation with him?

16 A. No, I don't remember.

17 Q. And would you visit him frequently in the jail?

18 A. I might. I don't remember. I might have
19 visited him. I don't remember frequently -- I mean, how
20 much or whatever.

21 Q. And how long would those visits have been?

22 A. I'm not for sure.

23 Q. Okay. And do you remember the conversation of
24 your medications or seeing a doctor, coming up to him?

25 A. No.

1 Q. Okay. At some point, David was arrested on
2 these charges?

3 A. Okay.

4 Q. You recall that?

5 A. When he got arrested in '94? Would it be '94?

6 Q. Whatever your recollection of the dates?

7 A. Yeah. I think it was '94, whenever he got
8 arrested.

9 Q. Okay. Now at his -- do you feel like you have
10 a good recollection of these events?

11 A. Not really.

12 Q. Okay.

13 A. I'm trying, I mean...

14 Q. Does the medication affect that recollection in
15 any way?

16 A. It's possible.

17 Q. How's that?

18 A. Because it slows me down. The Klonopin is
19 Valium, so I mean -- and then a lot of the medicines I
20 take, they can make you have memory loss or whatever.

21 Q. Okay. And if you -- to your knowledge, have
22 you -- can you recall instance where you've suffered
23 from memory loss? You've had problems recalling events?

24 A. Yes.

25 Q. Okay. And is that a problem that was occurring

1 in 1997?

2 A. Yes.

3 Q. When you went to see the doctor?

4 A. Yes.

5 Q. Okay. If you can give me some examples, at
6 all. Remember any instances?

7 A. I mean, just little simple things that my
8 children would do, you know. And they would be, Mom,
9 don't you remember. And I don't remember, you know.
10 Stuff that they said that went on and my mom, she, you
11 know, she's always been with me and she says that the
12 stuff went on and there's stuff I don't remember.

13 Q. Was it just short-term memory or was it
14 long-term memory or do you know?

15 A. I don't know.

16 Q. Okay. Do you recall being contacted by
17 investigators for -- on David Carpenter's behalf when he
18 was in jail prior to trial?

19 A. People come out, yes.

20 Q. Okay. And did you -- did you wish to talk to
21 any of the defense people?

22 A. No, I didn't.

23 Q. Okay. Do you recall why that was?

24 A. Because -- okay. And we're talking about the
25 murder, right? The murder trial?

1 Q. Yes.

2 A. Okay. Because the guy I was with, John Cloud,
3 was telling me that I needed to talk to the defense not
4 the -- I mean, the prosecutors. Not the defense.

5 Q. So he encouraged you --

6 A. Yes. Yes.

7 Q. -- not to talk to the defense? So when the
8 defense would call, what would you tell them?

9 A. Actually, they didn't call, they come out to my
10 work and got me. First, they come out and then they ask
11 me about it and then I acted like I didn't, you know,
12 know what they were talking about. Then they come to my
13 work and pick me up and take me downtown and --

14 Q. Well, I -- we're talking about the police or
15 for the defense attorney?

16 A. That would be Ken Penrod, so that would have
17 been the police. The defense, I don't remember when --
18 I mean, the prosecutors, I don't remember when.

19 Q. Okay. Do you remember saying at trial that you
20 decided not to talk to the defense counsel and the
21 defense investigators? That was your choice?

22 A. Yeah, but John Cloud was telling me not to.

23 Q. And for the record, who's John Cloud?

24 A. He was my husband.

25 Q. And when did you get married to him?

1 A. I have no idea. Probably like in '99. Maybe
2 '98, '99.

3 Q. Was that before or after the trial or do you
4 recall?

5 A. After.

6 Q. Okay. Now, do you recall telling David
7 Carpenter or his attorneys or anybody in his behalf,
8 prior to the trial, about any of the problems you were
9 having or the medications you were taking?

10 A. I just had told Kim Judin.

11 Q. Okay. We'll go into that. Who is Kim Judin?

12 A. She's a prosecutor.

13 Q. Okay. And how many times do you recall you
14 spoke to her?

15 A. Several.

16 Q. And was that in advance of the trial?

17 A. Yes.

18 Q. And do you have a specific recollection of
19 telling her that you were on medication?

20 A. Yeah, 'cause I was trying to --

21 Q. Can you -- can you elaborate on that? Can you
22 be a little more --

23 A. Yeah. I was trying to get -- I was letting her
24 know I was on medication to see if I could get out of
25 having to testify.

1 Q. Why did you not want to testify?

2 A. Because I didn't want to be involved in it.

3 Q. Now, did you tell her that you were on
4 medication? Did you tell her what medications you were
5 on?

6 A. Yes, I told her I was on medication and what
7 medication.

8 Q. Did you name the medication?

9 A. I'm pretty sure I did.

10 Q. And what was that?

11 A. Zoloft.

12 Q. And how was the Zoloft making you feel at that
13 time?

14 A. It was helping, but not -- it wasn't all I
15 needed.

16 Q. I know this is probably difficult to describe,
17 but how -- what difference did the Zoloft have? How did
18 it make you feel differently?

19 A. It made me not so sad.

20 Q. And any other affects that you know of?

21 A. No. It didn't help with nothing else.

22 Q. Do you recall where you were, if it was in
23 person or on the phone, when you talked with Ms. Judin
24 about the fact that you were on medication?

25 A. I believe it was in person in her office.

1 Q. Okay. Did you tell her once or on more than
2 one occasion?

3 A. I'm not for sure.

4 Q. Okay. Do you remember what her reaction was?

5 A. No reaction. I mean, she just went on like it
6 didn't matter.

7 Q. Okay. Now, aside from telling her that you
8 were on Zoloft, did you describe any anxieties or
9 problems you were feeling at the time?

10 A. I was just -- they knew I was nervous and I
11 didn't want to do it.

12 Q. And how did they know that?

13 A. By the way I was acting and telling them.

14 Q. And how were you acting?

15 A. Nervous.

16 Q. Anything else?

17 A. God, I don't -- it's -- I try to block all that
18 out. I don't remember.

19 Q. Okay. And during the trial, if you could
20 recall, did the subject of Zoloft or your medications
21 ever come up?

22 A. No.

23 Q. With anybody else?

24 A. No.

25 Q. After the trial was over, did you ever contact

1 David, or any of his family, investigators, telling them
2 that you were on these medications?

3 A. No.

4 Q. Okay. Now some time after the trial was over
5 you got a different diagnoses; is that right?

6 A. Yeah.

7 Q. And do you remember who that was?

8 A. That one would have been that lady Sylvia Myers
9 (phonetic) and I believe she worked for Telecare
10 (phonetic). I'm thinking that's what she was with.

11 Q. And do you remember what that diagnoses was?

12 A. Bipolar.

13 Q. Okay. And what medications were prescribed at
14 that time?

15 A. I don't remember. They've had me on so many
16 medications trying to get what would work for me over
17 the years. I don't remember exactly.

18 Q. Okay. Now, this might also be a difficult
19 question, but did your -- did the way you feel, your
20 condition, worsen after the trial or did you pretty much
21 feel the same way before the trial as when you were
22 diagnosed with bipolar?

23 A. Yeah, I felt -- I've been this way. It hasn't
24 changed. Nothing changed it.

25 Q. When you say you've been this way, I mean, how

1 long have you been this way?

2 A. I've been treated for about 10 years, but I
3 believe most of my life I've been this way. I just
4 didn't know how to handle -- how to get help when I
5 needed it -- you know, to do.

6 Q. Okay. How did the additional medications,
7 aside from Zoloft that you were given, make you feel?

8 A. At which point?

9 Q. I guess we would have to know what the
10 medications were when you were taking them?

11 A. Some -- some helped, some didn't help. I mean,
12 some of them made me sick. I mean, I've been on a lot
13 of medicine.

14 Q. Did any of them affect your memory?

15 A. Yeah. I mean I was on Trazodone for a while.
16 And that medicine, it will, you know -- you can be
17 having a conversation and then you just stop. You don't
18 remember whatever you were even talking about.

19 Q. And do you remember what years you were on
20 Trazodone?

21 A. She tried me on it not too long ago. I don't
22 remember what year.

23 Q. Now, we've -- with your permission, we got
24 medical release and gathered some of your records; is
25 that right?

1 A. Right.

2 Q. And we gathered some from Timberlawn?

3 A. Right.

4 Q. And we gathered some from the Social Security
5 Administration?

6 A. Uh-huh.

7 Q. And we also gathered some from your first
8 doctor; is that right?

9 A. Yes.

10 Q. Now, in addition, you've seen other healthcare
11 professionals; is that right?

12 A. Yes.

13 Q. Do you remember who else you've seen?

14 A. I seen a lady named Dr. Borick (phonetic) and
15 she was moving, or whatever, and she had stored
16 everybody's medical records in a storage building and it
17 flooded so my medical records from her got destroyed.

18 Q. Do you remember what years you saw her?

19 A. I saw her -- it was right after John died.
20 Probably in 2000.

21 Q. Okay. And do you recall -- aside from her do
22 you recall any other physicians that treated you or
23 clinics?

24 A. Besides her, I've seen that Dr. Sylvia Myers.
25 I've seen -- I've seen Janice (phonetic) for about six

1 years now.

2 Q. Again, what's -- do you remember what Janice's
3 last name is?

4 A. Janice Sloan (phonetic).

5 Q. Okay. If we were to try to get more of your
6 medical records, who would we talk to or who might have
7 that history?

8 A. I don't know. Because I've been with -- I was
9 with Telecare (phonetic) -- like I say, they switched
10 over and went to Adapt. So I mean they would have my
11 most medical records and recent ones.

12 Q. Okay. Now, after the trial was over, I just --
13 I'll tell you, at some point I got appointed on
14 Mr. Carpenter's case; do you understand that?

15 A. Uh-huh.

16 Q. Okay. And do you recall having investigators
17 or people from my office come out to attempt to talk to
18 you?

19 A. Yes.

20 Q. Do you remember how many times people came out
21 to talk to you over the years?

22 A. No, I don't.

23 Q. Do you remember when the contact attempts
24 started?

25 A. No, I don't. I don't remember.

1 Q. Okay. Are you certain people did come?

2 A. Yeah, they did come because I would tell them I
3 didn't want to talk to them 'cause I didn't want to have
4 nothing to do with it.

5 Q. Why is it that you did not want to talk to
6 anybody on Mr. Carpenter's behalf?

7 A. Because I was told prior to my testimony,
8 whatever, by Ken Penrod, that they would not seek the
9 death penalty and then he told me that they -- after
10 everything was done, or whatever, he said that they were
11 seeking the death penalty. So I was kind of like -- I'm
12 mad at the whole system and didn't know who to trust and
13 couldn't believe that that had happened, you know. I
14 was lied to and that's a serious lie.

15 Q. So you wouldn't talk to anybody?

16 A. No.

17 Q. Okay. Did anybody else advise you to talk or
18 not talk? Did you have any other concerns about
19 talking?

20 A. No.

21 Q. Did you have any concerns that you would get in
22 trouble if you spoke to somebody?

23 A. Honestly, I was just mad at the system and
24 wouldn't talk.

25 Q. All right. Well, last year Mr. Kenny Johnson

1 (phonetic) --

2 A. Uh-huh.

3 Q. -- came and talked to you. You know him?

4 A. Yes.

5 Q. And who's he?

6 A. He's an investigator.

7 Q. And who's he work for?

8 A. You.

9 Q. Okay. And at that point, you talked and gave
10 him a statement; is that right?

11 A. That's right.

12 Q. Why did you decide to speak to him and give him
13 a statement when you had previously not wanted to talk
14 to anybody before?

