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STATE OF ILLINOIS )  
COUNTY OF MARION ) SS.  
)

AFFIDAVIT

I, Jerry Lewis Bey, who having been first duly sworn, upon his oath, states as follows:

1. These statements is in reference to the conference call I had on Thursday, April 26, 2007, with the St. Louis City Circuit Attorney, Jennifer Joyce, Rachel Smith, and a Detective Williams of the St. Louis City Homicide Division.

2. I was asked would I allow the above individuals to interview me in reference to an unsigned affidavit from a Mr. Josiah Thompson, a licensed investigator from California who had been retained by the NAACP Legal Defense Fund to conduct an interview with me, regarding the Larry Griffin prosecution and execution. I approved of the interview, which was held inside the Captain office here at FCI Marion in the Present of SIS officer Mrs. Montgomery.

3. I advised the above individuals during the interview that there was statements attributed to me in the affidavit that was incorrect. On April 30, 2007, I recieved a copy of the unsigned affidavit and after reviewing it will make the following statements.

4. On July 27, 2004, I personally met with Mr. Thompson at the FCI Edgefield, South Carolina. I had recieved a letter from a Mr. Norman J. Chachlin, Director of Litigation for the NAACP Legal Defense Fund. This letter was recieved by me in June 2004 introducing Mr. Thompson and asking for my assistance in the Larry Griffin prosecution and execution.

5. During the meeting, Mr. Thompson made it clear to me that he and others had recieved information pointing to the fact that Larry Griffin was innocent and that they was under the belief that I also possessed information that would show that an innocent man was wrongly convicted and executed.

6. During this meeting I made it clear that I to believed that Griffin was innocent based on rumors over the years and based on a 1995 confession my cousin Ronnie Thomas made to my trial attorney Mr. Robert Wolfrum during a November 21, 1995 deposition in my state of Missouri murder case.

7. I also made it clear to Mr. Thompson that I had no personal knowledge of the Quintin Moss homicide, nor did I know Moss.

8. I also made it clear that I did not personally know Larry Griffin. The only Griffin I knew was Dennis Griffin, aka "Gant", who I knew back in the early 1970's through his association with a Dennis Hayman. I also told Mr. Thompson that I met a Reggie Griffin in about 1983 while attending a Moorish Temple banquet at one of the Missouri state prisons. That in 1993, Reggie Griffin was called as a defense witness in my federal RICO trial.

9. I also made it clear that I had no personal knowledge of my cousin Ronnie Thomas nor Kerry Caldwell involvement in the Moss murder, other than what I read in reports and sworn affidavit and depositions. I would share these records with Mr. Thompson.

10. I did tell Mr. Thompson that I came from a close knit family whereas Ronnie's mother and my mother was sisters and when something occurred in our families whereas family members was aware, it would be talked about. I pointed out that I did learn of an arrest of Ronnie back in 1980 either prior to me purchasing tickets for the Sugar Ray Lenard/Roberto Duran fight or after I attended the fight. This information came to me from a family member and I would later have a conversation with Ronnie. He did not go into any details, only saying that he was arrested but that it was nothing.

11. I also told Mr. Thompson that while I was incarcerated in the St. Louis City Jail on my murder case, that I recieved from the Moorish Temple at Potosi, records from Larry Griffin's case file that he wanted me to have, along with a photo of himself and an unidentified female.

12. I assumed he wanted me to have this information as it pertained to Ronnie Thomas and Kerry Caldwell, two government witnesses from my RICO trial.

13. Included in these records were the April 19, 1993 sworn affidavit of Kerry Caldwell, an August 13, 1993 affidavit of St. Louis City Homicide Detective Robert Dwyer, the October 6, 1993 testimony of Kerry Caldwell and a April 25, 1994 memorandum of U.S. Judge Edward L. Filippine.

14. After reviewing these documents, I had my attorney, Mr. Wolfrum question both my cousin Ronnie and Kerry Caldwell during their depositions concerning their involvement in the Larry Griffin case and the Moss murder.

15. I shared all of the above information with Mr. Thompson and I made it clear that the only confession was made by Caldwell in his 1993 affidavit, his habeas hearing testimony and in his 1995 deposition, and by my cousin Ronnie in his 1995 deposition. There was never any confession made to me by any of these two brothers.

