

Andrew

Read this testimony in
it entirety as there is
barely a word of truth in it, at all.

1 THE COURT: We're back on the record in State ~~Especially~~
2 against Wimberly, Case No. 13 CR 2660. The record ~~Especially~~
3 should reflect that we have the parties and counsel ~~pg. 61~~
4 present in the courtroom. Our jury is present and
5 accounted for in the jury room.

6 Anything we need to take up outside the presence
7 of the jury before we begin this morning?

8 MR. DWYER: Judge, just to let the Court
9 know, I think the parties are going to enter a
10 stipulation to foundation and submission of State's
11 Exhibit 41. It will be part of the knife. I just want
12 to publish that to the jury just by opening it and
13 showing it to them.

14 MR. WHITE: That's correct.

15 THE COURT: Okay. The Court would note the
16 stipulation as to the admission of Exhibit 41.

17 Anything else? If not, bring in the jury.

18 (The jury entered the courtroom.)

19 THE COURT: Members of the jury, welcome
20 back. I hope you had a good evening.

21 When we recessed yesterday we had finished up with
22 the testimony of Dr. Grundmeyer.

23 Is the State ready with its next witness?

24 MR. DWYER: Yes, Judge.

25 Prior to doing that the State would move to admit

1 State's Exhibit 41. It's marked for identification
2 purposes. I've shown it to defense counsel. I'd like
3 to open that exhibit and publish it to the jury.

4 MR. WHITE: No objection.

5 THE COURT: State's 41 is admitted.

6 MR. DWYER: For the record, I'm opening a
7 brown paper bag which contains a plastic tub. The tub
8 is sealed with evidence tape and there's no way to
9 enter the plastic tub other than cutting the evidence
10 tape that is on the tub. I am now displaying the
11 contents of the tub to the jury. I am now going to
12 replace the lid on the tub and place it back in the
13 brown paper bag.

14 THE COURT: Okay.

15 MR. BREITENBACH: Your Honor, the State will
16 be calling Andrew Langston.

17 THE COURT: All right.

18 ANDREW LANGSTON,
19 called as a witness by the State, having been first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 Q Good morning.

23 A Good morning.

24 Q Would you state your name for the Court.

25 A Andrew Langston.

1 Q There you go. If you lean in, we'll hear you a lot
2 better.

3 How old are you, Andrew?

4 A I'm 19 now.

5 Q In September of last year, how old were you then?

6 A 18.

7 Q And let me ask, back then, were you still going to
8 school or were you out of high school by then?

9 A I was out of high school.

10 Q Who were you living with?

11 A I was living with my mom.

12 Q And where was that at?

13 A In Sedgwick.

14 Q Not in Sedgwick County but actually the town of
15 Sedgwick?

16 A Yes.

17 Q And that's, what, north of town a little ways? North
18 of Wichita?

19 A Yes.

20 Q Prior to that day, did you know some people who lived
21 in Wichita?

22 A Yes.

23 Q Was one of them Jonmark Herrscher?

24 A Yes.

25 Q How did you know Jonmark?

1 A Through high school and middle school.

2 Q Growing up and going to school with him?

3 A Yes.

4 Q Did you know where he lived in Wichita, roughly?

5 A Yes.

6 Q Had you been to his house before?

7 A Once before, yes. Lie!

8 Q And did you know some of his roommates?

9 A Yes.

10 Q And what roommates did you know?

11 A I knew Justin.

12 Q Justin.

13 What about Matt Wimberly? Did you know him?

14 A No. Lie!

15 Q When you -- that night, September 21st going into

16 September 22nd, do you remember the night I'm talking

17 about?

18 A Yes.

19 Q And I asked, do you remember. Since that date, do you

20 have some memory issues?

