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ORIGINAL

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

The State of Washington,

Plaintiff,

No. 13-1-01546-8

vs.

SMITH, ALAN JUSTIN

3.5 MEMORANDUM

Defendant.

FACTS:

1. February 12, 2013 statements

On February 12, 2013 at approximately 10:26 am members of the Bothell Police Department found the body of Susann Smith in the bathtub of her Bothell home during the course of a welfare check. It was immediately apparent that her death was due to homicidal violence. In speaking with various neighbors of Ms Smith and with her co-workers, police learned that the defendant, Alan Smith, was her estranged husband and that he worked at the Everett Boeing plant as an engineer. At approximately 2:00 pm police Detectives Stone and Chissus, and uniformed Officer Caban left Bothell for the Boeing plant. En route, Detective Stone contacted Boeing Security Officer Brian Ferguson and requested contact with Mr. Smith. The purpose of the visit was both to inform defendant that his wife appeared to have been murdered, that his children were safe, and to see whether defendant appeared to have any injuries that may have been associated with the murder, and to find out defendant's whereabouts at relevant times.

37

1 The three police officers arrived at Boeing at approximately 2:45 pm, and were
2 escorted into a conference room by Boeing security. A short time later Boeing Security
3 escorted defendant to the conference room. Detective Stone introduced himself and Chissus to
4 defendant, and indicated they would like to talk to him. Both Stone and Chissus were dressed
5 in plain clothes. Officer Caban was seated in the far corner of the conference room and had no
6 interaction with defendant. Defendant agreed to speak to the detectives. Defendant sat at the
7 head of the conference room table. Defendant was advised that police were investigating a
8 serious crime and that his children were safe. Defendant was further advised that police had
9 located a dead body at his wife's home. Defendant then gave police an accounting of his
10 activities over the last several days, to include when he claimed to have last seen Susann
11 Smith, and the state of the pending divorce with his wife. The detectives noticed that defendant
12 had an obviously swollen left hand and a cut left thumb. Detective Stone then mentioned that
13 divorce and child custody hearings could be very emotional and asked defendant if he had any
14 reason to harm Susann. Defendant did not answer, Stone asked the question again, and then
15 defendant said "I think I may need to talk to an attorney." Stone advised defendant that he was
16 not under arrest and defendant indicated he understood.

17 Defendant allowed photos of his hands to be taken. Stone stepped from the
18 conference room, called the assigned prosecutor, and they concluded that defendant was not
19 going to be detained and that he was free to go on his way. The interview ended at
20 approximately 4:30 pm.

21 Defendant agreed to have the detectives drive him back to where his car was parked.
22 Defendant sat in the back during the drive to his building, 40-82. No questioning took place.
23 Once at building 40-82, defendant went inside and retrieved his laptop. While defendant was
24 inside another call was placed to the assigned prosecutor, and it was determined that
25 defendant's children were going to be placed with CPS until defendant had been cleared in the
26 murder investigation. When defendant exited his office building he was advised that his children

1 were going into CPS care until further notice, and that the CPS paperwork could be retrieved at
2 Bothell PD. Defendant was given directions to the PD to get the paperwork. This ended the
3 initial police contact with defendant.

4 At approximately 5:00 pm Sgt. Beck was advised by Stone that defendant would be
5 en route to the PD to get the CPS paperwork regarding his children. At 5:50 pm defendant left a
6 message on Stone's desk phone. The messages stated "Hello Detective Stone, this is Alan
7 Smith, uh, who you just interviewed today. Uhm, I wo...so I'm at the Bothell Police Station. I
8 wonder if you would like for me to let you into my apartment to have a look around or anything
9 else you might need from...a...DNA sample, I don't know if you need a blood sample or
10 something like that. You're welcome to those. So, if you get a chance, call me back as soon as
11 you can. Thanks. Bye." (Stone did not receive this message until February 14, 2013 when he
12 was checking his voice mail) At 6:00 pm Beck was advised that defendant was in the front
13 lobby of the PD. Beck and Detective Thompson met with defendant and went over the CPS
14 paperwork with him. During this contact defendant told Beck and Thompson that his car was
15 parked outside and that police could search it and his apartment if they wanted. It was
16 explained to defendant that there were forms to be signed if this is what defendant wanted. At
17 6:35 Beck advised Stone in a phone call that defendant was at the PD and that he was willing to
18 allow a consent search of both his car and apartment.

19 At 6:55 pm Stone and Chissus arrived back at Bothell PD and met defendant.
20 Defendant was told that the detectives had been advised that he was willing to allow a search of
21 his car and his apartment. Defendant wrote a brief statement indicating he was "initiating"
22 contact with detectives and that he did not need the presence of his lawyer while police
23 "inspected" his car and apartment (attached A). Stone then went over the Ferrier consent form
24 with defendant which defendant signed (attached B). The search of defendant's car began at
25 approximately 7:00 pm. During the course of the search a pair of unopened coveralls and a roll
26

1 of tape were located. A brief conversation ensued in which defendant stated he was planning
2 on painting an "accent wall" at his apartment.

3 At the conclusion of the search of the car defendant was asked if he would still allow
4 a search of his apartment. He indicated he would. Defendant drove himself to his apartment,
5 followed by Stone and Chissus. The trio arrived at approximately 7:30 pm. A number of other
6 detectives arrived on scene to assist in the search. A consent to search form was read and
7 signed by defendant at 7:26 pm (attached C). During the course of the search of his apartment
8 defendant was engaged in conversation by Detectives Betts and Bilyeu. During this
9 conversation the three discussed a number of topics. Betts and Bilyeu ultimately departed
10 from defendant's apartment at approximately 8:39 pm. At approximately 8:40 pm defendant
11 mentioned he was willing to volunteer a buccal swab for DNA purposes. This offer was not in
12 response to any request from police. Police accepted defendant's offer and obtained two
13 separate samples of defendant's saliva.

14 Defendant then volunteered to provide a tape recorded statement. This taped
15 statement started at 8:42 pm and ended at 9:35 pm. During the course of this taped statement
16 defendant described the earlier interview with police at the Boeing plant, how he reinitiated
17 contact with police, volunteered to a search of his car and apartment, and consented to the
18 taking of buccal swabs (attached D). At the conclusion of the taped statement police bade
19 defendant good night and left.

20 2. February 16 statement

21 On February 16, 2013, at approximately 2:45 pm, Detectives Stone and Chissus
22 contacted defendant at his apartment. The detectives knocked on the door and shook
23 defendant's hand when he answered. The detectives stated they understood that defendant
24 had been contacted by the Medical Examiner's office regarding the positive identification of
25 Susann Smith as the individual found murdered in her bathtub. They also explained they were
26 following up with various witnesses who knew Susann, to include him. Defendant invited the

1 two detectives inside. Once inside the apartment defendant indicated his displeasure that CPS
2 had custody of his children. Stone answered that both CPS and the police were doing their job,
3 to make sure the children were safe and not in any danger. Defendant then stated that "my
4 attorney said I shouldn't talk to you". Stone responded that it was defendant's choice not to
5 speak to detectives, but that the detectives were conducting an investigation of a serious matter,
6 and were hopeful defendant could help them out with information regarding people who knew
7 Susann. Defendant then indicated he would answer questions by stating "OK", and sitting
8 down.