16. I was surprise to see that Mr. Thompson never made mention of my cousin Ronnie's ~~convict~~ confession to my attorney Mr. Wolfrum in his unsigned affidavit.

17. On or about August 2004, I wrote to my former attorney, Mr. Wolfrum and gave him permission to provide Ronnie Thomas and Kerry Caldwell's deposition and any other information in my file to attorney Richard Sindel, who to my knowledge worked with the NAACP Legal Defense Fund.

18. Had I possed this information regarding Ronnie and Kerry Caldwell's involvement in the Moss murder during my 1992-93 RICO trial, this information would have been shared with my attorney Doris Black, who would have used it during her cross-examination on both Ronnie and Caldwell.

19. It's no secret, that both Ronnie and Caldwell lied under oath on me and others at my RICO trial and that I would love to get some revenge, however, I will not lie about a confession that I never recieved. The only confession was made to my attorney by my cousin Ronnie Thomas in his 1995 deposition.

20. Mr. Thompson did ask me to give him my personal ~~p~~ opinion whether I believed Ronnie's testimony that he was in the car when Moss was killed and that Larry Griffin was not in the car. I again told him that my cousin was a chronic liar, however, I did believe him, as he had nothing to gain by lying.

21. At no time did Ronnie Thomas ever identify Reggie Griffin or anyone else as being in the car with him when Moss was killed to me.

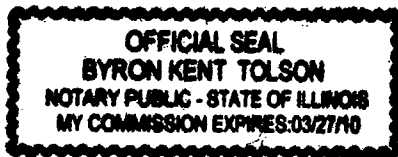
22. Having met and spoken with Mr. Thompson, I do not believe he deliberately made misleading statements in his affidavit. If anything, I believe my statements were inadvertently taken out of context. I respect Mr. Thompson, as well as the work he does, and I to want to see the truth come out in the Griffin's case as I only agreed to his interview as well as the interview with Jennifer Joyce, hoping that it would assist the Griffin family.

FURTHER AFFIANT SAYETH NAUGHT.

Sheikh Jerry Lewis Bey  
Sheikh Jerry Lewis Bey, The Moor

On this 1st day of May, 2007, before me personally appeared Jerry Lewis Bey, an inmate at the USP Marion.