21 A Yes, I do.

22 Q How so?

23 A I have a lot of short term memory problems.

24 Q Are you currently working?

25 A No.

He
Had
Been
there
many
times

I'd known
him a
month
prior
and had
hung out
several
times

Ask
Paul
Deceglie,
to
he
went
to
his
house

1 Q Have you worked since that incident?

2 A Yes. I've worked five jobs.

3 Q Why have you worked so many different jobs?

4 A Because I always get fired from the job.

5 Q Why is that?

6 A Because of my handicaps, my memory.

7 Q What do you mean?

8 A I don't even remember my schedules and I just can't

9 work the job.

10 Q Okay. Prior to any of that -- any of this that

11 happened, did you have those memory difficulties?

12 A No.

13 Q As for that night, were you -- did you start the night

14 at home with your mom?

15 A Yes.

16 Q At some point did you leave the house?

17 A Yes, I did.

18 Q And who did you leave the house with?

19 A With Nathan.

20 Q Where were you going?

21 A I was trying to go to Wichita.

22 Q And why were you trying to go to Wichita?

23 A Because I had stuff I had to do in the morning.

24 Q Okay. Now, did you tell your mom before you left, or

25 do you know?

? What stuff?
on a Sunday
morning.

1 A I believe I tried to tell her in the evening that I
2 needed to leave to do something in the morning in
3 Wichita.
4 Q Is there a chance that you didn't tell her, that you
5 just left with Nathan?
6 A Yes.
7 Q Okay. When you came with Nathan to town, did you end
8 up at Jonmark's place?
9 A Yes, I did.
10 Q Is that here in Wichita?
11 A Yes.
12 Q In Sedgwick County?
13 A In Wichita, yes.
14 Q Do you have any idea what time of night it was that you
15 arrived?
16 A No.
17 Q Was it dark outside?
18 A Yes.
19 Q When you got there, was Jonmark there?
20 A Yes.
21 Q Did he -- do you remember talking to him?
22 A Sort of.
23 Q What do you remember when you arrived?
24 A I remember him telling him -- me telling him why I was
25 there.

- 1 Q Okay. What else do you remember talking with him about
2 when you got there?
- 3 A Asking him if I could stay at his place because I had
4 somewhere to go in the morning.
- 5 Q Did he say you could stay there?
- 6 A Yes.
- 7 Q Were his roommates home at the time -- when you got
8 there?
- 9 A I believe they were.
- 10 Q Okay. When -- do you remember anything else about, you
11 know, when you arrived or any conversations you had
12 with Jonmark or anyone else when you got there?
- 13 A No.
- 14 Q Once you were there and you talked to Jonmark and you
15 could stay, what's the next thing you remember?
- 16 A I remember Jonmark making me a bed on the floor and
17 laying down. *In contrast to what he is saying
on pg. 61,*
- 18 Q Did you use any drugs that night?
- 19 A No. *Lie!*
- 20 Q Did anyone else use drugs that night? When I say drugs
21 I'm talking about illegal drugs, not over-the-counter
22 stuff. Did anyone else use drugs that night?
- 23 A I don't know.
- 24 Q Is it possible that people did?
- 25 A It's possible.

1 Q For example, were you aware of some drug parapheneila
 2 in the house, like, for marijuana and things like that?
 3 A Yes. I was aware.
 4 Q And -- okay. What's the next thing you remember?
 5 A Going to sleep. Lie!
 6 Q Do you have any idea what time it would have been when
 7 that happened?
 8 A No.
 9 Q What's the next thing you remember?
 10 A Jonmark waking me up and telling me in my ear that I
 11 needed to get out of there.
 12 Q Is it possible that any time between when you got there
 13 and when Jonmark is telling you you need to go that you
 14 left the house or did anything else during that period
 15 of time?
 16 A No.
 17 Q Okay.
 18 A I don't remember.
 19 Q You don't remember?
 20 A Yeah.
 21 Q Is it possible that you did?
 22 A I don't know.
 23 Q Okay. Any idea how long from when you arrived to when
 24 Jonmark is telling you you need to go? Any idea how
 25 much time is in that window?

All lies!

1 A No.

2 Q When Jonmark is telling you you need to go, do you know
3 -- I mean, where are his roommates at? Do you know?

4 A No.

5 Q What do you remember about what happened once Jonmark
6 told you it was time to go?

7 A I remember waking up and being really confused and just
8 feeling the need to get out of there because Jonmark
9 was insisting that I leave.