9 Police then inquired regarding a male neighbor of Susann's, Mark Buckley, whether
10 the two could have been dating, and whether Susann was dating anyone to his knowledge. The
11 three discussed the nature of the relationship between defendant and Susann, and the general
12 manner in which they communicated. Defendant eventually told the two detectives that he had
13 been upset by the other night, and that he believed their (the detective's) job was "to traumatize
14 me". A short conversation ensued regarding Susann's work, her nicknames, and his access to
15 Susann's house. Defendant then stood up and told the detectives to leave. Defendant declined
16 any further photos of his hand, and got extremely close to Detective Stone, to the extent that
17 Stone was concerned for his personal safety. Attempting to defuse the situation Stone asked
18 about the children's carnival on February 9th. Defendant briefly answered and told the police to
19 leave again. As the detectives exited the apartment they invited defendant and his attorney to
20 contact them. Defendant indicated he did not have a lawyer. This ended the contact.

21 3. February 22 statement

22 On February 22, 2013 the detectives investigating the murder of Susann Smith had a
23 judicially signed search warrant for various electronic devices, photos of defendant's person,
24 and defendant's residence. The plan was to attempt to speak with defendant prior to the
25 service of the warrant. At approximately 8:51 am Stone and Chissus knocked on defendant's
26 door, and were allowed entry. The detectives indicated to defendant they wanted to speak with

1 him regarding the investigation. The two detectives and defendant sat at the dining room table
2 and discussed a number of topics, to include defendant's activities the last several days, his
3 concerns regarding his children and CPS, travel plans, his belief that police may have planted
4 some blood evidence near his apartment, and what he thought may have happened to Susann.
5 The conversation ended when Stone suggested that the person who had committed the murder
6 of Susann Smith must be feeling intense pain for their actions, and that person needed to know
7 they could receive grace and mercy if that person was to turn themselves in and tell their side of
8 the story. Defendant nodded, then stated "I don't have anything else to say". This comment
9 ended the interview with defendant, and the search warrant was served, with various electronics
10 being seized, photos taken of defendant, and another search of defendant's apartment taking
11 place.

12 4. June 27, 2013 Arrest

13 On June 27, 2013 at approximately 8:00 am, multiple members of the Bothell Police
14 went to defendant's home to arrest him for the murder of his wife. Detective O'Bryant and
15 Detective Sgt. Brown knocked on defendant's door. Defendant answered the door. O'Bryant
16 told defendant that he had spoken to Wendell Morris and that it was time to finish what he and
17 Wendell had started. During this contact defendant opted not to talk with the detectives and
18 was advised he was under arrest for Murder, and was handcuffed. Defendant was then
19 transported to the Bothell Police Department. Defendant was read his Miranda Warnings at
20 9:15 am by Detective O'Bryant, and invoked them. No further questioning took place.

22 LEGAL ANALYSIS

23 1. The February 12, 2013 out of custody statements made by defendant were
24 voluntarily made and are admissible.

25 It is well settled law that police are required to read a suspect his Miranda warnings
26 prior to an interview only if it is custodial interrogation by a State agent. State v Post, 118 Wn2d

1 596, 605 (1992). "Custody" for Miranda purposes is narrowly circumscribed and requires
2 "formal arrest or restraint of freedom of movement of the degree associated with a formal
3 arrest." Id at 606, citing *Minnesota v Murphy*, 465 US 420 (1984). "Interrogation" involves
4 express questioning, as well as words or actions on the part of police that are likely to elicit an
5 incriminating response. *State v Johnson*, 48 WnApp 681 (1980), citing *Rhode Island v Innis*,
6 446 US 291, 301 (1980). It is also well settled law that statements that are freely given and not
7 the product of custodial interrogation are considered voluntary and thus admissible. *State v*
8 *Minor*, 22 WnApp 480 (1979).

9 In the instant case defendant was not in "custody" for Miranda purposes during any of
10 the discussions on February 12, February 16, or February 22. There can be no credible
11 argument otherwise. All of these contacts between police and defendant took place either at
12 defendant's place of work or at defendant's home. None of the interviews took place at the
13 police station, thus there isn't the heightened scrutiny that would apply if the three interviews
14 took place at the Bothell Police Department. See *United States v Jacobs*, 431 F.3d 99, 105 (3rd
15 Cir. 2005), *State v Cunningham*, 116 Wn App. 219, 228 (2003). Defendant was not handcuffed
16 during the questioning. Detectives Stone and Chissus were in plain clothes. No weapons were
17 drawn. Defendant was told he was not under arrest. Quite frankly, at this point in the
18 investigation police did not have probable cause to arrest defendant. For Miranda purposes
19 defendant was clearly not in the functional equivalent of custody. *Beckwith v United States*, 425
20 U.S. 341-346-48 (1976). When defendant was arrested, June 27, 2013, he was handcuffed,
21 he was read his Miranda warnings, defendant invoked his Miranda warnings, and thus ended
22 any attempts at interrogation.

23 At the end of the initial interview on February 12 defendant arguably attempted to
24 assert his right to counsel by stating "I think I may need to talk to an attorney". However, a
25 suspect's request for counsel must be unequivocal. *Davis v United States*, 512 US 452, 458-59
26 (1994). The statement defendant made on February 12 is very similar to the phrase at issue in

1 Davis ("maybe I should talk to a lawyer"). The rule announced in Davis is that when a police
2 officer is confronted with an equivocal or ambiguous request for counsel he may simply proceed
3 with questioning. Id.; State v Radcliffe, 164 Wn2d 900(2008) (repudiating the clarification rule
4 adopted in State v Robtoy, 98 Wn2d 30 (1982).

5 There may be some claim that this statement was an unequivocal invocation and
6 thus would prohibit any future questioning of defendant. However, "[t]he need for Miranda
7 protection does not exist except in a custodial interrogation situation. The right cannot be
8 invoked before it exists." State v Warness, 77 WnApp 636, 641 (1995). In any event, police
9 honored defendant's assertion (however one wants to term it), and quit questioning him at the
10 Boeing plant after this comment. Defendant ultimately drove away from work in his own
11 vehicle. Assuming arguendo, that defendant was in "custody" for Miranda purposes, and that
12 he unequivocally asserted his right to counsel, it was defendant who next reinitiated contact with
13 police at the Bothell Police Department. Once a suspect requests counsel, police must cease
14 questioning the suspect and cannot try again until counsel has been made available or the
15 suspect himself reinitiates contact. Edwards v Arizona, 451 US 477 (1981). This is precisely
16 what occurred in the early evening hours of February 12: defendant called Detective Stone's
17 direct number and left a message offering the police permission to search his belongings,
18 defendant then drove to the Bothell Police Department, and offered the police the opportunity to
19 search his car and apartment, signed off on various consent forms to this effect and ultimately
20 gave a tape recorded statement that outlined the voluntary nature of the contact on that date.