15 A. I don't know. It just happened. I guess he
16 approached me the right way and seemed like he was -- I
17 don't know -- I just -- something about him.

18 Q. Now, at the time when Mr. Johnson came out to
19 visit you, was Mr. Cloud still alive?

20 A. No.

21 Q. Okay. Did that have any effect on your
22 decision to talk?

23 A. Yeah.

24 Q. And what was that?

25 A. Well, because he would -- pressured me to more

1 or less get David in trouble, you know.

2 Q. John Cloud did?

3 A. Yeah. Would --

4 Q. Pressured you to get David in trouble?

5 A. Yeah, more or less.

6 Q. How did he go about doing this?

7 A. He would tell me that he talked to them and
8 that they knew about stuff and that they said something
9 about they come to the house and they seen how the house
10 was and there was like cookies out and the kids were
11 clean, so, you know -- so in my mind, when he told me
12 that, I thought, oh, my God, they're thinking about
13 taking my -- you know -- some of my kids so...

14 Q. So you -- you had a concern about that?

15 A. Yeah, I did.

16 Q. What changed your mind about that?

17 A. I guess because they -- they never approached
18 me. Didn't, you know, go to the kids school or nothing,
19 you know.

20 Q. Okay. Now, when you say that Kenny Johnson
21 approached you the right way, how did he approach you?

22 A. He just -- actually it was a lady that come
23 first.

24 Q. Okay.

25 A. I don't remember her name or anything. And --

1 Q. Did she work with Mr. Johnson?

2 A. She -- I thought she worked for you.

3 Q. Okay.

4 A. And she come out and I just open the door and I
5 let her in and we just started talking and then after
6 that -- after I think she seen me one time, then I think
7 Kenny come out.

8 Q. So how many days or weeks after she spoke to
9 you did Kenny come out?

10 A. I'm not for sure.

11 Q. Okay. Was it within the same month, same year?

12 A. Same year, I can say that much. And --

13 Q. You don't know exactly when it was?

14 A. No.

15 Q. Okay. Now did Kenny promise you anything?

16 A. No.

17 Q. What did he say to you that made you decide
18 that you wanted to visit with us?

19 A. I don't even -- I don't remember.

20 Q. Okay. But prior to that time, whenever you
21 were contacted by people, did -- would you get phone
22 calls?

23 A. No, they come out. They would show up at the
24 door, you know.

25 Q. And would you let them in or would you just

1 tell them go on?

2 A. No. I would tell them go on.

3 Q. And do you remember how many times that
4 happened?

5 A. No.

6 Q. Okay. Is it fair to say, until the lady came
7 to visit, you just -- before Kenny Johnson came to visit
8 you that you had no intentions of speaking to anybody?

9 A. Correct.

10 Q. And any efforts had been made to contact you,
11 you said, no, I don't want to talk?

12 A. Correct.

13 Q. Okay. In retrospect, do you think there's
14 anything that could have been said or done at the time
15 to get you to talk?

16 A. Uh-huh.

17 Q. You have to say yes or no for the court
18 reporter?

19 A. No.

20 Q. Okay.

21 A. Sorry.

22 Q. All right. I'd like to talk about your
23 conversations with Detective Penrod.

24 A. Okay.

25 Q. Okay. I think you said a few minutes ago that

1 you felt that you'd been misled in some regard regarding
2 the death penalty?

3 A. Yes.

4 Q. Can you explain that? Do you remember where
5 you were when that conversation took place?

6 A. I was -- I think it was a jail downtown and it
7 was like in a room that had no windows and they would --
8 it had tables, like, two chairs and a door that they
9 would lock, you know.

10 Q. Okay. And did -- did you go down to that room
11 voluntary or were you driven down there?

12 A. They drove me down there.

13 Q. Okay. And who is they?

14 A. It was Ken Penrod and I don't remember who was
15 with him.

16 Q. Okay. Now, was this before David was arrested
17 or while he was in jail?

18 A. While he was in jail.

19 Q. Okay. And was this before the trial?

20 A. Yes, it was.

21 Q. Okay. And what was discussed during that
22 visit?

23 A. We had several visits. He said that he knew
24 that I knew some information about what had happened and
25 that I needed to tell or whatever.

1 Q. Okay. And what did you respond?

2 A. Then I had just -- I don't remember exactly.
3 It's been so many years ago -- word for word. I know we
4 discussed what I had -- the murder or whatever, you
5 know. The -- I had been sleep and got woke up and got
6 told what happened and --

7 Q. Okay. And you discussed that --

8 A. Yes.

9 Q. -- with Mr. Penrod?

10 A. Yes.

11 Q. How did the discussion turn around to the topic
12 about the death penalty?

13 A. Because that was like the first thing on my
14 mind. 'Cause I don't believe in death penalty.

15 Q. And so you asked him about it?

16 A. Yeah.

17 Q. And what did you ask him if you can recall?

18 A. I asked him were they going to seek the death
19 penalty and he said, no.

20 Q. Okay. Would you have agreed to talk had he
21 said that they were going to seek the death penalty?

22 A. No.

23 Q. Had you informed him of that?

24 A. I don't remember.

25 Q. Okay. Now, do you remember if you had that

1 discussion about the death penalty on more than one
2 occasion with Mr. Penrod or just the one occasion?

3 A. I'm not sure. Maybe.

4 Q. Okay.

5 A. Just the one occasion.

6 Q. And I want to go back over this very carefully
7 so I can understand it. You were downtown at the jail?

8 A. Uh-huh.

9 Q. You were there to give a statement and they
10 wanted you to -- to talk to you about --

11 A. Right.

12 Q. And you didn't want to be there?

13 A. No. They kept me there for hours.

14 Q. And you weren't telling them what they wanted
15 to know?

16 A. No.

17 Q. And they told you that they knew you had
18 information?

19 A. Yeah.

20 Q. And you didn't want to talk?

21 A. Right.

22 Q. And then he told you that they weren't going to
23 seek the death penalty?

24 A. Right.

25 Q. And how did that affect your decision to talk?

1 A. I just thought I better tell, I mean, what I
2 knew or you know -- then I had John Cloud telling me
3 what -- that I -- to tell them. So I went ahead and
4 just gave them my statement, however. But I had been
5 taken down there several times.

6 Q. And before that -- before they said that, had
7 you given them the information they wanted?

8 A. No.

9 Q. Okay. Would you have talked with them if you
10 knew they were seeking the death penalty against
11 Mr. Carpenter?

12 A. I would've tried to find a way out of it. I
13 would have.

14 Q. Okay. Now, after that conversation with
15 Mr. Penrod, were there any other times when that
16 discussion came up?

17 A. No. The only time was whenever he come in the
18 room after he had all the statements and I don't know
19 how much time had went by, but he said we're seeking the
20 death penalty.

21 Q. And what was your reaction to that?

22 A. I was like, oh, my God, you know. I said --
23 you know, I couldn't believe they had sat there and told
24 me that and then he done me that way.

25 Q. Did you confront him with that?

1 A. I'm more or less scared of him. I wouldn't --
2 he wouldn't be a person I'd confront. You know what I
3 mean?

4 Q. Okay. Now, did you ever have discussions about
5 that topic with anybody else besides Mr. Penrod? Did
6 you discuss that with any of the prosecutors?

7 A. Not that I remember.

8 Q. So it's primarily Detective Penrod?

9 A. Yeah.

10 Q. And you remember that specifically on one
11 occasion or two occasions?

12 A. I believe one.

13 Q. Okay. Now, when it came time to go to trial,
14 did you want to testify?

15 A. No.

16 Q. And why not?

17 A. Because that's the father of my kids and I
18 didn't want to have to go up there in front of all those
19 people and talk -- and talk about that.

20 Q. And did you make any efforts to try to get out
21 of testifying?

22 A. I tried to tell Kim Judin that I was on
23 medicine to get out of it, but it didn't work.

24 Q. But you specifically recall telling her that?

25 A. Yes. Yes.

1 Q. Now, did you volunteer that to David's defense
2 team at all?

3 A. I never spoke to them. Never.

4 Q. Did you ever consider writing him a letter to
5 tell them that?

6 A. No.

7 Q. I'd like to go over -- you gave -- when
8 Mr. Johnson came out to visit you, you gave an
9 affidavit; you remember that?

10 A. Uh-huh.

11 Q. Okay. And tell us about giving the affidavit.
12 Who wrote it?

13 A. Me.

14 Q. Okay. And how long did it take you to write
15 this?

16 A. I'm not for sure.

17 Q. Did Mr. Johnson suggest anything that needed to
18 be in it?

19 A. No.

20 Q. Okay. How long did he speak to you before he
21 drafted it?

22 A. I'm not for sure.

23 Q. Okay. And let me show you the affidavit of
24 fact I think is on file with the cause. Is that the two
25 page affidavit that you gave?

1 A. Yeah.

2 Q. Okay.

3 A. Yes. Sorry.

4 Q. Okay. I'd like to go through this with you, if
5 I could?

6 A. Okay.

7 Q. This was given on June 19th, 2009, remember
8 that?

9 A. (Nods).

10 Q. You have to say yes or no.

11 A. Yes.

12 Q. Okay. And where were you when you wrote this
13 statement?

14 A. At my house at the kitchen table.

15 Q. How many times had you met Mr. Johnson before
16 you decided to give the affidavit?

17 A. I don't remember.

18 Q. More than once?

19 A. Maybe. I'm not for sure.

20 Q. Okay. And do you remember how long it was
21 after you met the lady investigator that you gave the
22 statement?

23 A. No.

24 Q. Now, it says this is an affidavit at the
25 request of David Carpenter's defense attorney through

1 his investigator. I have never met his defense attorney
2 or spoken to him on the phone. Do you remember that
3 statement?

4 A. Yes.

5 Q. Was that true?

6 A. Yes.

7 Q. I've never felt manipulated by the attorney or
8 the investigator or various investigators over the
9 years; is that your language? I mean, did you say that?

10 A. Yes.

11 Q. Okay. Was that true?

12 A. Yes, sir.

13 Q. And again, agreeing to give your testimony
14 today, do you feel that you've been manipulated in any
15 fashion?

16 A. No.

17 Q. It says by the attorneys or its various
18 investigators over the years; but as you sit here, you
19 don't remember how many investigators called you?

20 A. No, I don't.

21 Q. And you don't remember the years of contact?

22 A. No I don't.

23 Q. Okay. I would never speak to investigators
24 before a year ago because I was told by the prosecutors
25 that David would not get the death penalty, remember

1 that?

2 A. Yes.

3 Q. Now, when you say the prosecutors, when you
4 wrote that, who did you mean by the prosecutors?

5 A. Well, it was actually Ken Penrod.

6 Q. Okay. So you thought he was one of the
7 prosecutors?

8 A. Yeah.

9 Q. Specifically, it's not Kim Judin, correct?

10 A. No.

11 Q. Okay. In the affidavit when you talk about
12 that, that was who you're referring to?

13 A. Yes.

14 Q. Mr. Penrod. Okay. And you say they lied to
15 me. Who is they lied to you?

16 A. The police. He did.

17 Q. Okay. So I felt why should I trust anyone. I
18 don't believe in death penalty. My children are getting
19 older where they understand proceedings more than
20 anything. They want their dad -- they don't want their
21 dad to be put to death? Is that how you feel?