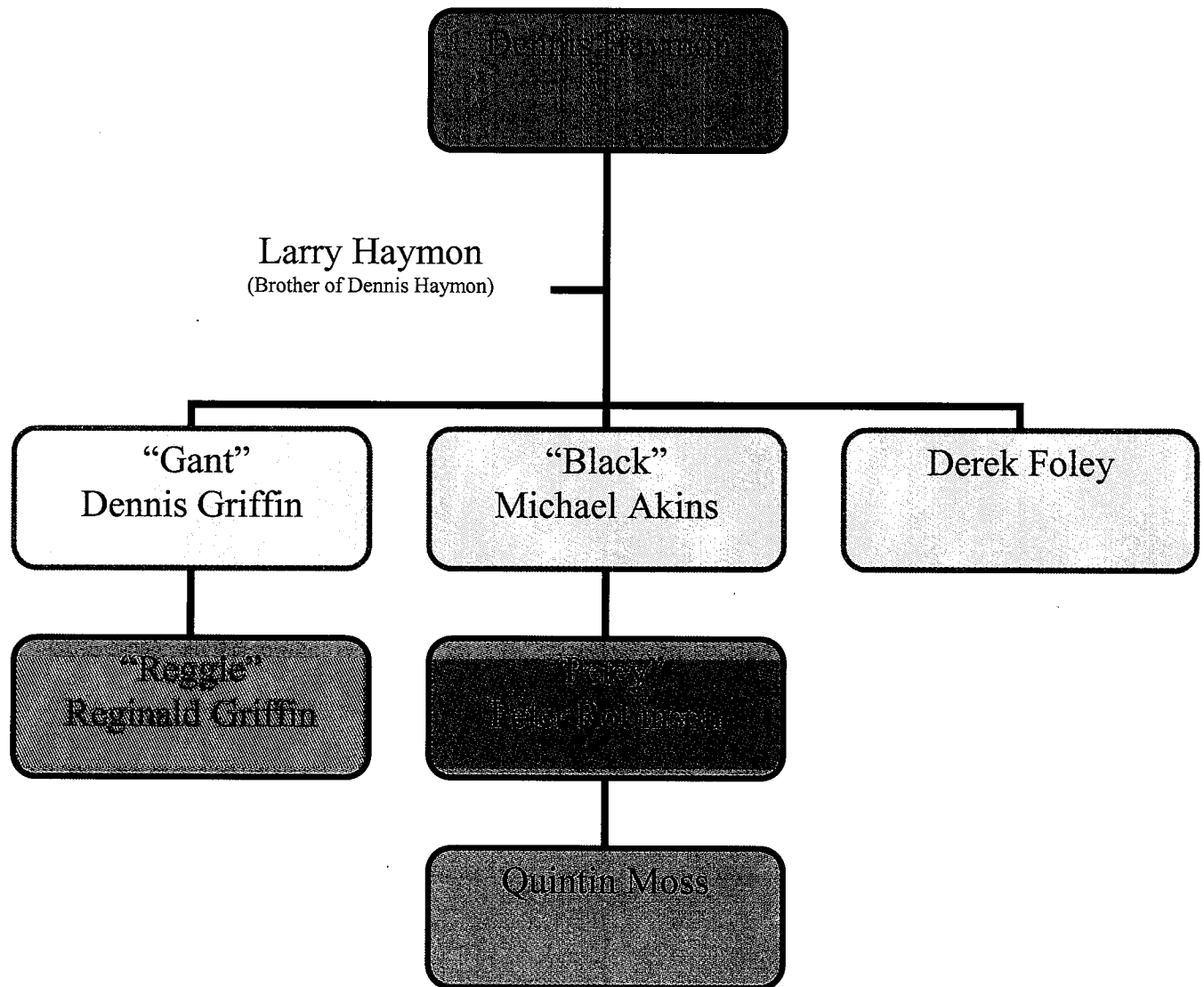
My Commission Expires: 3/27/2010



Byron Kent Tolson  
NOTARY PUBLIC

E

## Dennis Haymon Drug Faction<sup>1</sup>



<sup>1</sup> There were several other individuals involved with street-level drug dealing. Only the relevant participants have been included. Larry Griffin was arrested multiple times at drug houses run by various members of the Haymon faction. Larry Griffin is the brother of Dennis Griffin. Reggie Griffin is the nephew of both Larry Griffin and Dennis "Gant" Griffin.

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INTERVIEW OF  
ROBERT JOHN FITZGERALD

COPY

STATE OF MISSOURI,

Plaintiff,

vs.

LARRY GRIFFIN,

Defendant.

SEP 08 '93

MISSOURI  
ATTORNEY GENERAL

Friday, August 27, 1993  
Conference Room  
State of Florida

BEFORE:

VAN GODSEY,

INVESTIGATOR.

REPORTED BY:

Kaye F. Asel, CSR  
Registered Professional Reporter  
Asel Reporting  
PO Box 104568  
Jefferson City, Missouri 65110-4568  
(314) 636-8499

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P R O C E E D I N G S

MR. GODSEY: Okay. Today's date is August 27th, 1993. This is an interview of Robert John Fitzgerald. My name is Van Godsey, investigator with the Missouri Attorney General's office.

Mr. Fitzgerald, will you please just state your name and your date of birth.

MR. FITZGERALD: My name is Robert John Fitzgerald, 12-21-44.

MR. GODSEY: This interview is concerning Mr. Fitzgerald's appearance as a witness in a case of State of Missouri versus Larry Griffin back in 1981. Basically I'm going to let Mr. Fitzgerald briefly describe the occurrence at the scene, what he observed, and then we'll move on from there.

MR. FITZGERALD: Okay. Just prior to arriving at Center and Olive, myself, there was another fellow with me named Connell (phonetic spelling), black male, and his daughter. And the reason we ended up Center and Oliver, we were on the way to his mother's house to drop off his daughter, who she was going to baby-sit.

I had no idea where I was. I had no direction at all. I'm not familiar with the area. And we got just past Center and Olive, we had car problems, and I had intermittent problems in the past, and my car stalled. And

1 when that happened in the past, I was unable to stop it, so  
2 I curbed the car and here we are several feet close to  
3 Center and Oliver. And we'd been there quite some time  
4 trying, knowing that the car battery had to be charged, and  
5 that is what I brought me to that area.

