

1 up in the parking lot of Wendy's on North Thomas?

2 A Well, I pulled up and I was sitting there thinking
3 about what I wanted to get to eat, and as I was getting out of
4 the car, I saw a white male coming out the door and a police-
5 man was getting ready to go in. I heard the policeman tell
6 him to hold it, and they started struggling.

7 Then this other policeman came up and started
8 struggling with them. When he--I saw the other policeman who
9 came in on the other side, he got shot and spun away and I saw
10 a gun and I saw a white male shoot the policeman who fell back
11 and drew his revolver and started shooting. I saw the white
12 male running away shooting back.

13 Q When you saw the first police officer, you indi-
14 cated he was shot and then spun away.

15 A Yes, sir.

16 Q How did he spin away and where did he land?

17 A He landed on the pavement from where he had got
18 shot.

19 Q Do you know if that officer who got shot spun away
20 was the man who just walked out of here, Mr. Stoddard?

21 A Yes, sir.

22 Q This other police officer, did you later learn him
23 to be Lieutenant Ronald Oliver?

24 A Yes, sir, I did.

25 Q After Officer Stoddard was shot and spun away,

1 could you describe to us in the greatest detail that you can
2 what happened between Lieutenant Oliver and the shooter?

3 A Well, I saw the police officer trying to grab the
4 arm that had the gun, but he didn't quite get a hold of it.
5 When he got shot, he fell back, going back, and he pulled his
6 revolver about the same time he was going back and he fell
7 down on his rump, on his behind, and he started shooting. The
8 white male was running away and turned around and started
9 firing some shots.

10 Q Where was the pistol at when the shooter shot
11 Lieutenant Oliver?

12 A It was in his hand.

13 Q Where was his hand at in relation to Lieutenant
14 Oliver's body?

15 A I guess it was around chest height or stomach
16 height.

17 Q How far was the muzzle, the end of the pistol where
18 the bullet comes out, from the body of Lieutenant Oliver?

19 A Sir?

20 Q How far was the muzzle of the pistol from the body
21 of Lieutenant Oliver?

22 A No more than two or three feet at the most.

23 MR. PETERSON: Your Honor, I'd like to have per-
24 mission to step out here in the center and have Mr. Davis come
25 down.

1 THE COURT: All right.

2 (Witness complied.)

3 Q Mr. Davis, if you could, with you being the shooter,
4 will you position yourself as he was just as he shot Lieutenant
5 Oliver, and put me as Lieutenant Oliver and you move me as
6 Lieutenant Oliver moved.

7 A Well, Lieutenant Oliver was grabbing for the pistol
8 and he turned around this way, something like that (demon-
9 strating). Lieutenant Oliver fell back like this and was
10 going for his gun when he fell down.

11 Q Once again, if you would place yourself where the
12 shooter was when he fired the shot and where Lieutenant Oliver
13 was.

14 A Lieutenant Oliver was about right there and he spun
15 away like that.

16 Q How was the Lieutenant standing and where were his
17 hands when the shot was fired?

18 A When the shot was fired, the Lieutenant had let go
19 and he was, you know, when the guy shot him he was just kind
20 of going for his gun at the same time.

21 Q Similar to this (indicating)?

22 A Yes.

23 Q You may resume your seat.

24 (Witness complied.)

25 Q How long did you have to look at the shooter?

1 Q And where was Lieutenant Oliver and the shooter
2 when you first saw them?

3 A They were right in here.

4 Q Would you repeat that, please?

5 A They were right along in here.

6 Q And where did you see Officer Stoddard shot at and
7 then where he spun away from? Where was that at?

8 A Right here.

9 Q And where did he land?

10 A He landed right here in this area.

11 Q And where was the shooter of Lieutenant Oliver when
12 that shot was fired?

13 A He was right here, right about here.

14 Q Which way did you see the shooter run after
15 Lieutenant Oliver had been put on the ground?

16 A Over this way.

17 Q When was the last time you saw him and where was
18 he at?

19 A I ran around this truck.

20 Q What did you do after you ran around the truck?

21 A I stayed here on the ground for a minute and about
22 that time a bunch of other policemen had shown up.

23 MR. PETERSON: All right. You may return to your
24 seat.

25 JUROR TAYLOR: Where was he parked again? I didn't

1 CROSS-EXAMINATION

2 BY MR. THOMPSON:

3 Q Mr. Davis, were you living in Memphis at that time
4 or visiting back here?

5 A I was visiting, sir.

6 Q Do you recall seeing either of the officers that
7 you talked about with a flashlight?

8 A With a flashlight, no, sir.

9 Q How far was your car parked from where these people
10 --where the struggle began?

11 A No more than ten feet at the most.

12 Q All right. Now, you've talked to the prosecutors
13 over here about your testimony in this case, haven't you?

14 A Yes, sir.

15 Q And you came back here to testify in this case
16 specifically. Is that right?

17 A Yes, sir.

18 Q And when you got back here, you did talk to them
19 about it?

20 A Yes, sir.

21 Q Back on the 16th of August, I believe about two-
22 thirty in the afternoon you did talk to the police?

23 A Yes, sir, I did.

24 Q And was that Officer Todd or did you know who it
25 was you were talking to?

1 while you were there?

2 A Yes, sir, I believe I did.

3 Q Now, what happened after that? Do you recall what
4 happened next?

5 A Bits, pieces and bits. It seems like I was fixing
6 to leave. Somebody knocked on the back door or something,
7 something hit the back door. I walked around to the front
8 and seen a police car out there. I walked outside.