22 A. Yes.

23 Q. Okay. Have your children talked about that?

24 A. Yes.

25 Q. Has that weighed on your brain?

1 A. Yes.

2 Q. How so?

3 A. They -- I mean, they want to know their dad,
4 you know. They've been to visit him a couple of times.
5 They don't want him to die, you know.

6 Q. Okay. Is there -- are there feelings such that
7 you would lie on David's behalf?

8 A. No.

9 Q. Do you need to take a break? Would you like --

10 A. No. I'll be fine. I'll be fine.

11 Q. If you need anything, please let me know.

12 A. Okay.

13 Q. Okay. My boyfriend, at the time that the
14 police were asking me questions about what happened,
15 just before the police came by about David, John Cloud,
16 had anonymously turned my mother in to the police on an
17 outstanding warrant? You remember that?

18 A. Yeah.

19 Q. Okay.

20 A. Yes, sorry.

21 Q. Would -- can you explain a little bit more
22 about that? I mean, how does that enter in your
23 decision to testify or not testify or how you felt about
24 the case?

25 A. Actually, when it happened, I thought David had

1 done it, but --

2 Q. When you say what had happened?

3 A. When my mom -- my mom was in trouble. They had
4 been looking for her for probation violation and I -- at
5 the time, David was fixing to get out, but I was with
6 John and then John was the type of person that was
7 like -- how do you say it?

8 Q. Manipulative?

9 A. Yes. Yes. And me and him had got into a fight
10 and I couldn't drive or nothing so I depended on my mom.
11 He come to our house, told us that the police had just
12 left his work and they were looking for my mom. Now,
13 the police would not go to his work looking for my mom.
14 So I fully believe that he's the one that told on my mom
15 to get my mom out of the way so that I would have to
16 depend on him. You know, 'cause I didn't drive or
17 nothing and we had got into a fight and broke up.

18 Q. Okay. Now, in your mind, did John Cloud have a
19 reason for wanting to see David Carpenter in jail?

20 A. Yes.

21 Q. Which was what?

22 A. Because he -- I didn't know he had been reading
23 letters that he -- David had wrote me and I guess he
24 knew that we were going to get back together whenever he
25 got out. So I believe that he -- I believe he went to

1 the police and said this to keep him from getting out so
2 that we couldn't, you know, be together?

3 Q. So John was doing this to keep David in jail so
4 you would be with John and not David?

5 A. Right.

6 Q. Okay. It said that he pressured me into
7 cooperating with the police and prosecutors. Said if I
8 didn't, they would take my kids away from me. Remember
9 that?

10 A. Yes.

11 Q. That's something John Cloud told you?

12 A. Yes, he told me.

13 Q. And that's not something you heard from the
14 police --

15 A. No. No.

16 Q. -- or anybody else? Okay. How did that what
17 John Cloud was telling you, affect your decision to
18 cooperate?

19 A. Because I'd do anything for my kids, you know.

20 Q. So you were afraid that --

21 A. Yeah.

22 Q. Now, when -- in your discussions with
23 Mr. Penrod or anybody else on the law enforcement or
24 even in the district attorney's office, did you have any
25 concerns about your kids or ask any questions about

1 what's going to happen to me?

2 A. I wanted to know what was going to happen to
3 me.

4 Q. And who did you ask that of?

5 A. I think I asked everybody.

6 Q. Okay. What were you told?

7 A. That nothing would happen --

8 Q. Okay.

9 A. -- to me.

10 Q. So the question is, were you going to cooperate
11 and give them the information even if -- that you knew
12 that they were seeking the death penalty?

13 A. No.

14 Q. Why?

15 A. 'Cause I don't believe in death penalty.
16 That's my kids' dad. I don't want him dead.

17 Q. And that's how you felt at the time?

18 A. Yeah.

19 Q. Okay.

20 A. Yes.

21 Q. And did you make that -- did you ever tell that
22 to the defense attorney or to the defense team that you
23 were opposing the death penalty?

24 A. I think every -- everybody probably knew.

25 Q. Who's everybody?

1 A. Well, there was Kim Judin, Tobey Shook
2 (phonetic), Ken Penrod, some other guy, I don't even --
3 I can't remember his name.

4 Q. And you told them all that you were opposed to
5 the death penalty?

6 A. Yeah.

7 Q. And that you didn't want to go through with
8 this; is that right?

9 A. Right.

10 Q. What response did you get?

11 A. They told me that they weren't going for the
12 death penalty.

13 Q. Who said that?

14 A. Ken Penrod.

15 Q. Okay. And after that, did you have those
16 discussions with Kim Judin or anybody else during the
17 trial that you didn't want?

18 A. I don't remember. There was so much going on
19 in there.

20 Q. Okay. You said I -- I -- I felt pressured by
21 the police and prosecutors and my boyfriend at the time.
22 Police and prosecutors would show up at my house many
23 times and at my work to make me go to their car and
24 talk. Most times they took me to the police station and
25 keep me there for hours; is that right?

1 A. That's right. Yes.

2 Q. So -- now these -- so I'm clear about these
3 events, obviously you've been interviewed numerous times
4 prior to trial by the police?

5 A. Yes.

6 Q. Okay. And how many of those visits did you
7 say, I don't want to talk or I'm not going to get
8 involved?

9 A. I wouldn't --

10 Q. Okay. But you did -- did you give them a
11 statement of David's involvement the first time?

12 A. First time, no, I lied.

13 Q. And what made you change your mind?

14 A. Because they kept telling me that somebody had
15 told -- been telling them that I knew more than what I
16 was telling them.

17 Q. Okay.

18 A. And they just kept on and on and on for hours
19 in those rooms.

20 Q. Did they say anything else to get you to
21 testify?

22 A. Not that I recall.

23 Q. Okay. Did they -- how did their decision --
24 how was the statement that they weren't going to seek
25 the death penalty affect your decision?

1 A. That I testify -- or I give a statement or
2 statements.

3 Q. You gave a statement after hearing that
4 statement?

5 A. Yes.

6 Q. Okay. Now, also, you spoke to Rycke Marshall,
7 you remember that?

8 A. That's psychological --

9 Q. The psychiatrist?

10 A. Yes. Thank you.

11 Q. And how many sessions did you meet with her?

12 A. I think three or four.

13 Q. Okay.

14 A. I think.

15 Q. And do you remember approximately when that
16 was?

17 A. No.

18 Q. Was that after or before you gave the
19 affidavit?

20 A. Which affidavit? The --

21 Q. This one we just went through?

22 A. The one that I gave to Kenny?

23 Q. Yes.

24 A. After.

25 Q. Okay. And did you allow her to get your

1 medical records and review them?

2 A. Yes, I did.

3 Q. And then you sat down and had several
4 discussions with her?

5 A. Yes, I did.

6 Q. And I'd like to go through some of that, if I
7 could. How were you feeling at the time you gave the
8 interviews with Rycke Marshall? Were you on
9 medications?

10 A. Yeah, I was on my medicine.

11 Q. Do you remember what medicines you were on?

12 A. Zoloft, Gabapentin, I don't know if I was on my
13 Klonopin then -- trying to think of how many medicines.
14 I think I was on like three medicines.

15 Q. Okay. And how were you feeling at the time
16 that Rycke Marshall did the evaluations?

17 A. I was nervous, upset. Brought back a lot of
18 bad stuff.

19 Q. She asked you detailed questions about your
20 background?

21 A. Yeah.

22 Q. And did you attempt to answer her truthfully?

23 A. Yes, I did.

24 Q. And did she review the interviews with you to
25 go over what you said?

1 A. Yes.

2 Q. And do you feel like you were truthful with
3 her?

4 A. Yes.

5 Q. I'd like to ask you about some of that
6 information, if I could.

7 A. Okay.

8 Q. Did you tell her you were born on December 4th,
9 1975?

10 A. Yes.

11 Q. That you're the youngest of three children?

12 A. Yes.

13 Q. And have two half siblings?

14 A. Yes.

15 Q. A sister, 41, and a brother 40?

16 A. Yes.

17 Q. You tell her your parents divorced when you
18 were about two years old?

19 A. Yes.

20 Q. You tell her you saw her[sic] father
21 occasionally after the divorce, but he was not apart of
22 your life as a small child?

23 A. Yes.

24 Q. You tell her that once you were older you
25 became closer?

1 A. Yes.

2 Q. With your father?

3 A. Yes.

4 Q. Okay. And prior to his death from cancer in
5 October 2007, she was with -- you were with him daily?
6 Took care of him?

7 A. Yes.

8 Q. Okay. You reported that your father was an
9 alcoholic and a drug addict?

10 A. Yes. But he had been clean and sober for eight
11 years before he passed.

12 Q. He had been physically abusive to your brothers
13 and sister?

14 A. Yes.

15 Q. And he had sexually abused your sister?

16 A. Yes.

17 Q. Okay. And are those the kind of bad
18 memories --

19 A. Yeah.

20 Q. If you need to take a break at any time let me
21 know. And that you -- you told Rycke Marshall if you
22 misbehaved you were locked in a closet?

23 A. Yes.

24 Q. But you -- nonetheless, you loved your father
25 and felt that he changed over time?

1 A. Yes.

2 Q. He was clean and sober for the last eight years
3 of his life?

4 A. Yes.

5 Q. You told her that?

6 A. Yes.

7 Q. And that your mother was a different person now
8 than when -- when she was -- when you were growing up?

9 A. Yeah.

10 Q. How so?

11 A. My mom was an alcoholic. She was a junkie.
12 Prostitute.

13 Q. She had a series of abusive relationships?

14 A. Yes.

15 Q. And you relayed that to Rycke as well?

16 A. Yes.

17 Q. Okay. I mean -- when I say Rycke you know her?

18 A. Yeah.

19 Q. Do you call her Rycke or Dr. Marshall?

20 A. I know her by Rycke.

21 Q. Did you tell Rycke that your childhood was
22 marked by extreme instability, neglect, and emotional
23 and physical and sexual abuse?

24 A. Yes.

25 Q. There was no food or electricity in the home?

1 A. Yes.

2 Q. That your mother frequently left you at home
3 along with other people and would be gone for days?

4 A. Yes.

5 Q. From an early age you were exposed to drug and
6 alcohol abuse, pornography, sex parties and domestic
7 violence?

8 A. Yes.

9 Q. Okay. And from the time you were five years
10 old, you recall drinking beer and smoking marijuana and
11 cigarettes?