10 Q What was the reason? Do you know?

11 A He said Matt was going crazy and he was saying he
12 needed to kill me. *tie into (pg. 52)*

13 Q Did you see Matt or know -- I mean, were you hearing or
14 remembering anything that --

15 A I heard banging on the door.

16 Q What door?

17 A The front door.

18 Q The front door?

19 A Yes.

20 Q Okay. And --

21 MR. BREITENBACH: May I approach, Your Honor?

22 THE COURT: You may.

23 Q (BY MR. BREITENBACH) I'm showing you State's Exhibit
24 19. Right behind you, Andrew, is this screen; okay?

25 A (Nodded head up and down.)

- 1 Q Does this look familiar as far as the layout of
2 Jonmark's place? And to kind of orient you here, up at
3 the top right over (indicating), that's that front
4 room?
- 5 A Yeah.
- 6 Q Here's the kitchen door; right?
- 7 A (Nodded head up and down.)
- 8 Q So when you said that you heard banging -- or Matt was
9 banging at the front door, what are you talking about?
- 10 A Probably the door way up there.
- 11 Q The door that goes into that front room?
- 12 A Yeah.
- 13 Q And is that the room that Jonmark was sleeping or where
14 his bed --
- 15 A Yes.
- 16 Q -- was, I should say?
- 17 A Yes.
- 18 Q What about -- do you remember what room Jonmark had
19 made a place for you to stay in?
- 20 A It was in this front room.
- 21 Q Somewhere in that same room?
- 22 A Yes.
- 23 Q Okay. Do you know Justin -- I think you said you knew
24 Justin or remember Justin being a roommate.
- 25 A Yes.

1 Q Do you know what part of the house his room was in?

2 A I believe it was over here (indicating).

3 Q Okay. So what -- I'll call that middle room.

4 A Yes.

5 Q And then the other roommate, Matt, did you know where
6 his room was?

7 A I believe it was back here (indicating).

8 Q Okay. So you're kind of pointing to the bottom
9 bedroom, for lack of a better phrase.

10 A Yes.

11 Q So you heard Matt banging on the front door. What
12 happened -- what do you remember happening next?

13 A I remember just Jonmark telling me that I needed to get
14 out of there, and then I remember bolting up to leave.

15 Q Where were you leaving to?

16 A I was trying to run out the kitchen.

17 Q Why the kitchen?

18 A Because Matt was blocking the front door.

19 Q Okay. Did he actually come into the house while you
20 were still in the house?

21 A Yes.

22 Q And where were you at when you saw him in the house?

23 A I was in the front room.

24 Q So you were both in the front room at that time?

25 A Yes.

*Oh so even though I'm banging
and acting crazy, and they're telling
him to leave, they decide to let me
inside while he's still inside.*

*Yeah this
sounds
accurate
&
reasonable*

*especially
cause I'm
saying I need to*

kill him.

*Yeah I believe
this one...*

Right.

1 Q And is Jonmark still there?
2 A Yes.
3 Q What about Justin, the other roommate, is he in the
4 room too?
5 A I believe he was in the other room.
6 Q Which other room?
7 A This room (indicating).
8 Q The middle room. His room.
9 A Yes.
10 Q Is it possible that he came into that front room at
11 some point while this was going on?
12 A It's very possible.
13 Q Okay. What were you focused on?
14 A Leaving.
15 Q So then how long -- how long would you say you were in
16 that front room with Matthew before you left that room?
17 A Seconds. *This may be the only honest*
info he gives, but certainly *20-or 30 min.* *proves it wasn't*
18 Q Okay. Did you have a stopwatch? Were you writing any
19 of this stuff down?
20 A No.
21 Q Did -- before you left that front room did you see
22 Matthew holding anything?
23 A I believe I saw him holding a knife.
24 Q How or where was he holding that?
25 A In his right hand.