21 2. February 16 and February 22 out of custody statements were voluntary and
22 admissible

23 Once a suspect expresses a desire to remain silent the police must scrupulously
24 honor the request and cease questioning. Police may, however, after the passage of a
25 significant period of time re-approach the defendant and resume questioning. See, e.g.
26 Michigan v Mosley, 423 US 96 (1975), State v Brown, 158 WnApp 49 (2010). In Brown the

1 questioning that occurred was custodial in nature, and was preceded by proper Miranda
2 warnings. After defendant invoked his right to remain silent ("I don't want to talk about the
3 guns") police waited two hours, and then reinitiated contact, re-Mirandized defendant, and
4 obtained a confession. The two hour hiatus was judged to be sufficient. Like the right to
5 counsel, suspect's invocation of the right to remain silent must be unequivocal. *United States v*
6 *Burns*, 276 F.3d 439, 441-42 (8th Cir. 2002). A significant body of federal law indicates that a
7 police officer who is confronted with an equivocal or ambiguous request to remain silent may
8 simply proceed with questioning, similarly to an equivocal request for counsel. See, e.g.
9 *Simmons v Bowersox*, 235 F.3d 1124, 1131 (8th Cir. 2001), *Bui v DiPaolo*, 170 F3d 232, 239
10 (1st Cir. 1999), *United States v Mills*, 122 F3d 346, 350-51 (7th Cir. 1996).

11 As mentioned above, there can be no credible claim that defendant was in custody
12 during the statements given February 16. During the discussion with police on February 16
13 defendant became agitated and physically confronted Detective Stone, but never told them he
14 no longer wished to speak to them. When told to leave defendant's home the police did so.
15 There was no assertion, equivocal or otherwise, on February 16 to remain silent. During the
16 early portion of the interview with police defendant stated "my attorney said I shouldn't talk to
17 you", but then went ahead and did exactly that. This statement cannot be construed by any
18 tortured construction to be an unambiguous request for counsel.

19 Likewise, on February 22 defendant was not in custody during the questioning by
20 Stone and Chissus. At no time prior to the end of the interview did defendant assert in any
21 fashion that he was invoking either his right to counsel or silence. When defendant stated "I
22 don't have anything else to say", police ended the interview as this was a clear invocation of
23 defendant's right to silence. The various search warrants were then served on defendant's
24 person, his apartment, various electronics, and his car.

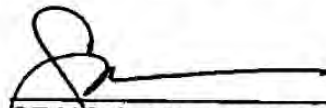
1 CONCLUSION

2
3 The various statements that defendant made to the police on February 12, February
4 16, and February 22, 2013 were all non-custodial statements that were voluntarily made.
5 Defendant did not unambiguously asserted his right to silence until the conclusion of the
6 February 22 interview, nor did he unambiguously assert his right to counsel until his arrest June
7 27, 2013. All of the statements outlined above should be admissible in the State's case in chief.
8

9
10 DATED this 25 day of March, 2014.

11 Respectfully submitted,

12 MARK K. ROE
13 Prosecuting Attorney

14 
15 _____
16 CRAIG S. MATHESON, #18556
17 Deputy Prosecuting Attorney
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ATTACHMENT A

BOTHELL

POLICE DEPARTMENT

CASE NUMBER

13.3354

Time:

18.50

Date:

2-12-2013

Place:

Botell Police Department

STATEMENT OF

Name:

Alan Smith

Address:

1630 228th St SE

D.O.B.

07/19/1975

Employed:

Boeing-Everett

Tel:

206-369-7614

I am reinitiating contact with the Botell
detectives. I do not feel that I need
an attorney present for inspecting my vehicle
or apartment.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

I hereby agree to appear in Court and testify to the facts contained in this statement should such testimony be necessary for prosecution.

Witnessed:

[Signature] #0087

Signed:

[Signature]

ATTACHMENT B

Case Number: 13-3354

BOTHELL POLICE CONSENT TO SEARCH



I, Allen Smith, do authorize officer(s) of the Bothell Police Department or their representatives to search the property described as:

Dark Blue Mercedes ML 320 parked
in front of the Bothell Police Dept.

I understand that I have the right to refuse the search, that I have the right to limit the scope of the search, and that I have the right to stop the search at any time. I further understand that I have the right to refuse permission to make such search and require the officer(s) to obtain a search warrant.

The property is owned by me and/or under my care, custody, or control. I further realize that any items found may be used as evidence against me in subsequent legal proceedings.

My consent has been given knowingly, freely, and voluntarily, without threats of duress against my person or promise or reward.

Officer: [Signature]

Date: 02/14/13

Time: 18:50

Consenter: [Signature]

Date: 02/12/13

Time: 18:50

Consenter: _____

Date: _____

Time: _____

ATTACHMENT C

Case Number: 13-3354

BOTHELL POLICE CONSENT TO SEARCH



I, AILAN SMITH, do authorize officer(s) of the Bothell Police Department or their representatives to search the property described as:

MY APARTMENT @ 1630-228 ST ST SE #J-304, BOTHELL.

I ALLOWED DETECTIVES TO REMOVE A HATCHETT FROM MY LIVING ROOM. PC/AL

I understand that I have the right to refuse the search, that I have the right to limit the scope of the search, and that I have the right to stop the search at any time. I further understand that I have the right to refuse permission to make such search and require the officer(s) to obtain a search warrant.

The property is owned by me and/or under my care, custody, or control. I further realize that any items found may be used as evidence against me in subsequent legal proceedings.

My consent has been given knowingly, freely, and voluntarily, without threats of duress against my person or promise or reward.

Officer: [Signature]

Date: 2/12/13

Time: 1926

Consenter: Alan Smith

Date: 02/12/13

Time: 19:26

Consenter: _____

Date: _____

Time: _____

ATTACHMENT D

BOTHELL POLICE DEPARTMENT
RECORDED WITNESS STATEMENT FORM

NAME (last, first middle) ALLAN D. SMITH DOB _____
TREET _____ CITY _____
TELEPHONE H _____ W _____ DATE/TIME _____
DRIVER LICENSE # _____ STATE _____

OFFICER STATEMENTS:

This is the statement of ALLAN SMITH Date of Birth: 7/19/75
The Date is 2/12/13 and the time is now 2:42. I am _____
of the Bothell Police Department. This statement is being recorded at _____
There are 5 persons present in the room. For purposes of voice
identification, would each person present besides Mr/Ms/Mrs _____ who is
giving the statement, state your name and occupation, one at a time.

WITNESS STATEMENT:

- Q: ALLAN SMITH, do you understand that this statement is being audio
and/or video recorded?
Q: Do we have permission to record your statement? ☒
Q: Would you spell your name? ☒
Q: Would you give your address please? ☒ 1636-228th ST SE # J-304
Q: Would you give your home telephone number? C-206-369-7614
Q: Would you give your work telephone number?
Q: Would you give me your date of birth?

QUESTIONS AT END OF STATEMENT:

- Q: Do you have anything else you would like to add to this statement?
Q: Would you please read the following statement out loud and indicate yes or no?

I, ALLAN SMITH, declare that the facts stated on this tape are true and correct to
the best of my knowledge. My statement has been made freely, voluntarily, and without threats or
promises of any kind.