12 A. Yes.

13 Q. Her mother and other adults would -- your
14 mother and other adults would use drugs in your
15 presence --

16 A. Yes.

17 Q. -- is that correct? And sometimes involve the
18 children?

19 A. Yes.

20 Q. Did you tell Rycke there were no rules at home
21 and no stability?

22 A. Yes.

23 Q. Okay. Your sister married at 15 to get away?

24 A. Yes.

25 Q. And when she left she tried to take you with

1 her --

2 A. Yes.

3 Q. -- is that right? Your mother would not allow
4 you to go?

5 A. Huh-huh.

6 Q. And no protection from parents and no guidance?

7 A. Right. Yes.

8 Q. You recall being sexually abused by your
9 stepfather?

10 A. Yes.

11 Q. And being a victim of child pornography at the
12 hands of one of your mother's boyfriend?

13 A. Yes.

14 Q. You were sexually active from age 12?

15 A. Yes.

16 Q. Getting high and dating older men?

17 A. Yes.

18 Q. Your mother was aware of this but decided not
19 to intervene?

20 A. Yes.

21 Q. You tell Rycke when you were young your family
22 moved frequently?

23 A. Yes.

24 Q. You had a number of different schools?

25 A. Yes.

1 Q. You were often absent?

2 A. Yes.

3 Q. It was difficult for you to keep up with your
4 studies?

5 A. Yes.

6 Q. Hated school and described feeling awkward,
7 stupid and self-conscious?

8 A. Yes.

9 Q. And you tell Rycke that you recognized your
10 life was different from most of your peer group?

11 A. Yes.

12 Q. And was difficult for you to fit in?

13 A. Yes.

14 Q. And you dropped out of school in the 7th grade,
15 but attained your GED at age 25?

16 A. Yeah.

17 Q. Okay. Now, you had long -- you told Rycke you
18 had two long-term relationships in your life, right?

19 A. Yes.

20 Q. The first was David Carpenter?

21 A. Yes.

22 Q. The second was Mr. Cloud?

23 A. Yes.

24 Q. J.C. Cloud -- do you call him John or J.C.?

25 A. J.C.

1 Q. J.C. Cloud. That's John Cloud?

2 A. Yeah, that's John Cloud. J.C.

3 Q. In addition to the two daughters you had with
4 David Carpenter, you have a third daughter that was born
5 in 1997; is that right?

6 A. Yes.

7 Q. And those are the girls you spoke of?

8 A. Yes.

9 Q. And how old are they now?

10 A. My oldest just turned 18, the middle child is
11 15 and my youngest is 13.

12 Q. Okay. And since John Cloud's death in 2000,
13 you've dated, but have remained single?

14 A. Yes.

15 Q. And for the past 13 years, you've lived with
16 your mother and helped with the children?

17 A. Yes.

18 Q. And you live -- do you still currently live in
19 Seagoville?

20 A. Yes.

21 Q. Okay. In a mobile home that belonged to your
22 father?

23 A. Yes.

24 Q. Okay. Did you tell Rycke that you acknowledge
25 that you have longstanding psychological problems

1 including depression, suicidal ideation, anxiety and
2 substance abuse?

3 A. Yes.

4 Q. Okay. And these problems began in childhood
5 and are persistent to the present?

6 A. Yes.

7 Q. You told her that?

8 A. Yes.

9 Q. And you were first treated with psychiatric
10 medications for depression and anxiety in 1997?

11 A. Yes.

12 Q. You told her that? And eventually you're
13 diagnosed with bipolar disorder and sub -- polysubstance
14 abuse?

15 A. Yes.

16 Q. Okay. And from 1997 until 2000, your
17 psychiatric problems were treated primarily by Wesley
18 Rayborn (phonetic); is that right?

19 A. Yes.

20 Q. Okay. Is that one of the doctor's records we
21 have?

22 A. That -- yeah. He was the first doctor. I
23 mean, he was a family doctor not a psychiatrist.

24 Q. Right. And then after that you saw Vickie
25 Boric (phonetic)?

1 A. Yeah.

2 Q. Who diagnosed you with bipolar?

3 A. Yes.

4 Q. Now, is that the woman we spoke of all the
5 records were destroyed -- your records were destroyed in
6 her office in a flood?

7 A. Yes.

8 Q. Okay. And as far as you know, she has no other
9 copies?

10 A. Right.

11 Q. Okay. And then you saw -- after her you saw
12 Dr. Myers?

13 A. Uh-huh.

14 Q. In -- and since 2004, you've seen Dr. John
15 Bennett (phonetic) with the Adapt Clinic?

16 A. Yeah.

17 Q. And to your knowledge, that's a complete list
18 of the doctors that you've seen?

19 A. That one -- I seen that one in Timberlawn. I
20 don't remember her name.

21 Q. Okay. Did you tell Rycke that because of these
22 psychological problems, you've only worked sporadically?

23 A. Yes.

24 Q. In 2003, you were unable to work due to your
25 bipolar disorder?

1 A. Yes.

2 Q. And in August 2003, Social Security
3 Administration declared you disable and eligible for
4 benefits due to that mental condition?

5 A. Yes.

6 Q. Is that still the case?

7 A. Yes.

8 Q. The Social Security Administration deemed you
9 unable to handle your own affairs and your mother's been
10 appointed as your legal guardian?

11 A. Yes.

12 Q. Okay. Now, you also told Rycke that you deny
13 using any intravenous drugs?

14 A. Yes.

15 Q. Okay. But you have -- you have used or been
16 addicted to marijuana, methamphetamine, crack cocaine?

17 A. And alcohol, yes.

18 Q. Okay. And after your father's death, you
19 became addicted to crack and had suicidal ideation?

20 A. Yes.

21 Q. You were -- sought inpatient treatment at
22 Timberlawn in 2007?

23 A. Yes.

24 Q. And you've been clean since then?

25 A. Yes.

1 Q. Do you still see Dr. Bennett regularly?

2 A. Actually, I'm switching over to a different
3 doctor that's closer to me.

4 Q. Okay. Do you remember his name?

5 A. It's going to be a lady. I don't remember her
6 name. I haven't seen her yet. I just --

7 Q. Would it be possible if we contacted you later
8 to get that name?

9 A. Yeah. I have it on a card at home.

10 Q. Okay. Did you tell Rycke that you'd been
11 taking Seroquel, Zoloft, Gabapentin --

12 A. Klonopin.

13 Q. Klonopin and Ambien?

14 A. Yeah. I'm not on the Ambien. What I couldn't
15 remember is Seroquel. I've been on it for a long time.

16 Q. What does Seroquel do?

17 A. Seroquel, it helps me sleep, but it's also like
18 a antipsychotic. It helps with your mood, you know,
19 stabilize your mood.

20 Q. Now, most those medications, except for the
21 Zoloft, were prescribed to you after the trial; is that
22 right?

23 A. Correct.

24 Q. And at the time of trial, to your knowledge,
25 you were just on the Zoloft?

1 A. Yes.

2 Q. And then temporarily on the other drug which
3 was?

4 A. Buspar.

5 Q. Okay. And you told Doctor -- you told Rycke
6 that you've been on antidepressants, mood stabilizing
7 drugs antianxiety and antipsychotic medications and
8 sleep medication for many years?

9 A. Yes.

10 Q. Is that right?

11 A. Yes.

12 Q. Okay. Did you tell Rycke that you met David
13 Carpenter when you were 12 and he was 21?

14 A. Yes. I believe he was 21. He's nine years
15 older than me so...

16 Q. You tell Rycke that Mr. Carpenter was a friend
17 of your mother and that your mother and her boyfriend
18 bought drugs from David Carpenter, occasionally?

19 A. Yes.

20 Q. Okay. You told Rycke that you developed a
21 crush on David and you wrote to him while he was first
22 incarcerated in prison for three years?

23 A. Yes.

24 Q. You told Rycke that when Mr. Carpenter was
25 released he got an apartment with his brother and you

1 quote unquote pushed your way in?

2 A. Yes.

3 Q. Can you explain that?

4 A. I would just stay over there all the time and
5 then I just kind of like brought all my stuff and I was
6 there.

7 Q. You were 15, when you -- you told Rycke you
8 were 15 when you --

9 A. Yeah.

10 Q. -- moved in with him? And your first child was
11 born when you were 16 years old?

12 A. Yes.

13 Q. And your second child was born two years later?

14 A. Yes.

15 Q. And that -- you stated that you loved David
16 Carpenter or was addicted to him and felt that you had
17 to be with him?

18 A. Yes.

19 Q. And that you had an intense and stormy
20 relationship; is that right?

21 A. Yes.

22 Q. You told Rycke that you separated from him when
23 your second daughter was six months old because of his
24 infidelity?

25 A. Yes.

1 Q. Okay. So when was your child born? Your
2 second child?

3 A. My second child was born in '94.

4 Q. Okay. So if you separated from him when she
5 was six months old, you would have separated from David
6 in 1994, 1995?

7 A. Yeah. Yes.

8 Q. Is that -- do you think that's right?

9 A. Yeah. She was born October the 8th, 1994. So
10 it would have been in -- six months later -- it would
11 have been in '95, wouldn't it?

12 Q. Okay. And then so go back -- our earlier
13 discussion after you separated from him with that --
14 after you had the second child, then really the only
15 contact you had with him is letters?

16 A. Yeah. He -- he'd call me or whatever, but that
17 was right before he had went to jail. 'Cause I mean --

18 Q. Went to prison for the second time?

19 A. Yeah. He went right after I left.

20 Q. Okay. And you didn't have frequent visits with
21 him then?

22 A. Not that I remember.

23 Q. And you don't remember after you separated from
24 him having discussions about your medical history or
25 medications?

1 A. No, I --

2 Q. Okay. Now, did you tell Rycke that David
3 Carpenter said he grew up in an atmosphere of domestic
4 violence. His father was physically abusive to him and
5 his mother?

6 A. Yes.

7 Q. You told her that he abused drugs and alcohol
8 from the first time you met him?

9 A. David?

10 Q. Yes.

11 A. Yes.

12 Q. You told Rycke that you saw him as someone that
13 went out of his way to make people like him?

14 A. Yes.

15 Q. You told Rycke that David would brag about
16 things, it made him feel macho, he always wanted to be
17 the coolest person?

18 A. Yes.

19 Q. You tell Rycke in retrospect you see him as
20 trying to impress others by being tough, a big man who
21 was bad?

22 A. Yes.

23 Q. Okay. You tell Rycke you felt that many of
24 David's stories were fabricated or exaggerated in order
25 to make him feel important?

1 A. Yes.

2 Q. He did that to gain respect of others?

3 A. Yes.

4 Q. And you see him as -- told Rycke you see him as
5 someone who as part of being a tough guy would never
6 snitch on a friend in order to save himself?

7 A. Yes.

8 Q. And you tell Rycke that you and your father had
9 many conversations about David and his involvement in
10 the murder?

11 A. Yes.

12 Q. You told Rycke that your father never believed
13 that David was capable of it; is that right?

14 A. Yes.

15 Q. And did you also tell Rycke that you had doubts
16 about his involvement in the crime?

17 A. Yes.

18 Q. What does that mean?

19 A. What does that -- what is my doubt or --

20 Q. You told Rycke during the interview that you
21 had doubts about David's involvement in the crime and I
22 was just wondering if you could explain that to us?

23 A. I mean, I can't see him killing somebody and I
24 mean, like -- do you want detail into when he come home
25 and like --

1 Q. Well, I was just trying to find out what you
2 meant when you told Rycke that statement?

3 A. Because David was more talk than anything in
4 the world. And then whenever it was -- he supposedly
5 murdered the lady and come back, well, he wasn't covered
6 in blood or nothing, you know what I mean?

7 Q. Okay.

8 A. And I don't --

9 Q. And I think you -- later on you described your
10 feelings with Rycke. We can get into that, okay?

11 A. Okay.

12 Q. Did you tell Rycke that when David was in
13 prison you began seeing J.C. Cloud in '97 or '98?

14 A. Yes.

15 Q. And you told Rycke that he was a childhood
16 friend of David Carpenter who was very solicitous
17 towards you? Very nice to you?

18 A. Yes.

19 Q. Okay. At the time you told Rycke you had three
20 children and was struggling and he helped you and your
21 mother get an apartment?