9 Q When you walked outside, where was the pistol?

10 A In my pants.

11 Q And what happened when you got outside?

12 A There was an officer standing at the door, walking
13 up to the door. I said something to him like, could I help
14 you, or what's the problem or something like that. I don't
15 remember if he said anything. It was like another police car
16 coming around the corner, and he turned his head to look, and
17 it's like at that instant I took off running.

18 Q What happened next?

19 A I fell down.

20 Q Do you know why you fell?

21 A No, sir.

22 Q Did anybody have hold of you when you fell down?

23 A I don't recall.

24 Q What happened after you fell down?

25 A Like--seems to me I said something like, I give up.

1 Maybe somebody said, do you have a gun, or I said, here's
2 my gun, or something.

3 Q Now, how many officers were there when this oc-
4 curred?

5 A I seen one officer at the door and the other police
6 car, I didn't see that officer. He was in the car, maybe he
7 done stopped and was getting out of the car, I don't know.

8 Q Well, do you recall seeing Officer Stoddard testi-
9 fying in here?

10 A Yes, sir.

11 Q Do you know whether he was the one that you were
12 talking to or said something to or who said something to you?

13 A To me, I never seen him before. I don't recall.

14 Q And do you recall how many officers were actually
15 there where you were when you took out that pistol?

16 A No, sir.

17 Q Did either one of the officers--were they touching
18 you or have hold of you?

19 A The only thing I remember is when--like when I
20 pulled out the gun to give to them, I was hit or grabbed or
21 something.

22 Q Which hand was your gun in?

23 A I guess it was in my right hand.

24 Q Are you right-handed?

25 A I'm right-handed.

1 Q And what happened then when you were hit or grabbed
2 or whatever?

3 A I guess I pulled the trigger.

4 Q And what happened then when you pulled the trigger?
5 Did the gun go off?

6 A The gun fired.

7 Q And do you know whether or not anybody was hit?

8 A No, sir, I don't. I didn't see it, I don't know,
9 I didn't see it.

10 Q What happened after that?

11 A The next thing I know, I just heard the noise, the
12 gunfire, the flame from the barrel, and I turned to it and I
13 guess I shot again.

14 Q And could you tell where it was coming from or who
15 was doing it?

16 A I don't know who was doing it. It was coming to
17 my right. I remember it's like I turned to my right.

18 Q Do you know how many times you shot?

19 A No, sir.

20 Q What did you do then?

21 A The next thing I remember I was beside this truck.

22 Q Where was the truck?

23 A The truck was in a yard. I was trying to think.

24 Q Excuse me just a minute. You heard Officer Parker
25 say that he came around and that he made eye contact with you.

1 Oliver going to that Wendy's that night protecting all of us
2 from criminals that come from Fort Worth, Texas, or Columbus,
3 Georgia, perhaps Lieutenant Oliver would be with us here today,
4 or perhaps one other thing. If Lieutenant Oliver had followed
5 one of the police department's routine rules, Phillip Workman
6 might not be sitting over there, because what we have is a
7 felon fleeing his felony.

8 Police department rules say that if an officer re-
9 ceives that this is a felon fleeing a felony, that officer
10 can shoot to kill. Lieutenant Oliver never pulled his pistol
11 until he was shot and sitting down on the pavement. How do
12 we know that?

13 Harold Davis had pulled up to get something to eat
14 and was getting out of his car and he virtually saw the whole
15 thing. And what did Mr. Davis say in regards to the tussle
16 that he saw take place? Mr. Stoddard gets shot and spins
17 away, Lieutenant Oliver and the defendant.

18 Was it a thing where they were wrestling over this
19 pistol? No. Was it a thing where the Lieutenant was trying
20 to get the pistol away and there's an accidental discharge?
21 No.

22 Mr. Davis got out here, he being Workman and me
23 being Lieutenant Oliver, as if Mr. Davis was standing in that
24 chair approximately two feet away with one of the Lieutenant's
25 hands raised up, I believe, in this position (demonstrating),

1 approximately two feet away is what I believe Mr. Davis said
2 and a shot was fired. He coolly and deliberately pulled this
3 trigger and sent the bullet down this barrel and into the
4 body of that man right there.

5 You heard Doctor Bell indicate the cause of death
6 was a gunshot wound that entered here and exited a little
7 higher up around the back in the rear side. Doctor Bell in-
8 dicated that due to the type of wound and the blood being in
9 the brain that the individual would stay alive, I believe, he
10 said four minutes. He would be conscious and able to function.
11 I asked the question, a person with a wound like that, would
12 that person be able to, in your expert opinion, fire off six
13 rounds from a pistol? And he indicated yes.

14 The State submits that what happened is after Work-
15 man shot Lieutenant Oliver, Lieutenant Oliver is down, he's
16 pulling his pistol, and if you will recall, Mr. Davis said as
17 the Lieutenant was falling, he was going for his pistol. He's
18 sitting on the ground; he's got this wound through him and he
19 can't shoot as clearly as if he could if he were standing on
20 the firing range, and he shoots this pistol six times. He
21 never hits the defendant. Perhaps he hit that truck and per-
22 haps he didn't. No telling where those shells went, the bullets
23 out of the gun.

24 But the bullets that he fired, these six blank
25 cartridges remained in the gun, whereas in the automatic