- Q: Would you please sign this document on the line indicated:

Signature: [Signature]

Witness: [Signature]

- Q: The time is now 2:35 and this concludes the statement.

**STATEMENT OF ALAN J. SMITH
HOMICIDE INVESTIGATION
FEBRUARY 12, 2013**

13-3354

Chissus: (Unintelligible) questions. And this is Detective Chissus with the Bothell Police Department. This is reference case 13-3554. Uh..this statement..this statement is of Alan Smith and Alan, your date of birth is?

Smith: July 19th, 1975.

Chissus: Okay. The date is February 12th, 2013 and the time right now is 20:42 hours. Uh..I am Detective Chissus of the Bothell Police Department. This statement is being recorded at uhm..Alan Smith's address, inside his apartment. There are five persons present in this room. For (unintelligible).

Female: We're leaving.

Chissus: Okay, there are three persons present in this room. For purposes of voice identification, would each person present besides Mr. Smith, who is giving this statement, state your name and occupation.

Stone: Uh..Detective Stone, Bothell Police Department.

Chissus: And Detective Chissus with the Bothell Police Department. So Alan, do you understand that this statement is being audio recorded?

Smith: Yes.

Chissus: Okay, do we have your permission to record your statement?

Smith: Yes.

Chissus: And would you spell your name for me?

Smith: Uh..first name, A-L-A-N. Uh..middle name J-U-S-T-I-N, last name, S-M-I-T-H.

Chissus: Okay, and can you give me your address please?

Smith: Uh..1630 uh..228th Street S.E., uh..Apartment J-304.

Chissus: And do you have a home phone number?

Smith: Uh..

Chissus: Just the cell number? 2..

Smith: 206-

STATEMENT OF ALAN J. SMITH
HOMICIDE INVESTIGATION
FEBRUARY 12, 2013

13-3354

Chissus: Uh-huh.

Smith: 369-7614.

Chissus: Okay, and you already gave me your date of birth so we'll..we'll skip that one. Uhm..all right so..we just..Detective Stone and myself wanted to ask a few questions of you uhm... Detective Stone, do you want to start off?

Stone: Okay, yeah, first thanks for giving a statement, we really appreciate it.

Smith: That's okay.

Stone: I understand it's been a very long day for you, you've been working and such.

Smith: Yeah.

Stone: Okay, and then uh..just for purposes...okay..just for purposes of the tape, uh..did we..did we come out and talk to you today, earlier today, where you work.

Smith: Yes you did.

Stone: And that was at Boeing?

Smith: Can I get a jacket?

Stone: Okay.

Smith: (Unintelligible)

Stone: All right and that was..was that Boeing up..plant up in Everett?

Smith: Yes it was.

Stone: Okay, and uh..did we speak in one of the conference rooms in one of the buildings?

Smith: Yes we did.

Stone: Okay, do you recall what we spoke about?

Smith: Uh..we spoke about uhm...a body that was found in Su..the house that Susann and I own.

STATEMENT OF ALAN J. SMITH
HOMICIDE INVESTIGATION
FEBRUARY 12, 2013

13-3354

Stone: Okay. Do..do you uh..do you recall any of the other questions that I..we asked you? Detective Chissus and I?

Smith: There were lots and lots of them uhm...so..

Stone: Okay.

Smith: Uh..just..a moment ago you asked or you mentioned where..where and when Susann and I met.

Stone: Oh, uh-huh.

Smith: And that was uhm..when..I think the year was 1999 uhm..when I was attending uh..University of Colorado Boulder. She was a foreign exchange student and I was uh...getting..going through an undergrad degree uhm...I learned German upon getting to know her and I wanted to go experience a little bit of Germany and I did..first I got a job in Austria and uh..found that I couldn't really pay bills there so I..I went to uh..Germany for a while and made a little bit more money there uhm...thereafter we did a world tour and we ended up in the United States and finally here in uh..in the Bothell area.

Chissus: And..what year was that..that you got to Bothell?

Smith: That we got to Bothell was 2000..wait..2009 uh..when..just before Felix was born so it would have been uhm...wait..pardon me...let me get this exactly right uh..okay, so...Felix was born in September 2009 uh..we bought the house shortly before that uh...sorry this is..this is a little bit muddled in my head uhm..let's see...oh..he was born..just (laugh) I need a pause here.

Chissus: That's all right, we can..we can move on, we don't need...

Stone: How would ya..how would you explain your relationship with Susanna.

Smith: Well it was complicated, you know, we..we had communication troubles uhm..there were fights in front of the kids that ultimately led to separation.

Stone: How long have you been separated?

Smith: Uhm..a little over a year now.

Stone: Okay. And..when we were talking to you up in Everett, did you mention that you guys had been through some counseling?

STATEMENT OF ALAN J. SMITH
HOMICIDE INVESTIGATION
FEBRUARY 12, 2013

13-3354

Smith: Yes we had.

Stone: How did that go?

Smith: It was interesting for a time and uhm...we..it..really didn't..it didn't uh..drastically increase the quality of our relationship and we finally..I mean, I decided to move out uhm..when I came to the conclusion that we were back to square one basically.

Stone: Could you tell us what square one is? What does that mean? Square one.

Smith: Oh, good point. Uhm..well...we uh..at that time I think we..we had the expectation that we would make each other happy as opposed to uhm..just..being uhm..nice to one..one another and uh..enjoying each other's company so..it's..like I..I will do this for you and in return, you will be happy. make you happy literally and so uh..we ended up just doing in..in counseling it was a lot of he said/she said which is kinda the same as we were doing, you know, in our private lives uhm..and..so the..the counseling itself was an interesting experience and..and uh..it enabled us to kinda divert our attention to something else and then eventually we got back to well uhm..I do all this stuff and she will be happy and I (unintelligible) stuff and he won't be happy.

Stone: Okay you mentioned uh..that you had decided to move out so where..when was that?

Smith: That was in November 2011. Yeah. Okay and uh..I moved..I moved to uh..the..the North Creek area of Bothell.

Stone: Okay.

Smith: Uh..

Stone: Did you move with some friends or an apartment or...

Smith: Uh..into an apartment.

Stone: Okay. Do you remember what the apartment name was?

Smith: I can't remember it right now. Sorry.

Stone: Okay. Uhm..what..what would you where..what would you consider..the status of your relationship right now?

STATEMENT OF ALAN J. SMITH
HOMICIDE INVESTIGATION
FEBRUARY 12, 2013

13-3354

Smith: Right now? Uhm...it's...collegial.

Stone: Okay.

Smith: We're...rather formal.

Stone: All right. Are you...where are you as far as your divorce is...it nearing final? Has paperwork been filed? Has...is there a parenting plan?

Smith: Yes.

Stone: Are courts involved?

Smith: Yes, there's a parenting plan, the courts have been involved uhm...we are nearing final, we haven't yet set up a date for a mediation but that...come...pretty soon uhm...I don't know exactly when and the...the final is uh...I think it's April roughly, would be finalizing.

Stone: Okay. Uh...so today at Boeing did we...did I ask you where you were this weekend, this past weekend, is that right?

Smith: Uh...you did.

Stone: Okay, can you...can you tell us again what you told me?