22 A. Yes.

23 Q. And you told Rycke that they saw John -- you
24 saw J.C. on and off for a couple years and eventually
25 got married?

1 A. Yes.

2 Q. Okay. And you were married to him less than a
3 year when he was killed in a train accident in 2000?

4 A. Yes.

5 Q. Okay. But you said you -- you have ambivalent
6 feelings toward him; is that right?

7 A. Yes.

8 Q. Have mixed emotions about him?

9 A. Yes.

10 Q. John Cloud is not the person you thought he
11 was?

12 A. Yes.

13 Q. You told Rycke that before he died you learned
14 that he had molested your oldest daughter?

15 A. Yes.

16 Q. And that you told Rycke he was a very devious,
17 manipulative and a liar?

18 A. Yes.

19 Q. And he was jealous, possessive and inclined to
20 retaliate when he was angry?

21 A. Yes.

22 Q. You told Rycke on one occasion that he set fire
23 to your car?

24 A. Yes.

25 Q. Why did he do that?

1 A. Because I went out with a friend to a club.

2 Q. Did you tell Rycke that you felt that J.C.
3 Cloud may have given the police the anonymous tip that
4 may have led to David's arrest?

5 A. Yes.

6 Q. And you think that J.C. Cloud told the police
7 that David was involved in the murder as a retaliation,
8 in order to prevent him from getting back together with
9 you?

10 A. Yes.

11 Q. Now, did you share any of those concerns with
12 Mr. Penrod or Ms. Judin?

13 A. I don't remember, because at the time, he had
14 me -- telling me to do this, you know.

15 Q. When you say he?

16 A. I feel like -- John Cloud. J.C. I don't know.
17 I feel like he was trying to brainwash me or whatever so
18 I was doing whatever he was telling me to do.

19 Q. Okay. And he was telling you not to talk to
20 anybody?

21 A. Right. Well, he was telling me to talk to
22 the --

23 Q. Police?

24 A. -- the police and you know.

25 Q. Okay. And you told Rycke that you and David

1 still continued to correspond?

2 A. Yes.

3 Q. Write letters?

4 A. Yes.

5 Q. And that he remains in contact with your
6 daughters; is that right?

7 A. Yes.

8 Q. And they've been down to visit him in prison;
9 is that right?

10 A. Yes.

11 Q. Have you been down to visit him?

12 A. No, I haven't seen him in 10 years.

13 Q. Okay. You feel that you're currently on good
14 terms with him?

15 A. Yeah.

16 Q. And you told Rycke that is that right?

17 A. Yes.

18 Q. Okay. Did you tell Rycke that regarding the
19 events of that day that you had trouble -- or you did
20 not remember much about what happened on August 28,
21 1991?

22 A. Yes.

23 Q. Did you tell Rycke you recall that day because
24 it was your mother's birthday?

25 A. Yes.

1 Q. And you were pregnant with your first child.

2 A. Yes.

3 Q. And you and David were living in a two-bedroom
4 mobile home with another couple?

5 A. Yes.

6 Q. Okay. And you told Rycke that you remember
7 that you -- you were awoken by David Carpenter --

8 A. Yes.

9 Q. -- right? And you told Rycke at the time that
10 you thought he had returned from taking one of their
11 roommates to school?

12 A. Yes.

13 Q. Right. So you have a recollection -- do you
14 still have that recollection or do you remember telling
15 that to Rycke?

16 A. Yeah. I mean I had the recollection and I
17 remember, but now in my head I kind of -- I'm like -- on
18 the timeline I don't know if -- what -- I can't tell you
19 what time of day. I know it wasn't nighttime but...

20 Q. Okay. Did you tell Rycke that your memory of
21 events that day were not clear?

22 A. Yes.

23 Q. And you told her that you know David woke you
24 up and said he'd killed a woman? You remember that?

25 A. Yes.

1 Q. You can't remember -- you told Rycke you can't
2 remember the words -- the exact words and conversation?

3 A. Correct.

4 Q. Okay. You told Rycke you recall there was no
5 blood on his clothes or his hands -- David's hands?

6 A. No.

7 Q. Is that correct?

8 A. Yes.

9 Q. And you remember he did not get rid of any
10 clothes nor did he scrub his hands; do you remember
11 that?

12 A. Yes.

13 Q. Okay. Now, did you share that information with
14 Mr. Penrod or Ms. Judin, do you recall?

15 A. Yeah, I remember having the conversations
16 because there was just like these little splatters on
17 his tennis shoes that looked like grape jelly. I mean,
18 little bitty, I mean, you know. And I didn't understand
19 why if you had just killed somebody, why aren't you
20 covered in blood.

21 Q. Okay. And that's -- and you relayed that to
22 Rycke Marshall?

23 A. Right.

24 Q. Okay. And you told Rycke when you heard that
25 you were scared, but you didn't ask any further

1 questions?

2 A. Right.

3 Q. And you told Rycke that David said not to speak
4 about it?

5 A. Right.

6 Q. And you never talked about it again?

7 A. No.

8 Q. And you were 16 at the time?

9 A. Yes.

10 Q. Okay. And so as you sit here now, are your
11 events -- the recollection of that day are they clear?

12 A. No.

13 Q. Okay. Did you tell Rycke Marshall that
14 everything seemed unreal and you don't really remember
15 anything else that happened on that day?

16 A. Yes.

17 Q. When you say it seemed unreal, is that how you
18 felt before taking the medication or on the medication?
19 What did you mean by unreal?

20 A. It's like, I can't remember that -- the whole
21 day. Of course it's been how many years ago.

22 Q. Right.

23 A. And it's like in and out stuff. I remember him
24 waking me up. I remember that. Then I remember getting
25 in the car going to his aunt's house. Everybody was

1 over there crying. But it was all like -- if you're
2 like, looking back, it's like clips of a film. You know
3 what I mean? It's like I was there, but it don't
4 feel --

5 Q. Didn't feel like you were personally
6 participating?

7 A. Right.

8 Q. And you told Rycke that during your interview;
9 did you not?

10 A. Yes.

11 Q. You told her that that was your first
12 pregnancy?

13 A. Yes.

14 Q. And you weren't taking any drugs or medications
15 at the time?

16 A. No.

17 Q. And you recall that your relationship with
18 David was quite strained at the time --

19 A. Yes.

20 Q. -- is that right? And you were depressed and
21 having mood swings at the time?

22 A. Yes.

23 Q. And you recall that you were -- felt very
24 paranoid?

25 A. Yes.

1 Q. You were afraid of the dark?

2 A. Yes, still am.

3 Q. Afraid of being left alone at night?

4 A. Yes, still am.

5 Q. And you told Rycke that? You told her also
6 that you had hallucinations unless you were on drugs; is
7 that right?

8 A. Yes.

9 Q. And sometimes you thought that you would hear
10 people calling your name when you were in the shower?

11 A. Yes.

12 Q. And you would get in and out multiple times?

13 A. Yes.

14 Q. Can you elaborate on that a little bit? What
15 does that mean you were hearing --

16 A. Just like being in the shower and then I think
17 my kids are calling me, so I kept like -- taking a
18 shower for me then was horrible 'cause, in and out in
19 and out trying to get clean, but I'm thinking I'm
20 hearing somebody calling my name, you know. Like now,
21 usually whenever I shower, now my mom has to time me. I
22 only have a certain amount of time or I'll stand in
23 there and I'll just scrub and scrub you know.

24 Q. Okay. Do you remember ever having
25 conversations with David at the time telling him that

1 you were hearing voices?

2 A. No. I never got to tell him.

3 Q. Okay.

4 A. 'Cause, I mean -- like, I have OCD where
5 everything has to be clean and I was that way back then
6 and they always joked and laughed about it. So, I mean,
7 I'm not going to sit here and tell them, hey, you know,
8 I'm hearing stuff. This ain't right. That ain't right.

9 Q. So you got teased about the fact that you were
10 obsessive about the cleaning?

11 A. Right. And he --

12 Q. And you didn't want to disclose anything else?

13 A. Right. And then I had bad mood swings so he
14 just thought I was a straight up -- how would you say
15 it -- pain.

16 Q. Okay. Now, you told Rycke at the time of these
17 interviews that you didn't remember how many dates when
18 the police questioned you or when you appeared in trial?

19 A. No.

20 Q. And you still don't?

21 A. No.

22 Q. Okay. And there are other aspects about this
23 that your memory's not good about; is that right?

24 A. Yes.

25 Q. You haven't seen David Carpenter since 1997?

1 A. Yes.

2 Q. Okay. But you have had contact through the
3 letters?

4 A. Yes.

5 Q. And in the letters that you write, you speak
6 lovingly at each other?

7 A. Yeah. He's more lovingly than me, but yeah.

8 Q. Okay. You do recall -- you told Rycke that you
9 recall when he was about to be released from prison the
10 first time the police came to talk?

11 A. Yes.

12 Q. Is that right? And you told Rycke that they
13 came to see you at work about your mother?

14 A. Yeah at first.

15 Q. And that's when they said they got an anonymous
16 tip that your mother was violating her probation?

17 A. Yeah.

18 Q. And I think as you discuss -- you now believe
19 that John Cloud tipped you off?

20 A. Yes.

21 Q. And you told Rycke that?

22 A. Yes.

23 Q. When -- you told Rycke when the police first
24 contacted you and they -- they told you they thought you
25 had information about the murder?

1 A. Yeah.

2 Q. You told them initially that you didn't know
3 what they were talking about?

4 A. Yes.

5 Q. And so again how many discussions do you think
6 you had with them when they would come to you and say,
7 we need to talk to you and you'd say, I don't know what
8 we're talking about?

9 A. Oh, that I didn't know. About two.

10 Q. Okay. And did you -- did you tell Rycke that
11 you were frightened when you were approached by the
12 police?

13 A. Yes.

14 Q. Okay. You told Rycke the second time the
15 police came to your house they took her to the police
16 station; is that right?

17 A. They took me to the police station, yes.

18 Q. And that you -- that you told Rycke you'd never
19 been in jail before?

20 A. Yes.

21 Q. And you were extremely intimidated?

22 A. Yes.

23 Q. And you told Rycke that they said that they
24 knew you were lying?

25 A. Yes.

1 Q. Who told you that you were lying?

2 A. Ken Penrod.

3 Q. And what -- did he say anything more than that?

4 A. He said that -- yeah -- because see, somebody
5 was telling him that I knew more than what I was saying.

6 Q. Okay. And that upset you?

7 A. Yeah.

8 Q. And you told -- but you told Rycke you still
9 didn't give them the statement at that time; is that
10 right?

11 A. No, I didn't.

12 Q. Okay. And you went -- and you told Rycke you
13 went home and reported that to J.C. --

14 A. Yeah.

15 Q. -- and he told you to cooperate?

16 A. Yeah.

17 Q. Okay. Did you tell Rycke you thought you --
18 that might have happened between 10 and 15 times?

19 A. Me going down there?

20 Q. Yes.

21 A. And then coming -- yes.

22 Q. Okay. And you told Rycke that you'd never been
23 questioned like that before in your life; is that right?

24 A. Yes.

25 Q. You told them -- you told Rycke you were

1 particularly afraid of Penrod and found him
2 intimidating?

3 A. Yes.

4 Q. And you told Rycke that Penrod would come and
5 pick you up and take you to those rooms and you would
6 sit forever until you wrote a statement or they'd --
7 they'd write it and you'd have to sign it?