1 Q Any thoughts go through your mind when you saw that?

2 A I just thought I needed to get out of there. I was
3 just scared.

4 Q Was he saying anything that you remember?

5 A I remember him saying that he needed to take me
6 somewhere and kill me.

7 Q Okay. Was he looking at you when he said that?

8 A I believe he was.

9 Q What about Jonmark, or maybe Justin, what were they
10 doing while he was saying those things?

11 A I think they were trying to calm him down.

12 Q Were you saying anything to him that you remember?

13 A No. I just tried to leave.

14 Q So you said you tried to leave. What did you do?

15 A I ran out towards the kitchen.

16 Q So how did you get from the front room towards the
17 kitchen?

18 A I ran from where I was sleeping up here out to here and
19 was trying to leave out here (indicating).

20 Q Do you remember what part -- before we move on, do you
21 have any memory of what part of that front room you
22 were trying to sleep?

23 A Right over here (indicating).

24 Q So you're pointing to the corner. I guess it would be,
25 what, the northeast corner.

1 A Yes.

2 Q Kind of opposite from Jonmark's bed?

3 A Yes.

4 Q Okay. And what kind of sleeping materials were you
5 using there?

6 A A pillow and a big blanket.

7 Q So you didn't have a mattress?

8 A No.

9 Q Okay. And to be clear, was Nathan still in the house
10 when any of this is going on?

11 A No.

12 Q Anybody else other than you, Jonmark, Justin and
13 Matthew?

14 A No.

15 Q Had there been other people at the house earlier?

16 A Not that I know of, no.

17 Q When you first got there do you remember other people
18 being there?

19 A No.

20 Q Is it possible other people were there for awhile?

21 A No.

22 Q Okay. When you -- you said you went through that
23 middle -- you left the living room, the front room,
24 started to go through that middle room, Justin's room,
25 what do you remember happening next?

1 A I remember feeling pain in my neck.

2 Q What happened next?

3 A It was all kind of a blur after that. But I remember
4 just falling straight to the ground and screaming and
5 like hearing my head being bashed on the ground.

6 Q When you said falling to the ground, do you mean the
7 floor?

8 A Yes.

9 Q Were you still inside the house?

10 A Yes.

11 Q Okay. And you said you were going towards the kitchen.
12 Did you make it to the kitchen at some point?

13 A I don't think so.

14 Q Do you remember one way or the other?

15 A I remember being on the wood floor.

16 Q Okay. Do you remember ever getting or seeing the
17 kitchen door?

18 A I think I made it there after and then I got pulled --
19 dragged outside.

20 Q Okay. Describe that. Who was dragging you outside?

21 A Matthew.

22 Q How was he dragging you outside? Like what part of his
23 body was touching what part of your body?

24 A His hands.

25 Q Okay. He was touching what part of your body?

1 A My neck.

2 Q Now, you say hands. Show or describe what you mean by
3 that.

4 A (Indicating.)

*Is it even possible to
drag some like this?*

5 Q Okay. So he actually was placing his hands around your
6 neck?

7 A Yes.

8 Q Did he ever place his arm around your neck?

9 A No.

10 Q Do you remember -- is it possible he did?

11 A No.

12 Q When you -- any idea how long you're in the kitchen or
13 in the house after you first feel that stab in your
14 back or that pain in your back, do you have any idea of
15 time after that?

16 A No.

17 Q Did you feel or perceive being stabbed in the head?

18 A I felt the force and the pressure of my skull being
19 bashed against the ground and feeling something on the
20 top of my head.

21 Q When you say top of your head, what part of your head
22 are you talking about?

23 A Over here (indicating).

24 Q Okay. You're kind of pointing to the right quarter,
25 back quarter --

1 correct?

2 A Yes.

3 Q Okay. That's all I wanted to get to.

4 You were living in Sedgwick, Kansas, with your
5 mother; is that correct?

6 A Yes.

7 Q And you told this jury that you were leaving your
8 residence in Sedgwick, Kansas, to come to Wichita,
9 Kansas; is that correct?