Smith: Uhm...so I arrived from my business trip at Sea Tac uh...12...roughly 12:30 in the afternoon uhm...Saturday the...9th, I think. And...drove over to the house to pick up the kids uhm...it was really close to 2:00 and I got there. I stayed until about 2:30 uhm...and gathered a couple little things for the kids uh...and then I...I left...where did I go? I think we went out to play and we went out to eat lunch. We slept here in my apartment uhm...and then uhm...let's see...on Saturday...I can't remember what the full itinerary was...oh...I'm sorry...so on Sunday uh...so Sunday morning I went to church at about 9:00 a.m. with the kids uh...dropped the kids in day care at church and then I was doing greeting, part of the greeting team for 9:30 service. The 9:30 service was about, I guess it's an hour and a half long roughly uhm...then we went to oh...I went to uh...to the Puget Sound Blood Center to attempt to donate blood with the...with a group. We have a...a...what we call (unintelligible) groups uhm...this one is called Sunday Freaking Sunday and their thing was...go donate blood uhm...and then go out for lunch afterward so I donated...a bit of blood, I wasn't too successful, my blood was too thick, clotted so...uh...they couldn't use that uh...then we went to lunch at the Rock in Lynnwood uh...and thereafter I believe the next thing

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we did was go shopping for uh..for groceries for dinner uh..where we bought some salmon and broccoli, this is Sunday uhm...made some..made some dinner and uh..watched some TV and..and went to bed Sunday night. Uhm...woke up Monday morning uhm..got them over to daycare uh..shortly before eight and then I drove to work, got there about 8:30 uhm..worked, went to pick up the..Monday... uhm..let's see... what was the exact itinerary for picking up kids uhm...I picked them both..picked them both up from daycare in the afternoon uhm..about 5:20, I think, somewhere around..I think it was..yeah, somewhere in that realm..uh..then we basically ate dinner and watched a little TV, read..a little bit, watched less TV than we did on Sunday night, went to bed uhm..woke up this morning uhm..what..I guess around seven, I took the kids to daycare again, shortly before eight and got to work about 8:30 again. Uhm..did my work day uhm..oh..I went..off site for some lunch at Taco Bell uhm...and..

Stone: (Unintelligible)

Smith: Yes?

Stone: Go ahead, I'm sorry.

Smith: Yeah, okay. Uhm...and also went to Home Depot and bought the suits uhm...

Chissus: The suits?

Smith: The ones you were asking about.

Chissus: The..

Smith: The..the painting suits.

Chissus: Okay, the suits in the car.

Smith: Yeah.

Stone: That was today?

Smith: Today, yeah.

Stone: At what time?

Smith: Uh..that was..around..between..it was between 1 and 2.

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Stone: Okay. Uhm..

Smith: And..

Chissus: Uh-huh.

Stone: I'm sorry, I was listening to you there, thank you.

Smith: All right.

Stone: And..so..Sunday, about what time do you think you went to bed?

Smith: Uh..around 9:30, something like that.

Stone: 9:30? Okay, and where did you sleep Sunday night?

Smith: Here.

Stone: And.

Smith: With..with the kids.

Stone: You're pointing to the floor here in the living room?

Smith: Yes, sorry uhm...this is being recorded, yeah, uh..floor of the living room, I had the..the kids with me. They slept on both sides of me.

Stone: Yeah. Okay. Uh..

Chissus: How about last night? What was the..time you guys go to bed?

Smith: Last night we went to bed around 9.

Chissus: Okay. Same...

Smith: Again, same arrangement.

Chissus: Okay.

Smith: You know, sleeping together.

Stone: Okay, so uhm..when's the last time you talked to Susanna? You know am I pronouncing her name right?

Smith: Susann, yes.

Stone: Susann.

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Smith: Uh-huh.

Stone: When's the last time you talked to her?

Smith: I spoke with her on Saturday.

Stone: Okay.

Smith: Was the last time.

Stone: Where was that at? I..I don't know if we...said that on the...on the tape here.

Smith: That was at the house.

Stone: All right, and what were you doing there at the house?

Smith: Picking up the children.

Stone: Could..describe..tell us what was going on there?

Smith: Uh..there was a party with some friends, there was the..the neighbor from across the street, Mark Buckley and his daughter Trinity, uhm..there was Oksana...

Stone: Uh-huh.

Smith: And..her son, was it..Brett... Oksana and her son. They were uh..celebrating Fasching..which is essentially Mardi Gras.

Stone: Uh-huh.

Smith: Uh..they had..Su..they had costumes on. In fact, uhm..and had..made a big construction project in the living room there and...

Stone: Okay, so how long did the party go til?

Smith: It went til..just about 2:00 and then uh..when I was talking to Susan, we uh..or actually I..I took the kids and she asked us all..she..she kinda whisked us out the door so that she could go to her cleaning. She had me take uh..a jacket and some other clothing across the street to..Mr. Buckley.

Stone: Yeah. So (unintelligible) to Mr. Buckley. Sorry.

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Smith: To Mark the..the neighbor across the street. So..his daughter Trinity had left a few things.

Stone: Oh...

Smith: At the house.

Stone: So how long were you at the house though? I mean, were you inside the house?

Smith: About half an hour, yeah, inside the house. Yeah.

Stone: Okay, so you're in there and..were there other adults in the house?

Smith: Yes there were. Mark and Oksana were there.

Stone: Okay.

Smith: Yes.

Stone: And who is Mark and Oksana... Oksana?

Smith: Mark is the neighbor across the street. Oksana is a neighbor is uh..lives around the corner on one of the cul-de-sacs. Uh..just about..about a quarter mile from the house.

Stone: Okay and uh..so you left there about 2:30?

Smith: Yes.

Stone: So you were in the house for that half hour, where were you at in the house?

Smith: Uhm..I was in the living room, hallway, restroom, and two bedrooms.

Stone: Okay.

Smith: Oh, there's another section of the house which isn't really used because it's unfinished but I didn't go in there.

Stone: Okay.

Smith: So the..which is way..go..the second half of the garage so the..yeah. The garage and the..the mock garage which used to be a family room.

Stone: Okay, so..Susann uh..

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Chissus: (Unintelligible)

Stone: And you then..she's comfortable with you moving around the house then?

Smith: Yeah.

Stone: Okay. Can you tell us why you were in the bedrooms and in the hallway and all?

Smith: Uh-huh. Uh..the kids were running back and forth so they're..uh..their bedroom is at the end of the hallway uhm..so from the front door all the way to the left and then uhm..mom's bedroom is directly opposite that and uh..there were some new family pictures that I looked at uh..and I was playing with the kids and I went to the restroom with Felix. He wanted to go pee and...uh..wanted to show me.

Stone: Okay. I'm gonna..ask you can you uh..how comfortable do you feel about just drawing sketches, the inside of the house and where you were, do you mind doing that?

Smith: Okay. Keep my memory straight. Yes, I was in the kitchen as well. Okay, so..let's see..front door, uhm...here's a front door, here are..here's the large window and here's the separating wall uhm..and another door goes to this..this unfinished area and the garage so..unfinished...okay, and then so..here's the dining room, kitchen...