8 A. Yes.

9 Q. And you told Rycke on one occasion you were
10 taken to a different police station there, fingerprinted
11 and they told you they have to do that so you wouldn't
12 be considered a murder suspect?

13 A. Yes.

14 Q. Okay. And how did that make you feel?

15 A. I thought we were going for a interview and
16 then when we get down there they're fingerprinting me.
17 I don't know. And then we got through I was like,
18 what'd we do that for and they were like to rule you out
19 as a murder suspect. I was like oh.

20 Q. Okay. Did you tell Rycke that you felt
21 tremendous pressure to provide information because they
22 told you they were lying -- that you were lying?

23 A. Yes.

24 Q. And you told her that you believed that you
25 might be put in jail or your children might be taken

1 away?

2 A. Yes.

3 Q. Now, that's something that you believed because
4 of what J.C. told you?

5 A. Yes.

6 Q. But that's not something that Penrod or --

7 A. No.

8 Q. Okay. And you told Rycke that Penrod told you
9 that they knew that you knew that David had had you
10 clean the blood off his knife and shoes?

11 A. Yes.

12 Q. Okay. And after you admitted that, you told
13 Rycke they stopped questioning you; is that right?

14 A. Yes.

15 Q. And you told Rycke that you eventually signed a
16 statement?

17 A. Yes.

18 Q. And you told Rycke that you were sure if you
19 told the police everything you knew, David would not get
20 the death penalty?

21 A. Yes.

22 Q. And when you say the police told you that --

23 A. I mean Penrod.

24 Q. Penrod told you that. And you told Rycke that
25 they would write it, you would sign it?

1 A. Right. Yes.

2 Q. And there were some things in the statement
3 that you didn't understand?

4 A. Yes. It's hard for me to understand a lot of
5 it.

6 Q. And you told Rycke that at the end, you were
7 very upset and wanted to get out?

8 A. Yes.

9 Q. And you told Rycke that after you gave a
10 statement, they told you they were going to seek the
11 death penalty anyway; is that right?

12 A. Yes.

13 Q. You told Rycke that made you sick and unable to
14 breathe?

15 A. Yes.

16 Q. Did you feel that you had been lied to at that
17 time?

18 A. Yes.

19 Q. And did you mention that to anybody?

20 A. I'm not -- I just remember bits and pieces and
21 I remember when they said the death penalty that I was
22 crying. I --

23 Q. Okay. Did you tell Rycke that you had had a
24 number of interviews with the prosecutors?

25 A. Yes.

1 Q. And you told Rycke that you felt the
2 prosecutors were real nice?

3 A. Yes.

4 Q. Is there a qualification of that?

5 A. Well, I thought they were being nice, but
6 they're not -- they weren't.

7 Q. Why do you say that?

8 A. Because they were -- how to say it -- like, if
9 I was to sit here and be sweet and all this in front of
10 y'all, you know. You'd think I was being nice, but
11 after you done heard all this, you would know.

12 Q. You think they were being two-faced about it?

13 A. That's the way I felt.

14 Q. Okay. They -- you told Rycke they took you out
15 to eat?

16 A. They didn't take me out to eat.

17 Q. Okay. What did --

18 A. What happened was, is they come to my house to
19 question me. My children were there. I didn't want my
20 children to know nothing because they were still little.
21 So they said that they had to talk to me. So there's a
22 Braum's. So we went to the Braum's and talked. I don't
23 even remember what we talked about. But we didn't go
24 out to eat dinner or nothing like that. They didn't
25 never buy me anything. Nothing like that.

1 Q. You just met at a Braum's?

2 A. Yeah, we met there 'cause I didn't want them to
3 talk to me in front of my kids.

4 Q. Okay. And did you tell Rycke that they
5 practiced your testimony with you to be sure you were
6 prepared?

7 A. Yeah, they --

8 Q. How many times did they do that?

9 A. I would say a couple. They would take me into
10 the courtroom and let me sit up there on the stand, you
11 know, where I'd be sitting and then they would just show
12 me how everything was going to be and what the -- you
13 know, if I -- I don't -- if it was something, say I
14 don't recall. And just certain stuff. I mean, 'cause,
15 I mean, I wouldn't come up with I don't recall.

16 Q. Okay. And you told Rycke that during the trial
17 when you're in the witness room, that all the other
18 people were talking about the case?

19 A. Yeah, we --

20 Q. And they were talking about giving David the
21 needle?

22 A. A police officer come in and he was, excuse me,
23 being a smart, something or another. And said, yeah,
24 well, why don't they just give me the needle, I'll take
25 care of it right now.

1 Q. Okay. And you told Rycke that you were aware
2 that that wasn't right? That that was not appropriate,
3 but you were afraid to say anything?

4 A. Right.

5 Q. Why were you afraid to say something?

6 A. 'Cause I didn't want to get in no trouble and
7 there was like so many people in there talking about the
8 case when nobody was supposed to be talking about it.
9 There was papers laying down that you -- we were
10 reading, that we shouldn't even been looking at. There
11 were pictures showed like from where the police chased
12 David in the pickup truck. Where they took pictures of
13 the stuff that had like -- he had threw out the window.
14 And the truck where it was in the field where they
15 finally got -- I mean, they showed pictures of that.

16 Q. Okay.

17 A. They were just like open and it wasn't supposed
18 to -- I don't think that was fair at all.

19 Q. And then you'd also told Rycke at that time you
20 were extremely anxious and fearful of getting in
21 trouble?

22 A. Yeah.

23 Q. You told her you'd become depressed after the
24 birth of your last child in 1997?

25 A. Yes.

1 Q. And that your depression intensified during
2 this trial?

3 A. Yes.

4 Q. And that you found the experience of being
5 constantly interrogated to be very traumatic?

6 A. Yes.

7 Q. And that you were unable to sleep, emotionally
8 distraught, felt you were walking on egg shells?

9 A. Yes.

10 Q. And you told Rycke that you told that -- the
11 prosecution didn't want to testify or have anything to
12 do with the trial?

13 A. Yes.

14 Q. And you told them about the psychological
15 state, being on medication?

16 A. I told Kim Judin, yes.

17 Q. Okay. And then you told Rycke they said they
18 did not care?

19 A. Yeah. It didn't matter.

20 Q. Okay. Is that -- I mean, it's important if you
21 can't to try to remember the words they used?

22 A. I don't remember word for word, but I know that
23 it just blew over like it wasn't nothing.

24 Q. And can you remember who told you that?

25 A. Kim Judin.

1 Q. Okay.

2 A. She's the one I went to and told.

3 Q. Okay. And did you tell Rycke that you felt
4 overwhelmed and confused at that time?

5 A. Yes.

6 Q. You told Rycke you couldn't resolve the
7 discrepancy in your mind of what they said that David
8 did and what you witnessed on that morning?

9 A. Yes.

10 Q. Okay. And you told Rycke that if he'd actually
11 murdered, he probably should have been covered in blood?

12 A. Yes.

13 Q. And you told Rycke you're still confused?

14 A. Yes.

15 Q. Is that true today?

16 A. Yes.

17 Q. Okay. You also told Rycke you're not going to
18 lie about what David Carpenter told you?

19 A. Yes.

20 Q. You don't want to go to jail?

21 A. Yes.

22 Q. You don't want to get in trouble?

23 A. Yeah.

24 Q. And you're here to tell the truth --

25 A. Yes.

1 Q. -- is that right?

2 MR. ANTON: Can we take a short break?

3 (Break taken form 1:20 to 1:37)

4 Q. (By Mr, Anton) Just a couple quick questions.

5 How did you get here today?

6 A. Ken. Kenny.

7 Q. Kenny Johnson?

8 A. Yeah.

9 Q. Okay. And he's provided -- he provided you
10 with transportation?

11 A. Yes.

12 Q. Do you drive?

13 A. Sometimes.

14 Q. Okay.

15 A. I only have a permit.

16 Q. Okay. And in 1997 when the investigator --
17 Detective Penrod was dealing with you, did you drive --
18 could you -- the police would come and pick you up?

19 A. Uh-huh.

20 Q. Were you driving at that time?

21 A. No.

22 Q. Did you have a license at that time?

23 A. No.

24 Q. And how did you get to and from court?

25 A. How did -- they would come get me.

1 Q. Okay. Was there a reason you did not have a
2 license?

3 A. I didn't know how to drive. Scared.

4 Q. Okay. And you conveyed that to them?

5 A. I don't know. I know they knew I didn't have a
6 license and I didn't drive.

7 MR. ANTON: Okay. That's all the questions
8 I have at this time.

9 MS. KUYKENDALL: Can we just step outside?

10 MR. ANTON: We can step out. It'd be more
11 convenient.

12 (Break taken from 1:38 p.m. to 1:46)

13 EXAMINATION .

14 BY MS. MIRANDA:

15 Q. Mande, my name is Tina Miranda, I'm with the
16 Attorney General's office and I just want to ask you a
17 couple questions about your testimony. And again, I
18 just want to reiterate, if you have trouble
19 understanding any of my questions -- I talk fast, I know
20 that --

21 A. Oh no.

22 Q. -- so if I talk fast or give you a compound
23 question or if you just get confused, don't be afraid to
24 stop me and say, hey, I have no idea what you're talking
25 about.

1 A. Okay.

2 Q. Can you rephrase it, okay?

3 A. Okay.

4 Q. All right. Just to start, want to talk a
5 little bit about some of the memory lapses or problems
6 that you have. First of all, just generally speaking,
7 you were saying that your memory has been affected by
8 the medication; is that correct?

9 A. Yes.

10 Q. And I believe that you also mentioned that you
11 had some memory issues prior to taking the medication.
12 When did you first start noticing those? If you can
13 recall and I understand that it may be hard, but just to
14 the best of your ability to answer those questions.

15 A. I don't recall.

16 Q. Okay. Do you recall when the first time was
17 that you might have reported that to a doctor or
18 physician that you were seeing?

19 A. No, because the meds[sic], they make it worst
20 so...

21 Q. Okay.

22 A. I mean, the doctors, they already, you know,
23 basically know.

24 Q. Right.

25 A. You know that my memory's going to be affected

1 from it.

2 Q. Sure. And as you sit here and testify today --

3 A. Yes, ma'am.

4 Q. -- in 2010, is it fair to say that your memory
5 back at the time of trial or at the time you were
6 speaking to police is probably better than what you
7 recall today simply by the passage of time?

8 A. Probably.

9 Q. Okay. Regarding the specific event that
10 happened in 1991, as far as David coming home and making
11 the statement to you, would you say that was a pretty
12 significant event having him come home and -- whether
13 you believed what he said or not -- and having him come
14 home and simply say, hey, I murdered a woman --

15 A. Yes.

16 Q. -- that was pretty significant, right?

17 A. Yes.

18 Q. And at the time you believed him; is that
19 correct?

20 A. Yeah.

21 Q. Okay.

22 A. Now, that I put it -- it don't seem right.

23 Q. But at the time?

24 A. Yeah.

25 Q. Yeah?

1 A. Yeah.

2 Q. I understand. You also mentioned that you
3 believed that -- can I call him J.C.?

4 A. Uh-huh.

5 Q. Is that easier for you? That J.C. was the one
6 who reported to police that you believed David was
7 involved?

8 A. Yes.

9 Q. And you also mentioned that when the police
10 came to talk to you, they indicated to you that they
11 thought you knew more about what happened than you were
12 telling them?