6 And after several hours of being there, I  
7 witnessed a shooting, Quinton Marcell (phonetic spelling)  
8 was killed in front of me.

9 MR. GODSEY: And I will interrupt off and on. At  
10 that, at that point in time did you know the victim's name?

11 MR. FITZGERALD: No, I did not.

12 MR. GODSEY: Did you know the victim?

13 MR. FITZGERALD: No. Never met him.

14 MR. GODSEY: Okay. Continue.

15 MR. FITZGERALD: And once that incident took  
16 place, I viewed the body. I tried to see or ask Payne  
17 whether or not he was dead. I felt he was dead and left  
18 the scene immediately and drove away. When I drove away, a  
19 police officer about a mile down the road pulled me over  
20 and told me I had to go back to the scene and that is how I  
21 got involved.

22 After briefly giving them some description and  
23 talking to, not in length, just mentioning briefly what I  
24 had witnessed, the, the detectives that were investigating  
25 it brought me from the scene of the crime to police

1 headquarters and at that point we discussed the matter.

2 MR. GODSEY: And this was just right after the  
3 homicide that night, right after that afternoon?

4 MR. FITZGERALD: Yes. Yes, sir.

5 MR. GODSEY: Okay. So you were brought to the  
6 police headquarters and you discussed what you observed.  
7 Okay. What took place then?

8 MR. FITZGERALD: At some point, after some  
9 discussion, I was given the opportunity to look at a  
10 picture.

11 MR. GODSEY: Okay.

12 MR. FITZGERALD: And I want to say at this point  
13 that the police intimated that they basically knew who the  
14 individuals were that committed the crime and they did, in  
15 fact, show me a picture, suggesting that was the  
16 individual.

17 MR. GODSEY: Okay. When you say they were  
18 suggesting, was it body movements or was it verbal?

19 MR. FITZGERALD: They did make a statement that  
20 we know, we know who, who did this. And through that  
21 gesticulation they threw the picture at me.

22 MR. GODSEY: When you say they articulated that we  
23 know who did this, you had overheard conversations that  
24 they knew who was in the vehicle that did the shooting?

25 MR. FITZGERALD: Yes.

1 MR. GODSEY: The individuals?

2 MR. FITZGERALD: They indicated to me it was no  
3 surprise who did it and they seem to be comfortable with  
4 who did it--

5 MR. GODSEY: Okay.

6 MR. FITZGERALD: --knowing who did it.

7 MR. GODSEY: When they asked you of the  
8 individuals that were in the vehicle, how many of those  
9 were you actually able to see and to identify?

10 MR. FITZGERALD: One.

11 MR. GODSEY: Just one?

12 MR. FITZGERALD: Yes.

13 MR. GODSEY: Okay. And then briefly you said that  
14 law enforcement said we know who did it and then you were  
15 shown a photograph?

16 MR. FITZGERALD: Yes. And that photograph, in  
17 fact, was the fellow that was in the front seat of the car  
18 that was used when the crime was committed.

19 MR. GODSEY: The photograph, was it the first  
20 photograph you had looked at?

21 MR. FITZGERALD: Yes, it was.

22 MR. GODSEY: So the first photograph that you  
23 were shown was the individual that you were able to  
24 identify that was in the front passenger seat that had been  
25 firing at the victim?

1 MR. FITZGERALD: Yes.

2 MR. GODSEY: Did you know his name at that time?

3 MR. FITZGERALD: No, I did not.

4 MR. GODSEY: Do you know his name today?

5 MR. FITZGERALD: Yes, I know now.

6 MR. GODSEY: And what is it?

7 MR. FITZGERALD: Larry Griffin.

8 MR. GODSEY: Larry Griffin. Okay. Continue.

9 MR. FITZGERALD: After that was-- After that  
10 phase was concluded, they drove me back--we set out to  
11 drive me back to the motel that I was staying at. During--  
12 On the way to the motel, over the car radio, apparently  
13 they had discovered the automobile that was used in the  
14 shooting.

15 MR. GODSEY: And had you been able to provide  
16 anything to law enforcement that they could find that  
17 automobile?