Stone: How about the bedroom.

Smith: Yeah. So here's the..sort of island..well not..sort of a bar...

Stone: Uh-huh.

Smith: Separating the..kind of doorway. Here's the back wall and then let's see..here's the laundry area, another wall...

Stone: Okay.

Smith: Okay. Uhm..okay, bath...and garden bedroom as we call it.

Stone: It doesn't have to be sketch, right.

Smith: Sure..and..okay, so here's the..uhm...that's a (unintelligible) yeah, not to scale (unintelligible) okay..so here's the..the alcove, and it was like that

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and the hallway so here's a..here's a room..this is the workroom that Susann uses, I was not in here.

Stone: Uh-huh.

Smith: And then here's the kid's room. I was in here so..how about I do checks for places I was and X's for places I was not.

Stone: Sure.

Smith: Okay, so..not..was..was..was..hallway..was..was..and..was..and living room, there.

Stone: Okay so...

Smith: I was in these areas, just not in there.

Stone: How long have you guys owned that house, been in that house or buying that house?

Smith: Right uh...

Stone: When did you move into that house?

Smith: Shortly before Felix was born.

Stone: So when was that?

Smith: He was..December..let's see..well shortly..shortly after he was born so..December 2009.

Stone: Uh-huh.

Smith: Moved in so..

Stone: So you lived in that house how long before you moved out?

Smith: Uh..let's see..December until..November 2011. So..almost..almost three years.

Stone: Three years. Uhm..where did uh..Susann sleep in that house.

Smith: Garden bedroom.

Stone: Garden bedroom. Was that your bedroom? Was that your guys' bedroom?

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Smith: Yeah.

Stone: Okay. Uhm...so you were just in that..in that room..Saturday with..

Smith: Yeah.

Stone: With..with the kids?

Smith: Uh..no, with Susann.

Stone: With Susann.

Smith: Uh-huh.

Stone: Okay, what were you guys..what were you guys doing in there?

Smith: Looking at some pictures she had some..if I recall right, she had some neat framed family pictures on the wall. You know, just briefly.

Stone: Did she invite you in there?

Smith: Uh-huh.

Stone: Okay. Uhm...how's that house heated?

Smith: Uh..there's an oil furnace and a uh..a uh..high efficiency wood stove.

Stone: (Unintelligible)

Smith: Ga..fireplace insert so yeah, that would be..here...so there's a fireplace and here's the..well we'll call it a stove.

Stone: And how's it fueled? When..when it's high efficient, what..what..

Smith: Wood.

Stone: Okay, what kind of wood?

Smith: Uhm..stuff that doesn't have excessive amounts of pitch in it. Let's see uhm...

Stone: Go ahead.

Smith: Uhm..Douglas fir is a really good one, what else? Uhm..

Stone: So..

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Smith: Alder is not so good.

Stone: So yeah, standard wood...not a wood pellet stove.

Smith: Right, right.

Stone: Okay. And so..did you install that or..was it in the house when you bought it?

Smith: Yeah. Yeah, we had it installed.

Stone: Okay. Uhm..so what was..Susann..did she have anybody there with her? Did..was she..did she have any other male companions that you knew of? Maybe even at the party?

Smith: She..yeah, I..I kinda suspected that she and Mark were dating for a while but she said no they weren't uhm..and she..she has..she's not introduced me to any of her boyfriends and I haven't introduced her to any of my girlfriends.

Chissus: Do you know that she's been dating or...? Or has she...

Smith: I don't know. I don't know.

Chissus: Okay.

Stone: Do you know anybody who would want to harm her? Susann?

Smith: I don't know.

Stone: Okay, if you were us, where would you start to look?

Smith: Starting to look...uhm...well Sunday she should have been at church, I would expect so maybe uhm..with the choir uhm..Carrie Mossey is a good contact for that.

Stone: Who's..who's Carrie Mossey?

Smith: Carrie Mossey is the wife of the choir director.

Stone: Does she go to the same church as you do, does Susann?

Smith: No.

Stone: What church does she go to?

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Smith: Uhm..Saint Theresa of Calcutta yeah..which is Woodinville.

Stone: Is that the church you two went together?

Smith: Uh-huh.

Stone: When you guys were together?

Smith: Yes, yes.

Stone: So she stayed in that church.

Smith: Yes.

Stone: So..again, thanks Alan, I appreciate this, I know it's getting tiring but..uhm...

Smith: Just..Mark and Oksana..if you're asking where to start.

Stone: Okay, what uhm..I just like to ask you a little bit more about your relationship and again, were you paying..are you paying child support right now?.

Smith: Yes.

Stone: How much are you paying?

Smith: It's roughly eleven hundred monthly.

Stone: Have you..paid any more before that? How long have you been paying eleven hundred?

Smith: Uhm..let's see...I think it was..starting in Nov..starting this past November uh..2012 and so..we initially separated, we had an agreement that I would pay \$1000 a month and then the court ordered child support plus maintenance was I think \$1128 for child support plus 600 maintenance uhm..and then the maintenance expired in November and so I've been paying 1128.

Stone: So..for a while there you..

Smith: Since then.

Stone: Paying almost close to two thousand bucks a month?

Smith: Yeah, just about. Pretty close, pretty close.

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Stone: And then how are you guys splitting up the house payment?

Smith: Uh..she's making the house payment so it's..you know..

Stone: Did she try to get..did..did you have to pay her some of your Boeing retirement, out of your retirement as well?

Smith: Uh..probably will, yeah.

Stone: Okay. Was there some documents that you probably (unintelligible) I'm asking, are you gonna..did she..

Smith: Yeah, we had agreed to..to split that equally.

Stone: Okay, was she working?

Smith: Yeah.

Stone: What was she doing?

Smith: Well she wasn't working last year before the..the..separation. Uh..but she did get a job upon my sepa..upon separation..my leaving uh..and to the best of my knowledge, it's translating work uhm..I know that she works 32 hours a..a week and I don't remember..I don't remember the company name 'cause it's..it's in all the divorce paper..kinda..if I want to look something up, I go look it up..uhm..and..she had been working translation before and I think that's what she's working now but I couldn't say for certain.

Stone: Okay. What did the..so...earlier tonight or earlier at Boeing, I asked you if you had anything to do with harming Susann, is that right?

Smith: Yes you'd asked.

Stone: Do you remember what your response was?

Smith: Uh..I said...no and I think you followed it up a little bit and then I said, well for..uhm...I think you followed up by asking me more about why I might want to harm her and things of that nature and at that point uh..I said, I..I would like an attorney present to address those questions.

Stone: Okay, uhm..do you think you might have said something like, I think I might like to have an attorney here? I mean, just difference...

Smith: That's...

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Stone: But..we..you did mention an attorney...

Smith: Something..yeah, I said something along those lines.

Stone: Okay but then later on when you went down to the police station to inquire about your children, did you speak to..a police officer down there?

Smith: Yes. I spoke to uh..a detective and a sergeant and I can't remember their names, yes.

Stone: What did..what did you tell them (unintelligible) about?

Smith: I said that they're welcome to search my apartment.

Stone: Okay. How about your car?