13 A. Yes.

14 Q. What did you originally tell them?

15 A. The first time they come I was like, I don't
16 know nothing about no stabbing. I was like, I know
17 David had got shot at a bar. That's all. I don't know
18 nothing about a stabbing.

19 Q. Okay. When you talked to them the first time,
20 what kind of specifics did they have about the offense
21 they thought you knew about?

22 A. Alls I remember is homicide.

23 Q. Did they know the name of the victim?

24 A. Did they tell -- I don't remember if they said.

25 Q. Okay. As far as J.C., your belief that J.C.

1 called the police and was the anonymous informant
2 telling them that you knew information, how was it that
3 J.C. knew that you knew information about a homicide?

4 A. I had told him about some of the stuff.

5 Q. Okay. Do you recall when you first told him?

6 A. No, I don't.

7 Q. Okay. Do you recall any of the specifics of
8 the conversation that you told him?

9 A. Just probably that he had woke me up and told
10 me that he had, you know --

11 Q. So essentially, probably the same kind of stuff
12 you had initially told the police?

13 A. Yes.

14 Q. Okay. And even recently when you spoke to
15 Dr. Marshall -- Rycke, you could still recall him,
16 David, coming home and telling you -- waking you up and
17 telling you that he killed a woman?

18 A. It's like a daze -- a daze -- you know what I
19 mean?

20 Q. Sure. Sure. It was a long time ago. I
21 understand. Going to the time of trial when you were
22 speaking with the prosecutor in this case, do you
23 recall -- I'm assuming you had several meetings with the
24 prosecutors; is that correct?

25 A. Uh-huh.

1 Q. Okay. Not the police, but the prosecutors?

2 A. Uh-huh.

3 Q. Do you recall whether it was the first one --
4 and I understand if you can't say second or third, but
5 was it early on towards the middle, more closer towards
6 trial when you told them about your medical condition?

7 A. Probably around the middle.

8 Q. Okay. So after you'd had a couple meetings?

9 A. Probably.

10 Q. But before --

11 A. Yeah.

12 Q. --the trial?

13 A. Before the trial.

14 Q. And you had these conversations more than once
15 with the prosecutors?

16 A. I'm not sure.

17 Q. Okay. Do you recall if anyone other than -- I
18 believe you said -- who was it that you told, I'm sorry?

19 A. Kim Judin.

20 Q. Kim. Other than Kim, was there anyone else
21 present when you had these conversations?

22 A. I don't remember.

23 Q. And again, I know it was a long time ago, but
24 as specifically as you can recall, what exactly did you
25 tell Kim?

1 A. About being on the medication?

2 Q. About anything that had to do with your mental
3 health?

4 A. Oh, I told her that I was on the Zoloft or
5 whatever.

6 Q. Uh-huh. Did you tell her what for?

7 A. I'm not sure. I'm sure I did, but I mean, I'm
8 not a hundred percent for sure because --

9 Q. But you --

10 A. I know I was trying to get out of having to
11 testify.

12 Q. Okay.

13 A. I thought but...

14 Q. But it's fair to say that you recall
15 specifically telling her that you were on medication?

16 A. Yes.

17 Q. But you don't recall exactly if you told her
18 what it was for or if she -- did she ask?

19 A. I don't remember.

20 Q. Okay. You mentioned that you practiced your
21 testimony with the prosecutor several times and that
22 they took you into the courtroom and they showed you
23 where everything was. Was that in an attempt to
24 alleviate some of the anxiety you had about testifying?

25 A. Maybe.

1 Q. Did they mention anything about why they were
2 doing it?

3 A. They were showing me what it was going to be
4 like. And then, you know, they would say stuff like
5 they're going to be saying this and -- I remember they
6 taught me the word, I don't recall.

7 Q. And I'm kind of going to back up a little bit.
8 And I apologize for this, but I want to talk a little
9 bit more about your conversations with Ken Penrod?

10 A. Uh-huh.

11 Q. Now, you say in the first couple of
12 conversations, basically you told him you didn't know
13 anything about it. And then they take you to this room
14 and they sit you down and they question you for a long
15 time. What did you first tell them once you first
16 decided to cooperate? What did you first tell them?

17 A. I think I told them about him waking me up. I
18 think. I mean it's been forever.

19 Q. And in relationship to you making that first
20 admission regarding what you knew, when did you have the
21 conversation with him about seeking the death penalty in
22 this case?

23 A. It was -- I believe it was early on. 'Cause, I
24 mean, they took me to that place and I don't know how
25 many statements there was or whatever, but it was early

1 in the conversation because I did not want him to get
2 death.

3 Q. And when you say early on, are you talking
4 about early on in the interview when you began
5 cooperating or after you started cooperating?

6 A. Before.

7 Q. Before. You indicated just now that you didn't
8 recall how many statements --

9 A. Yeah.

10 Q. -- that you made. Do you recall how many you
11 signed?

12 A. No.

13 Q. All right. Do you recall -- you do recall
14 signing statements or affidavits?

15 A. Yeah, I signed statements.

16 Q. Okay. Do you recall whether that was typically
17 after you had made an oral statement to them whether you
18 had had a conversation and typically following that
19 conversation --

20 A. Yeah.

21 Q. -- they would present you with --

22 A. They would write.

23 Q. Okay. And you would sign it?

24 A. Yeah.

25 Q. When was it in relationship to those statements

1 that you learned that the State was going to seek the
2 death penalty?

3 A. This was after I was -- I had done said
4 everything.

5 Q. So after the last statement that you had
6 signed?

7 A. Yeah. Then it -- he comes and says, well,
8 we're going the seek the death penalty.

9 Q. Do you recall where you were when you made --
10 when he told you that? Were you still in one of those
11 rooms?

12 A. I believe so.

13 Q. Were you writing to David at this time
14 regarding what was going on?

15 A. I was writing to him, but I don't know what all
16 I was writing about. It's been years and...

17 Q. Okay. Did you ever write to him and tell him
18 about what the police had done and your estimation as
19 far as lying to you?

20 A. I think I have wrote a letter telling him the
21 police come to me asking me about a homicide.

22 Q. Do you recall whether you wrote David any
23 letters after you began cooperating with the police?

24 A. I don't remember.

25 Q. What about following your testimony at trial,

1 did you continue to write to him?

2 A. After the whole thing was over with?

3 Q. Uh-huh.

4 A. I don't think we wrote for a long time and then
5 we wrote. I think there was like time where we didn't
6 speak or something.

7 Q. Okay. Did you stop writing or did he?

8 A. Me.

9 Q. Okay. Why was that?

10 A. I was confused about everything.

11 Q. All right. Can you elaborate a little bit on
12 that?

13 A. I was supposed to be getting married and he --
14 I don't know.

15 Q. It's okay. You can take your time and just.

16 A. I just -- I just quit writing.

17 Q. Okay. After you quit writing, who first
18 contacted who again once you started your contact up
19 again? Did you write to him first or did he write to
20 you first?

21 A. He wrote to the kids.

22 Q. Okay.

23 A. So it would be like something through the kids,
24 you know, maybe like quite a long time or something.

25 Q. And would they tell you what he said --

1 A. Yeah.

2 Q. -- in his letters?

3 A. Yeah.

4 Q. Did you read their letters?

5 A. Sometimes I did, sometimes I didn't. Because I
6 wanted to make sure --

7 Q. Sure.

8 A. -- what he was saying.

9 Q. Absolutely. I understand. At what point did
10 he write to you or did you write to him?

11 A. I don't remember when that was.

12 Q. Okay. Do you recall who wrote to who first?

13 A. No.

14 Q. Okay. Do you recall him writing you several
15 letters asking you to write to him?

16 A. Yes, I do. That sounds familiar.

17 Q. Okay. All right. But you don't recall how
18 many letters you received?

19 A. (Nods).

20 Q. All right. Do you recall why you eventually
21 sort of gave in and started writing back to him?

22 A. Because he was the father of my kids.

23 Q. Okay. And tell me about your relationship with
24 David once you started writing to him. Obviously, you
25 hadn't spoken in a while and now you're continuing to

1 write. What other contact did you have with him besides
2 letters?

3 A. None.

4 Q. None. You didn't go to visit him?

5 A. At one point -- I haven't seen David in --
6 since the trial.

7 Q. Okay. Did you ever speak with him on the
8 phone?

9 A. I don't remember.

10 Q. Did your children ever speak with him on the
11 phone?

12 A. I don't remember 'cause I know that they --
13 that after the trial they hold him in Lew Sterrett for a
14 little while.

15 Q. Uh-huh.

16 A. So I know he had access to call.

17 Q. Uh-huh.

18 A. But I don't know if we had a phone at that time
19 or --

20 Q. Uh-huh.

21 A. -- what. I don't remember.

22 Q. What about since he's been moved?

23 A. Since he's been moved?

24 Q. To Polunsky. To where he is currently located?

25 A. Have we what, spoke to him on the phone?

1 Q. Uh-huh.

2 A. I think the kids have.

3 Q. Okay. And you never spoke to him when he
4 called to talk to them to say hi or anything like that?

5 A. I might have. Nothing -- nothing like, hey,
6 how are you, you know.

7 Q. Right. In your conversations with David,
8 whether on the phone or in letters after trial, do you
9 ever discuss his case?

10 A. No.

11 Q. His situation?

12 A. (Nods).

13 Q. No. Can you tell me what you do discuss,
14 generally speaking?

15 A. Generally speaking, like if I was -- I would
16 just be like, hi, how you doing? I hope you doing okay.
17 'Cause he's sick --

18 Q. Uh-huh.

19 A. -- you know. And tell him about the kids or
20 whatever. 'Cause the kids will write something --
21 they'll be fighting so they'll write and one will write.
22 And I'll try to tell him what's going -- you know --
23 hey, look, it ain't like this it's -- stuff like that.

24 Q. Okay. What about your relationship with
25 David's family following trial? How was that?

1 A. Horrible.

2 Q. Did that ever change?

3 A. Yes.

4 Q. Okay. How did that come about?

5 A. A few months ago I got a phone call from his
6 mom.

7 Q. Okay.

8 A. And she wanted to take the kids to see him.

9 Q. Uh-huh.

10 A. 'Cause they hadn't seen him in 10 -- or however
11 many years.

12 Q. Uh-huh.

13 A. My middle child, she doesn't even know him.

14 Q. Right.

15 A. So anyway, she wanted to take them so I let
16 her. I remember I took them over to her house. They
17 welcomed me in.

18 Q. Okay. Now, prior to that phone call, had you
19 ever reached out and tried to contact her after trial?

20 A. Right after trial, I did, and she hung up on
21 me. I mean, like the day he was sentenced or whatever I
22 tried to call her and she hung up on me.

23 Q. And then after that, you didn't have any
24 contact until she contacted you?

25 A. Uh-huh.

1 Q. Okay. Now, I want to talk just a little bit
2 about your contact with meeting investigators in this
3 case and you mentioned that for the longest time you
4 simply didn't want to cooperate with anybody following
5 the trial?

6 A. Right.

7 Q. And there were several attempts to contact you
8 by investigators working for David's defense. I believe
9 you said your first contact was with a woman; is that
10 correct?

11 A. Uh-huh.

12 Q. Okay. That's what I want to talk about first.
13 Can you tell me, as best as you can recall, how that
14 contact happened from the time she knocked on your door?
15 Do you recall what she said to you when she knocked on
16 the door?