18 MR. FITZGERALD: Yes. Prior to, prior to  
19 arriving at the police headquarters, I, I told them that I  
20 caught the car license plate number and then I gave that  
21 information to the officers. And so on the way to the  
22 motel, after leaving headquarters, they apparently had got  
23 word that the car was parked somewhere and that we were on  
24 our way to view the car and--

25 MR. GODSEY: Did you, in fact, view the car?

1 MR. FITZGERALD: Yes, I did.

2 MR. GODSEY: And was that the vehicle you saw  
3 earlier that day?

4 MR. FITZGERALD: That was the vehicle that was  
5 used, yes.

6 MR. GODSEY: Okay. Not wanting to jump around  
7 any but just to go back for just a second. Understanding  
8 that you stated that you were only able to identify one of  
9 the subjects in the vehicle, which was the photograph that  
10 you identified, you were not able to identify any of the  
11 other subjects by photograph shown to you?

12 MR. FITZGERALD: No, sir.

13 MR. GODSEY: Okay. Now, I think we'll move on up  
14 to, at some time in the future you were asked to testify at  
15 trial and would you briefly describe that testimony.

16 MR. FITZGERALD: Yes. I testified in court.  
17 And, of course, I had talked to Mr. McDonough recently.

18 MR. GODSEY: Now, let me introduce Mr. McDonough.  
19 That's M-c-D-o-n-o-u-g-h. Who was he as he described  
20 himself to you?

21 MR. FITZGERALD: He introduced himself as a  
22 private detective that was hired by an attorney from his  
23 office, an attorney that was representing Larry Griffin in  
24 these proceedings, and to get a statement from me as to  
25 what took place. And he came to the jail after what he

1 stated was an exhaustive, exhaustive search for me. And  
2 then in our conversation I had stated to him, I was told at  
3 that time was the first time that I realized that it was  
4 capital punishment or anything.

5 MR. GODSEY: So he just recently, when Mr.  
6 McDonough came to speak with you, was the first time that  
7 you had realized that the case that you testified in was a  
8 capital murder case where the death penalty would be--

9 MR. FITZGERALD: Yes. I was quite surprised  
10 learning that, it was suddenly brought to my attention, and  
11 I was, I was kind of shocked that this man had been sitting  
12 on Death Row. I guess I felt that the man was out on  
13 parole or something as a result of--after a lengthy period  
14 of time.

15 MR. GODSEY: Okay. Now, I think you had stated  
16 that you had related to Mr. McDonough some instances about  
17 the trial that you wanted to tell me about.

18 MR. FITZGERALD: There were two, two areas I've  
19 been in conflict over the years. One was whether or not I  
20 did the right thing. I shared those feelings with Mr.  
21 McDonough. One of them was identifying a picture and the  
22 second was at the trial, when I was asked if I could point  
23 out Mr. Griffin, whether or not I was certain that that was  
24 the man and I had some conflict as a result of that  
25 testimony and I'd like to clear that up--



1 MR. GODSEY: Okay.

2 MR. FITZGERALD: --if I could.

3 Number one, with, with the viewing of the picture  
4 and pictures, respectively, when I viewed the picture of  
5 the man, Larry Griffin as the man who did the shooting, the  
6 way that that picture was presented to me, it was kind of  
7 suggested in a passive manner, kind of unspoken, it was  
8 mentioned that we know who did it and what have you, and  
9 then right after that a picture was thrown in front of me  
10 and to me it suggested that when I look at that picture I'm  
11 going to see the man that committed the crime and sure  
12 enough it was the man that I could identify in the front  
13 seat of the car.

14 MR. GODSEY: And let me, let me clear this up  
15 just a little bit. I understand that, that your problem  
16 with this personally was that it was kind of an unspoken  
17 way--insinuation the next picture you see is going to be  
18 one of the persons in the vehicle and you looked at the  
19 photograph and you were surprised-- Is that a fair  
20 statement? --you were surprised because, in fact, the  
21 first picture that you viewed was the person that you saw  
22 firing a weapon out of the vehicle?

23 MR. FITZGERALD: Yes. It-- I had ambivalent  
24 feelings about it. I had been in that situation before and  
25 being kind of versed in procedure, I felt it was a little

1 slipshod. However, they were accurate, the picture was, in  
2 fact, the man that was the one that I identified as being  
3 in the front seat.