Smith: Yes.

Stone: Okay, so then did I come down and talk to you?

Smith: Yes you did.

Stone: Okay, can you tell us for the purpose of the tape, the..the gist of that conversation?

Smith: Uhm...you asked me about some items in the car uhm...some suits and well..I don't know if it was you or your colleague uhm...some uh..painting suits and a gas can uhm...and you also asked me about a hatchet that you found uh..in my..sort of kindling box uhm...you asked me a fair amount about..about..wood and uhm..the size that..that I burn here in the fireplace.

Stone: Did I ask you that..that..at the police station?

Smith: No.

Stone: Okay, that's what I was talking about. I'm sorry Alan to interrupt you. Uh..I'm trying to get to the point where..you..did you write us a statement, just..just for the purpose of the tape..this is why we're back here again, did you write us this statement that says hey, you wanted to reinstate contact with us, you understood that you...

Smith: Yes I did. Yes I did.

Stone: Okay, and so that you understood that...right?

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Smith: Yes.

Stone: Okay. I'm gonna show you something, this is what you wrote. Is this the statement..this real quick statement that you wrote...

Smith: Yes.

Stone: Down there, right? Can you just read that for the purposes of the tape?

Smith: I'm reinitiating contact with the Bothell detectives. I do not feel that I need an attorney present for inspecting my vehicle or apartment.

Stone: Okay. And then uh..we came..after we uh..you signed the consent to search for your car, did we come up here to your apartment?

Smith: Yes.

Stone: And you signed another consent to search, is that right?

Smith: Yes.

Stone: Okay, then we came to the apartment and we did ask you some questions about the hatchet, right?

Smith: Yes.

Stone: Okay. So why don't you..just real quick, why don't you tell us about why the hatchet uh..do you have an injury to yourself?

Smith: Oh yeah, I have uh..swelling in my left hand where my son hit me, he hit me uhm..across the meat of the hand and up into the knuckle of the middle_finger.

Stone: Right, what did he hit you with?

Smith: The hatchet.

Stone: Okay, did you show us that hatchet?

Smith: Yes you did.

Stone: Okay, and then you allowed us to take the hatchet, is that right?

Smith: Yes I did.

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Stone: Okay, and then later on we..uh..or when..I'm sorry, I know I'm all over the board but I just want to get..get things right. So when we were at Boeing and we were talking to you originally, I..I did explain to you that..that DNA and uh..that we were going to have the..Washington State Patrol Crime Lab Scene..Lab come out to the house and process the scene and collect evidence..that evidence could be forensic evidence to include DNA, is that right?

Smith: Yes you did mention it.

Stone: Okay, so then..now let's go back..now we're at your apartment and you consented for us to take a DNA swab of your mouth.

Smith: Yes.

Stone: (Unintelligible) of your mouth, is that right?

Smith: Yes I did.

Stone: And did I take two swabs of your (unintelligible)?

Smith: Yes you did.

Stone: Okay, and you consented to that, is that right?

Smith: Yes I did.

Stone: That's about it for me, did..did you have any questions Detective Chissus?

Chissus: Yeah, I just wanted to go back the uh...you had talked about uhm...you didn't think that Su..Susann was dating anybody that you were aware of or she didn't tell you anyway.

Smith: No, she didn't tell me about it.

Chissus: Okay, anything she would have told you if she was dating somebody?

Smith: No, she wouldn't have.

Chissus: You don't think that would have been...

Smith: No I...I..I don't feel that it's appropriate for me to introduce my girlfriends to her and thus I wouldn't expect her to.

Chissus: Okay.

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Smith: If she has boyfriends to me..you know.

Chissus: Okay. So..so you..obviously you haven't introduced girlfriends to her as well..same..just what you're talking about, right?

Smith: I..I introduced one..at one point that..it..seemed very..awkward and inappropriate and so I..I..haven't uh..introduced subsequent girlfriends.

Chissus: Okay. Okay. And who..who was that girlfriend that you introduced her to?

Smith: Uhm..her name was Corrie uh...(long pause) I may not even know her last name.

Chissus: Uh-huh. Was it somebody you dated for just a little bit or...?

Smith: Yeah, just a little bit.

Stone: Are you looking at your uh...

Smith: Yeah.

Stone: Your smart phone right now?

Smith: I am.

Stone: Are you trying to..you think you have Corrie's name in your smart phone, address book, is that what you're doing?

Smith: Yeah.

Stone: For the purposes of...

Smith: Yeah, last name is Rivas, R-I-V-A-S.

Chissus: Okay. Do you have a phone number for..for Corrie?

Smith: Yes, it's 523..

Chissus: Uh-huh.

Smith: 530.

Chissus: Uh-huh.

Smith: 2621.

Chissus: Okay, 523..that must be..is that...

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Smith: No she's..uh..

Chissus: Colorado or something?

Smith: When..well when..when we were dating, she was living in Lynnwood so uh..I don't know.

Chissus: You don't know where..

Smith: Where she brought the number...

Chissus: Okay. Okay. And how..how long did you guys date? Just a couple weeks or something?

Smith: Yeah, I..think about three weeks.

Chissus: Okay. And who..who else have you dated?

Smith: Uhm..let's see..uh..wow..I don't remember all of their names. Uhm..there was a..a Turkish girl that I met at Green Lake and I..can't remember her name, that was only one night.

Chissus: Okay.

Smith: Uhm..there was uhm..let's see...what's her name? Tsonsera ...uhm..Rhodes who was my most recent.

Chissus: That's not the Turkish girl?

Smith: No.

Chissus: Tsonsera?

Smith: Tsonsera, she's from Bellingham. So..we met at a Hall..Halloween party this..this past Halloween.

Chissus: Okay. All right.

Smith: So it's T-S-O-N-S-E-R-A-Rhodes, R-H-O..I'm looking at my smart phone once again.

Chissus: Right on.

Smith: To get her last name.

Chissus: That's why they're smart.

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Smith: Smarter than I am. T-S-O-N-S-E-R-A. last name R-H-O-D-E-S. Phone number 360-319-1170.

Chissus: 1170, okay. Anybody else? Anybody else you've dated?

Smith: Uhm...hmm...let me see...

Chissus: I'm not saying that three's not a good list, that's a good list but I'm just...

Smith: Yeah, it's not too bad uh..

Chissus: And do you keep..keep in touch with any of 'em?

Stone: Can I have that?

Smith: What would you like? Oh the pen?

Chissus: (Unintelligible)

Smith: Uh..I keep in touch with Tsonsera, we haven't..we haven't spoken in a couple weeks.

Chissus: Okay.

Smith: Just occasionally. Text, whatever. Uhm...(Unintelligible).

Stone: Hey Alan.

Smith: Yes sir.

Stone: How do you feel if something's happened to..Susann?

Smith: Oh uhm...as..if something happened to me uhm...I..uh..angry and despondent...hurt..hurt..(pause) confused, really...uh..kind of scared, really scared. I mean...if..something happened to her, something could happen to me and what's going to happen to my kids? That's really just..what..I..I really..am..scared for my kids right now. Uhm...just..oh..just like..terror imaging something happening to Susann.