10 A Yes.

11 Q And you've mentioned a person by the name of Nathan; is
12 that correct?

13 A Yes.

14 Q Who is Nathan?

15 A He's a friend.

16 Q All right. And Nathan drove you from Sedgwick to
17 Wichita; is that correct?

18 A Yes.

19 Q You told this jury that there was something that you
20 had to do in the morning, that being the morning of
21 September 22, 2013; is that correct?

22 A Yes.

23 Q What was it that you had to do?

24 MR. BREITENBACH: Objection, relevance.

25 THE COURT: Overruled.

White

1 MR. BREITENBACH: Can we approach, Your
2 Honor?
3 THE COURT: Sure.
4 THE COURT REPORTER: Do you want a record?
5 MR. BREITENBACH: We can make it ^{up} later. *

6 *Yeah we'd hate to* (An off-the-record discussion was had at
7 *have it on record* the bench between the Court and counsel,
8 *that Andrew's* after which the following proceedings
9 *story is complete* were had.)
10 *fiction.*
11 *The DA sure got a* were had.)
12 *scared didn't they.*
13 Q (BY MR. WHITE) You told this jury that you were
14 brought by Nathan over to the residence in Wichita.
15 A Yes.
16 Q This is 3325 East Victor Place; is that correct?
17 A Yes.
18 Q And you told this jury that you arrived at that place
19 in the nighttime; is that correct?
20 A Yes.
21 Q About what time?
22 A I don't know the time.
23 Q Can estimate a time?
24 A No.
25 Q Why can't you estimate?
A Because I can't.
Q Okay. Were you not at that residence earlier in the
day around noon?

Whole pg.

29

1 A No.

2 Q If someone places you in that residence around noon on
3 September 21st, that would be incorrect?

4 A I don't know.

5 Q Okay. You came to that residence to spend the night;
6 is that correct?

7 A Yes.

8 Q And when you got to the residence, a bed was made for
9 you in the front room; is that correct?

10 A Yes.

11 Q So you didn't come to that residence for any other
12 purpose?

13 A No.

Lie!

14 Q You didn't bring any acid with you to that residence?

15 A No. In contrast to John Mark, Justin Malter & myself.
1 2 3

16 Q You didn't sell any acid to Matthew Wimberly that
17 night?

18 A No.

Lie! In contrast to John Mark, Justin Malter,
and myself.

19 Q So if someone says that you did bring acid over there,
20 they would be incorrect?

21 A Yes.

Lie!

22 Q And you didn't consume any acid that day; is that
23 correct?

24 A That's correct.

Lie! In contrast to all of our
testimony's once again.

25 Q And if someone said you did, they would be incorrect?

Whole pg.

- 1 A Yes. Lie!
- 2 Q And if someone said that they saw you sell the acid to
- 3 Matt Wimberly, then they would be incorrect?
- 4 A Yes. Lie!
- 5 Q You didn't take \$20 from Matthew Wimberly?
- 6 A No. Lie!
- 7 Q You weren't saving a hit of acid for Matthew Wimberly?
- 8 A No. Lie!
- 9 Q Is that a no, or you just don't remember any of that?
- 10 A No. Lie!
- 11 Q Were you smoking marijuana with Jonmark Herrscher and
- 12 Justin or anyone else at the residence?
- 13 A Yes. *I thought you went right to bed.*
- 14 Q When did you do that? *From pg.*
- 15 A When I first got there.
- 16 Q Okay. And you told this jury that when you got there
- 17 Matt was already there? *Well geez, why didn't I just attack*
- 18 A I believe so. *for no reason right then? Especially*
- 19 Q Okay. So sometime when you arrived, it is Jonmark, *since I apparently just "needed" to kill him.*
- 20 Justin, and Matt; is that correct? *Hmmm... This all makes so much sense doesn't it?*
- 21 A Yes. *No, I was at*
- 22 Q No one else; is that correct? *work at John Barleycorn's*
- 23 A Yes. *until 2:00am.*
- 24 Q What happened to Nathan?
- 25 A He left. *wrong, Adriana & Leah were also there.*