4 MR. GODSEY: All right. What, what-- Let me  
5 interrupt just a second--

6 MR. FITZGERALD: Sure.

7 MR. GODSEY: --and clear this up. Although the  
8 method, and to use your words, was slipshod and may have  
9 been shady, was there any doubt in your mind that the  
10 photograph that you were looking at was the man that you  
11 had just seen earlier firing a weapon out of the vehicle?

12 MR. FITZGERALD: I don't think there was any  
13 doubt in my mind.

14 MR. GODSEY: Okay. So it was the man?

15 MR. FITZGERALD: Yes.

16 MR. GODSEY: Okay. Now, why don't you move on  
17 down and explain the trial.

18 MR. FITZGERALD: During the trial, when asked if  
19 I could identify the individual that I identified in the  
20 picture as the man in the front seat, the person that was  
21 in court, I told them yes, I could and I was asked to point  
22 him out. Well, I pointed out Larry Griffin, the Defendant.

23 However, I have had serious reservations for many  
24 years whether I did the right thing at that point, at that  
25 juncture, because even though I stated that, yes, it was

1 the man and I was positive, in my mind I was confused and  
2 the confusion is as a result of Mr. Griffin not looking  
3 like the picture, nor was he--did he look like the  
4 individual that was sitting in the front seat. He did look  
5 different. And I at that point was wondering whether  
6 whether or not I was doing the right thing and, in fact,  
7 was I, in fact, pointing out the right individual. But in  
8 my mind I said it had to be.

9 MR. GODSEY: Let me ask you then, basically what  
10 you're stating is, because of Mr. Griffin's change of  
11 appearance at the trial gave you some reservations?

12 MR. FITZGERALD: Correct.

13 MR. GODSEY: However, there were no reservations  
14 when you picked him out of the, when you picked out the  
15 photograph and identified him; you state that he was  
16 different at trial than he was in his photograph. Now, are  
17 we talking about reservations because of--I mean,  
18 appearance-wise, was he cleaned up, clean shaven, short  
19 hair, or was it a completely different individual?

20 MR. FITZGERALD: Well, knowing all that I know,  
21 I'm not saying that it was a completely different  
22 individual. I can't imagine how that could be. However,  
23 and what exactly my reservations, what they were, how they  
24 came about and how they manifested over the years, all I  
25 can say at this point is that I, I was uncomfortable with

1 pointing him out because it didn't appear to be the same  
2 person, look like the same person. There was some  
3 resemblance but when I was asked can I positively identify,  
4 I did say yes, I can positively identify because it seemed  
5 to me that it had to be that person and knowing that people  
6 clean themselves up, he was shaven, what have you, there is  
7 bound to be some altercation (sic) to their description.

8 MR. GODSEY: And with the understanding that it  
9 has been now 12, I guess going on 13 years, I understand  
10 how memories can lapse and memories change things, but I  
11 really do want to clear this up as best as possible and I  
12 understand that at the trial you had some reservations  
13 because of appearance, he appeared different. But going  
14 back once again, the night of the shooting or the afternoon  
15 of the shooting when you identified and could identify the  
16 man that you saw, were you told at that time that it was  
17 Larry Griffin? Sometime did you learn afterwards that the  
18 man you knew to shoot was Larry Griffin?

19 MR. FITZGERALD: Yes. At some point afterwards,  
20 yes.

21 MR. GODSEY: Okay. Okay. Let's move right along  
22 then. Basically is there anything else that you would like  
23 to clear up as far as this case, your identification at  
24 this point?

25 MR. FITZGERALD: Just that the identification at

1 the trial, I thought I was doing the right thing. In my  
2 mind I, I have some, some reservations. I hope I did the  
3 right thing, but I really wasn't certain. And I was  
4 somewhat confused but yet, here again, I did pick out the  
5 picture. Suggestive or not, that's what I picked out.

6 MR. GODSEY: And the man that you saw in that  
7 photograph was the man that you saw in the car?

8 MR. FITZGERALD: I believe that's correct.

9 MR. GODSEY: Okay. Moving right along to an  
10 affidavit that was provided to you by Mr. McDonough, Mr.  
11 McDonough, that you did not sign, I do have an affidavit  
12 here that was provided to the Attorney General's office  
13 that was signed by Terrance M. McDonough, but now I'm  
14 referring to a copy of a sworn affidavit that was provided  
15 to you that you did not sign.