Stone: What..what do you think...

Smith: If some...

Stone: Happened to her?

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Smith: You..you haven't told me anything uhm..except there's a lot of interest in hatchet which suggests a lot of violence maybe...terrifying actually.

Chissus: The interest in the hatchet is more towards your injury.

Smith: Really.

Chissus: Yeah.

Smith: Okay. Okay.

Stone: Who do you think is in... Susann's home right now? We told you that...

Smith: I'm...

Stone: We believe that there's a dead body in there, who..who do you think is in there?

Smith: I..I feel that..I feel that it's Susann.

Stone: Can you tell us why?

Smith: It just..it f..I mean..because..she hadn't been to work, I haven't heard from her and I mean..I..I don't see her having a lot of people overnight uhm..and I could be..I could be wrong but if there's..if there was one person staying overnight then where's Susann? And I sent her an email yesterday and she didn't respond. I mean, I wasn't really..requesting a response but uhm...I don't know..I..I'm tempted to text her but..I don't know if that's..

Chissus: What was the email about?

Smith: Oh..it was about uhm...preschool for Felix.

Chissus: Okay.

Stone: Uh..let's go back to the house, when you were in the house yesterday or... Saturday..when you were in the home Saturday uh..you said you were playing around with the kids, do..do you think..did you ever fall when you were playing around with the kids?

Smith: That's possible, yeah.

Stone: Okay, so it's possible?

Smith: Possible that I fell. I..we..we tussled a little bit.

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Stone: Okay, do you think you may have cut yourself or anything like that while you were playing around with the kids?

Smith: Uhm...I don't think so, no.

Stone: Okay.

Chissus: You said that..you'd mentioned that you hadn't heard from her, how often...

Smith: (Unintelligible)

Chissus: Do you..do you guys talk?

Smith: Uhm..oh about three times a week.

Chissus: Okay, and when..you'd last talked to her on Saturday but you haven't...

Smith: Yes.

Chissus: Have you had..no phone calls with her since then or...?

Smith: No, we haven't had phone calls.

Chissus: Okay.

Smith: Normally she would call me to talk to the kids.

Chissus: Okay. Do..all right. When the kids spend the night, do they call mom or..?

Smith: Uh..the agreement we have is we don't call each other after 6:30 p.m.

Chissus: Okay. Did the kids want to call her when they were over here the last few days?

Smith: No they didn't..they didn't mention it.

Chissus: Didn't mention it. Okay.

Stone: Do you uh..you drive a Mercedes, is that right?

Smith: That's right.

Stone: Uh..like a dark...

Smith: Yeah, dark greenish..bluish..

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Stone: Dark blue. What year's it?

Smith: 2000.

Stone: 2000, it's like a SUV?

Smith: Yes.

Stone: So what's the model?

Smith: ML320.

Stone: Do you have any other cars? Vehicles?

Smith: Motorcycle.

Stone: Which one's that one?

Smith: It's a Honda Magna and it's a 2002.

Stone: What CC is it?

Smith: 748.

Stone: How long have you had that?

Smith: About 2 ½ years I think.

Stone: Did you buy it new, I can't remember what your..you told us. Did you tell us what year it is?

Smith: No I didn't..yeah, 2002 so I bought it used, yeah.

Stone: Pretty fast bike.

Smith: Yeah, it's fairly fast.

Stone: Yeah. Some of the magazines I've read on that is..and some of the..evaluations I've read in the motorcy..motorcycle magazines back in the day said that was one of the best (unintelligible) bikes, 'cause it's pretty fast too.

Smith: Right.

Stone: Chain driven. When's the last time you rode that thing?

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Smith: Uhm..I think..roughly first week in..early December when..we had a little bit of decent weather.

Stone: So you have a helmet. riding gear.

Smith: Yes, that's right.

Stone: What color's that helmet?

Smith: The helmet is black with some white and gray detailing.

Stone: Okay, so we're looking up at your gear, it's up in the closet.

Smith: That's right.

Stone: Okay. Uh..any other cars, vehicles, anything like that?

Smith: No.

Stone: Okay.

Smith: Oh I did have..well..I had a bicycle which was stolen when I lived in my other apartment.

Stone: Okay.

Smith: Yeah, so I..I kinda (unintelligible) around.

Stone: Did you report it stolen?

Smith: No.

Stone: What kind of bicycle was it?

Smith: It was a uh..Jamis Zenith, it's a really nice uh..street bike.

Stone: Oh..road..road bike..

Smith: Yeah.

Stone: Tour bike. Road bike.

Smith: Road, yeah road bike.

Stone: Okay. And that was..you had that at your other apartment, I'm sorry.

Smith: Yes, in Ravenna.

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Stone: At Ravenna.

Smith: Yes.

Stone: That was stolen there?

Smith: Yeah. St..I think it was stolen just before I moved actually.

Stone: From Ravenna to..to here?

Smith: That's right. That's right.

Stone: Okay.

Chissus: I just wanted to..I just wanted to go back..I know we're..we're..you had mentioned the girlfriends and I'm kinda curious on the girlfriends..you had three different girlfriends that you came up with, Corrie, Turkish girl...

Smith: Right.

Chissus: And then.. Tsonsera.

Smith: Tsonsera, yes.

Chissus: That one. Any..anybody else that you can think of that you..you know...that you dated in this time frame?

Smith: So I exchanged phone numbers with somebody at a party about two weeks ago. I didn't really...

Chissus: Okay, that's not dating.

Smith: Just no dating, yeah.

Chissus: All right.

Smith: Yeah.

Chissus: Okay, but just other than those three, those..that's it, there's nobody..anybody else that's gonna come up?

Smith: The..I'm sure there is uhm...let's see... uhm...

Chissus: Any...

Smith: A girl I'd like to date but...

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Chissus: Who's that?

Smith: She wasn't...well...I don't know if I should tell you since we haven't really had..much contact.

Chissus: Oh, you..so you haven't..you haven't actually dated her.

Smith: That's right.

Chissus: Okay. Just a girl you're looking at.

Smith: Right.

Chissus: Okay. And you keep in touch with Tsonsera?

Smith: Yes, keep in touch with Tsonsera.

Chissus: Tsonsera. I'll never get that one...

Smith: I..yeah, I had...

Chissus: So you don't..you don't keep in touch with any of the others?

Smith: Uhm..no.

Chissus: Okay. Uhm..all right.

Stone: Okay Alan.

Chissus: Yeah, I think I'm...

Stone: Let's read the end of the statement...

Chissus: Okay.

Stone: Where is it?

Chissus: Uhm...do you have anything else you want to add Alan?

Smith: Uhm..I can't think of anything. To tell you the truth, I'm pretty tired.

Chissus: Okay. Could you please read the following statement out loud and indicate yes or no? Start where it says I, Alan Smith...

Smith: Declare that the facts stated on this tape are true and correct to the best of my knowledge. My statement has been made freely, voluntarily and without threats or promises of any kind.

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Chissus: Okay.

Stone: If I can get you to sign it.

Chissus: Okay, I'll go ahead and sign it as well and the time is now 21:35 hours and this concludes the statement.

END OF STATEMENT