17 A. She was -- she told me who she was and then she
18 just asked could she talk to me just for a minute. I
19 said, I got to leave. I said, I got to go get my kids.
20 And she said, I won't take, you know, your time or
21 whatever and then she just said that she wanted to talk
22 to me about David.

23 Q. Okay.

24 A. And that's how it got started.

25 Q. Sure. And then what -- how did the

1 conversation progress from there, as far as she
2 indicated that she wanted to talk to you about David?
3 What questions did she have?

4 A. I don't remember the questions.

5 Q. Okay. What about meeting with Mr. Johnson, I
6 believe it was?

7 A. Uh-huh.

8 Q. Do you recall anything about that conversation?

9 A. We sat down and we just talked and that
10 affidavit, I mean -- that was basically -- I don't know
11 what point that he -- I mean how many times he had come,
12 but I mean, it was like soon. I mean it wasn't like he
13 had been at my house 10 times or whatever.

14 Q. Sure?

15 A. It might have been like the first, second,
16 third, you know, time.

17 Q. And in your conversations with him, were they
18 about David in general? Were they about his case? Were
19 they about what you recall about the incident? Can you
20 tell me a little bit more specifically about your
21 conversations?

22 A. We talked about basically the whole situation.
23 Everything.

24 Q. Okay. But can you give me any specifics or as
25 much specifics as you can recall when you say the whole

1 situation? What did that --

2 A. I explained to him about J.C. You know, what
3 he was doing. And the -- you know, I didn't believe in
4 death penalty, you know. That my kids are getting older
5 that, you know, they don't want their father to die, you
6 know. Just --

7 Q. Okay. And what else can you recall? How did
8 the topic of your mental health come up?

9 A. I'm sure I brought it up.

10 Q. Okay.

11 A. I don't --

12 Q. Do you recall how or why?

13 A. I probably said something like, well, I'm on my
14 medicines right now so you'll have to excuse --

15 Q. Right?

16 A. You know something --

17 Q. Okay. Okay.

18 A. He didn't like say, are you on medicine. There
19 would be no reason why. He don't even know me.

20 Q. Okay. Just give me one second. And again as
21 far as your decision to cooperate with the defense
22 investigators after many years of deciding not to, can
23 you tell me again why you decided to do that. What were
24 the factors?

25 A. It would have to be my kids.

1 Q. Okay. They were the biggest reason? What
2 about David did he have any influence on that as far as
3 your relationship with him?

4 A. No.

5 Q. Another topic that I want to touch on. You
6 testified earlier about the hallucinations that you were
7 having, can you just clarify for me to the best of your
8 recollection when they started or when you recall them
9 starting?

10 A. When I was younger or -- it didn't just happen
11 you know.

12 Q. And you mention in your affidavit that
13 basically, you would just kind of hear somebody calling
14 your name; is that correct?

15 A. Uh-huh.

16 Q. What else were you hearing? Anything?

17 A. Just like certain noises would like -- and
18 still does set me off.

19 Q. When you say, set you off, what do you mean?

20 A. Like the noise has to stop. I have to get away
21 from the noise. It's -- it would be like somebody
22 scratching their nail down a chalk board to you but to
23 me it could be her over here typing on this. It's
24 not -- what I'm saying is, it would make me like I got
25 to get -- you know, somebody if they accidentally

1 scraped a fork across a plate.

2 Q. Okay.

3 A. It just goes all over, you know.

4 Q. Okay. So it would be an actual noise that you
5 would hear but your reaction to it would just --

6 A. Yeah, it just --

7 Q. Right.

8 A. Yeah.

9 Q. Right. Was a little more. Okay. And just one
10 more time to go back to one other thing I wanted the
11 clear up, quickly. As far as the prosecutors taking you
12 in and showing you the courtroom, did they let you sit
13 in the witness stand?

14 A. The witness.

15 Q. The seat --

16 A. Where I would be sitting? Yeah, they had me
17 sit up in there.

18 Q. Okay.

19 A. 'Cause they told me like they would be --
20 they're going to ask you this, you know.

21 Q. Okay.

22 A. And you tell them this. And if they say, like,
23 what time of day because I can remember they were
24 telling me -- 'cause it was something to do with the
25 time of day that I got woke up, you know. And they were

1 trying to say don't say it's like -- it was morning
2 because they're going to pressure you to find out how
3 you knew it was 8 o'clock in the morning. Just say, you
4 know, I don't recall or whatever.

5 Q. And did you recall what time you were woken up?

6 A. Honestly, I think it was in the morning but now
7 I'm not for sure what time.

8 Q. Okay. Okay. So they were in essence trying to
9 prepare you --

10 A. Yeah.

11 Q. -- for cross-examination?

12 A. Right.

13 Q. How the defense might take what you said --

14 A. Right.

15 Q. -- and try to make it into --

16 A. Right.

17 Q. -- something you weren't actually saying,
18 right?

19 A. Right.

20 Q. Okay. And as far as them telling you -- you
21 said earlier they taught you, I don't recall?

22 A. Yeah.

23 Q. That was in an effort for you to -- if you
24 recalled to tell the truth, but if you didn't recall not
25 to try to recall something you didn't remember?

1 A. Right. Don't sit there and try to talk. Just
2 say you don't recall and that's it.

3 Q. Right. Just give me one more second. Mandee,
4 I'm going to hand you a letter that you wrote to
5 Mr. Carpenter.

6 MS. MIRANDA: This is Tab 31.

7 MR. ANTON: Okay.

8 MS. MIRANDA: And it's going to be on the
9 bottom. It's page numbers nine to 10.

10 Q. (By Ms. Miranda) I'm going to hand that to you
11 and give you a second to read over that.

12 MS. MIRANDA: I believe for purposes of the
13 record that this is already apart of the Court's case.
14 It was filed --

15 MR. ANTON: Yes.

16 MS. PENROSE: Yes. This is Exhibit R.

17 A. Okay.

18 Q. (By Ms. Miranda) Okay. Do you recall writing
19 that letter?

20 A. Yes.

21 Q. Okay. Can you tell me where you say, that's
22 the only way I can think of for right now because we are
23 so close to the end. Do you recall what you meant when
24 you wrote that?

25 A. How far down?

1 Q. Trying to find it in here. One second.

2 Actually it's at the top. It's at the bottom of the
3 page with the nine on the bottom corner. Where it says
4 David. It's the last part of that page and the top of
5 the page?

6 A. Hey, I didn't even read this. I didn't know it
7 was back there.

8 Q. Sorry. Says because we are so close to the end
9 I will not mess anything up if nothing else?

10 A. Because he kept wanting me to come down there
11 and I didn't want to interfere, you know.

12 Q. Uh-huh.

13 A. And it's coming to the end.

14 Q. Okay.

15 A. I mean this is it.

16 Q. Sure. Sure. What did you mean by, I will not
17 mess anything else up or anything up if nothing else?

18 A. Because I'm not going to go down there and
19 visit him when I'm not supposed to and he's trying to
20 get me to come down there and see him.

21 Q. Okay. Why were you not supposed to go visit
22 him?

23 A. I don't know. I just know I wasn't supposed to
24 go see him.

25 Q. Okay. Did somebody tell you, you weren't

1 supposed to go see him?

2 A. I was advised not to.

3 Q. Okay. Who advised you not to go see him?

4 A. Well, the first person -- we'll just say I was
5 talking to that guy Kenny and, you know, I think he was
6 one of the ones that said not to go.

7 Q. Okay. Did he tell you why not to go?

8 A. No, nobody has told me why I'm not supposed to
9 go.

10 Q. Okay. What about talking to him as far as
11 writing letters or talking to him on the phone; were you
12 advised not to talk to him on the phone?

13 A. We -- he don't have no way to talk to me on the
14 phone now.

15 Q. Okay.

16 A. So and writing well, we knew -- we both know
17 that y'all have copies of the letters. We done went
18 through court one time, you know.

19 Q. Okay.

20 A. And we had all the letters there so I mean.

21 Q. Sure. Sure. Okay.

22 A. Do you want this back?

23 Q. Oh no, you can just leave it there for now.

24 A. I mean, I had asked could I go see him.

25 'Cause, I mean, I --

1 Q. Sure.

2 A. I wanted to go down there with the kids. We
3 had -- we were planning a trip actually and we were --
4 me, I was going to take the kids and we were going to
5 stay in a hotel down there and go visit. And then I
6 asked and it was best not for me to go visit.

7 Q. Okay. Okay.

8 MS. MIRANDA: I think that's all. Pass the
9 witness.

10 MR. ANTON: Can I just take a quick break
11 here?

12 MS. MIRANDA: Sure.

13 (Break taken from 2:22 to 2:22)

14 MR. ANTON: Okay. I think we're concluded.

15 MS. MIRANDA: She just mentioned something.

16 MR. ANTON: Okay.

17 MS. MIRANDA: Nothing, but she just kind of
18 recalling something and she just mentioned it to me so I
19 thought it would be best --

20 MR. ANTON: Okay.

21 MS. MIRANDA: -- we get her recollection
22 actually on the record.

23 THE WITNESS: In the letter, I was trying
24 to tell him to see if he could get his daughter -- the
25 older daughter, Amber (phonetic), to take the kids down

1 there to see him.

2 MR. ANTON: Right. Okay. Thank you.

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1 NO. 3:02-CV-1145-B-AH

2 DAVID LYNN CARPENTER) IN THE UNITED STATES
3) DISTRICT COURT FOR THE
4) NORTHERN DISTRICT OF
5) TEXAS

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VS.) DALLAS DIVISION

6 RICK THALER)
7 Director, Texas)
8 Department of Criminal)
9 Justice, Correctional)
10 Institutions Division,)
11)
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10 Respondent) CIVIL ACTION NO.
11) 3:02-CV-1145-B-AH

12 REPORTER'S CERTIFICATION
13 DEPOSITION OF MANDEE CLOUD
14 May 5, 2010

14 I, Quinlyn Busby, Certified Shorthand Reporter in
15 and for the State of Texas, hereby certify to the
16 following:

17 That the witness, MANDEE CLOUD, was duly sworn by
18 the officer and that the transcript of the oral
19 deposition is a true record of the testimony given by
20 the witness;

21 That examination and signature of the witness to
22 the deposition transcript was waived by the witness and
23 agreement of the parties at the time of the deposition;

24 That the original deposition was delivered to
25 Mr. Bruce Anton;

3	Mr. Bruce Anton01 HOURS:19 MINUTES
	Ms. Tina Miranda00 HOURS:32 MINUTES

5 That \$545.00 is the deposition officer's charges to
6 the Petitioner for preparing the original deposition
7 transcript and any copies of exhibits;

8 That pursuant to information given to the
9 deposition officer at the time said testimony was taken,
10 the following includes all parties of record:

11 Mr. Bruce Anton, Attorney for Petitioner;
Ms. Tina Miranda, Attorney for Respondent.

13 That a copy of this certificate was served on
14 all parties shown herein on May 18, 2010 and filed with
15 the Clerk pursuant to Rule 203.3.

16 I further certify that I am neither counsel for,
17 related to, nor employed by any of the parties or
18 attorneys in the action in which this proceeding was
19 taken, and further that I am not financially or
20 otherwise interested in the outcome of the action.

21 | Certified to by me this 18th day of May, 2010.

22 Inf Busby, CSR
23 Quinlyn Busby, Texas CSR 8187
24 Expiration Date: 12/31/11
25 253 Trinity Drive
Lancaster, Texas 75146
(972) 342-5594