16 I would like to specifically ask you to refer to  
17 number 4. It states: When I was taken to the police  
18 station, I was shown a photo array but was unable to pick  
19 out any of the occupants of the vehicle. Earlier we had  
20 discussed this and I believe your words was, that's a lie.

21 MR. FITZGERALD: Yes. I had told Mr. McDonough  
22 the method, how I was given that photograph, and I was  
23 uncomfortable with the way--

24 MR. GODSEY: With the method?

25 MR. FITZGERALD: --the method that-- However, I

1 did not Mr. McDonough I was unable to pick out any of the  
2 occupants in the vehicle, off the vehicle.

3 MR. GODSEY: And--

4 MR. FITZGERALD: I think Mr. McDonough is confused  
5 at that point.

6 MR. GODSEY: Okay. Also, there was-- Just a  
7 second.

8 MR. FITZGERALD: Sure.

9 MR. GODSEY: Also, in Mr. McDonough's affidavit,  
10 in section number 9 it states: Mr. Fitzgerald was told by  
11 a prosecutor that if he cooperated and did the right thing  
12 and a guilty verdict was obtained that he would be released  
13 from jail at the end of the trial and any pending charges  
14 in St. Louis against him would be dropped.

15 Would you like to comment on that statement by Mr.  
16 McDonough?

17 MR. FITZGERALD: I explained to Mr. McDonough  
18 that I was incarcerated as a result of fraudulent use of  
19 credit devices and that case was pending. I was also  
20 detained for an armed robbery that I was later exonerated.  
21 However, it took awhile for that case to be resolved. And  
22 I stated to Mr. McDonough that I was held there. It  
23 certainly would have been resolved shortly, it would have  
24 been resolved earlier if I wasn't involved in this  
25 particular case as a witness and that's basically what I

1 had told Mr. McDonough. As far as a deal, as far as me  
2 getting a lesser sentence, no, there was no, there was no  
3 deal made.

4 MR. GODSEY: When we had discussed this earlier  
5 and we talked about this section, you stated, and I did,  
6 too, that he gives the appearance that the prosecutor  
7 coerced or forced you to, to identify Mr. Griffin as the  
8 shooter.

9 Did that happen?

10 MR. FITZGERALD: No. I was not coerced into  
11 giving my testimony. I did that voluntarily. And I knew  
12 pretty much what was going to take place when the case was  
13 pending. Mr. McDonough picked quite a bit of license in  
14 orchestrating this affidavit.

15 MR. GODSEY: Okay.

16 MR. FITZGERALD: And--

17 MR. GODSEY: Also, I would like to continue on.  
18 In this same affidavit of Mr. McDonough's, number 10, it  
19 states: Mr. Fitzgerald was not positive in being able to  
20 identify Larry Griffin as one of the occupants in the  
21 vehicle from which the fatal shots were fired at trial.

22 Now, we discussed this earlier and because of  
23 appearances, you did have some reservations.

24 MR. FITZGERALD: That's correct.

25 MR. GODSEY: And then he goes on to state: He was

1 also not positive in being able to select a photograph of  
2 any of the occupants in the vehicle.

3 MR. FITZGERALD: Well, that--

4 MR. GODSEY: That part we've already cleared up?

5 MR. FITZGERALD: But, in fact, I did identify one  
6 of the occupants.

7 MR. GODSEY: This is an untruth.

8 Okay. Lastly, and I think this is something that  
9 you wanted to talk about, it's a personal thing, about  
10 being informed under Mr. McDonough's affidavit, number 11,  
11 second sentence: Upon being informed that Larry Griffin  
12 was on Death Row as a result of his conviction, Mr.  
13 Fitzgerald further reflected and admitted to the  
14 wrongfulness and untruthfulness of his testimony at trial.

15 I would like for you to take a few minutes and  
16 explain or to comment on that statement.

17 MR. FITZGERALD: Sure. Well, I was, I was  
18 somewhat shocked that this man was sitting on Death Row for  
19 12, 13 years. I had no idea that the man at that stage,  
20 after, after he was found guilty, I didn't--I had no  
21 knowledge of the fact that there was another segment to the  
22 trial, and that was sentencing and what have you, in terms  
23 of getting the electric chair. I had absolutely no idea  
24 that it went that far.

25 And I stated to Mr. McDonough my anger, that I



1 was, that I was used as a vehicle to electrocute this  
2 individual. I have some strong reservations about that  
3 method and I, I just wasn't comfortable; that what I had  
4 said, I just did not want--I didn't want the burden to  
5 be--to come on me. I was just-- I was kind of angry that  
6 I wasn't told. And if I was told, I, I don't recall it.  
7 But I just wasn't comfortable with the idea that my  
8 testimony is going to kill this individual and I had some  
9 serious reservations about that aspect of my testimony.

10 MR. GODSEY: And let me ask you, Mr. Fitzgerald.  
11 When you were approached by Mr. McDonough, did you come  
12 away with the impression that Mr. Griffin's punishment was  
13 as a direct cause of your testimony?

14 MR. FITZGERALD: Yes. I felt strongly that  
15 without my testimony Mr. Griffin wouldn't be sitting in  
16 Death Row.

17 MR. GODSEY: And because of your personal  
18 aversions to the death penalty, that caused you some  
19 personal concerns?

20 MR. FITZGERALD: There's a lot of anguish over it,  
21 yes.

22 MR. GODSEY: I understand. Is there anything  
23 else you would like to say about that?

24 MR. FITZGERALD: Well, I, I can understand how  
25 Mr. McDonough had interpreted my, my position, number one,

1 about the method that was used to gather my identification  
2 of the photograph. I did mention to him that I wasn't  
3 comfortable. I always had this feeling in the back of my  
4 mind, this thought in the back of my mind that did I do the  
5 right thing in stating that, yes, that was the man when I  
6 pointed him out during the trial, when I identified Mr.  
7 Griffin. But I couldn't imagine it not being him and I, I  
8 often wondered whether or not I was told the right thing,  
9 and I shared that with Mr. McDonough. And then, again, of  
10 course, I explained to him my position on the death penalty  
11 and how I felt, I felt used.

12           However, looking at it in its totality, I, I, I  
13 hope I did the right thing and I'm somewhat comfortable  
14 with it now after, after discussing it with several people.

15           MR. GODSEY: Let me ask you, Mr. Fitzgerald. I  
16 have given you the opportunity to, the opportunity to  
17 review your trial testimony, testimony from a suppression  
18 hearing, and as far as your identification of the man that  
19 you observed in that vehicle, that you also observed in a  
20 photograph, if you were called to testify before a trier of  
21 fact, before a judge, in the future, what would your  
22 testimony be?

23           MR. FITZGERALD: I would have to state that they  
24 were one in the same.

25           MR. GODSEY: Okay. I appreciate it, Mr.

1 Fitzgerald.

2 We will end the tape at this time and produce a  
3 written statement signed by myself and Mr. Fitzgerald.

4 Thank you.

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I, Kaye F. Asel, CSR, Registered Professional Reporter of the firm of Asel Reporting, do hereby certify that I was employed by the Attorney General's Office of the State of Missouri, to record verbatim, by machine shorthand, the proceedings herein; that the machine shorthand notes so made at the time and place mentioned on the title page hereof were transcribed under my supervision by Computer Aided Transcription, and that the foregoing pages constitute a true, complete and accurate transcript of my said machine shorthand notes to the best of my ability.

My commission expires February 28, 1997.

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DISPATCHER'S INQUIRY/RESPONSE SCREEN

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LNN \_\_\_\_\_ FNN \_\_\_\_\_ RAC \_\_\_\_\_ SEX \_\_\_\_\_ DOB/AGE \_\_\_\_\_ CORR \_\_\_\_\_  
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LSLP05VI INPUT POLK, JOE [REDACTED] MO CORR REF  
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EYES \_\_\_\_\_ HAIR \_\_\_\_\_ SKIN \_\_\_\_\_ FBI: \_\_\_\_\_  
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INACTIVE - MEDIUM SECURITY INST DATE CONFINED: 1980/06/24

RELEASED: 1981/01/18 REASON: EXPIRED SENTENCE  
80-4-01486 A 421000 (F) C C W DISP: GUILTY-PLEA  
SENTENCE: 180 DAS  
80-4-01486 B 212020 (M) STEALING UNDER 150 DISP: RELEASE ON SUMMONS  
80-5-01407 A 900000 (F) TEL POST CONT SUBS  
80-5-01407 B 421000 (F) C C W