

STATEMENT OF: SWOPE, Rick

CASE NO. 07-90-0821

This is Sergeant Ronald Wright of the Broward County Sheriff's Office Internal Affairs Unit. I'm the investigator in charge of this case. You are being questioned as a subject employee in an official investigation by the Broward Sheriff's Office. This statement is in reference to Internal Affairs Unit Case #07-90-821. This statement is concerning an allegation concerning Off-Duty Service, Section 2.2.80 involving pos, possible conflict of interest. This interview is being conducted at 2600 Southwest 4th Avenue in Fort Lauderdale, commencing at 12:31 a.m. on July 27th. Also present at this time is Attorney Carey Nutall. This statement is being taped recorded. Deputy Swope, before we begin the statement, I need to inform you that along with being a Deputy Sheriff, I'm a Notary Public in and for the State of Florida and empowered to take statements under oath. Would you please raise your right hand? Do you solemnly swear that the following statement you're about to give is the truth, the whole truth and nothing but the truth so help you God?

A: I do.

Q: The Sheriff's Office Manual states: "Employees will obey the lawful order of a superior, including any order relayed from a supervisor by an employee of the same or lesser rank. Employees will not make false statements in any communication, verbal or written concerning official matters. A deputy (or employee) will not interfere with the investigation of a case assigned to another deputy. Employees are prohibited from discussing the case with anyone other than the investigator. This does not preclude the right of an employee to consult with an attorney or representative of your choice. You are required to give a statement for administrative purposes. You will be asked questions specifically, directly and narrowly related to the performance of their official duties or your continued fitness for office. I further advise you that if you refuse to answer questions relating to the performance of your official duties or fitness for duty, you may be subject to office charges. You are entitled to the right to have an attorney or any other representative present during questioning." Do you understand all of this?

A: Yes.

Q: Please state your name for the record.

A: My name is Rick Swope, S-W-O-P-E.

Q: Your CCN and current assignment?

A: 3880 and I'm retired as of today.

Q: Okay. Where were you employed prior to today?

A: I was employed at the Traffic Homicide Unit, Special Operations under "UNINTELLIGIBLE".

Q: Okay. Do you have a copy of your resignation form signed by the Sheriff?

A: Do I have a copy of it? No, not signed by the Sheriff.

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Q: Okay. As far as I'm concerned, and for the record, you are still an employee of the Sheriff's Office and I ask you to give a statement at this time.

A: Well, for the record, I am no longer an employee here, okay? That's for the record from me to you. I am not employed here.

Q: But you're...okay. I'm not going to debate that issue. I am gonna...

A: Fine.

Q: ask you to give a statement at this time.

A: I will give one.

Q: Okay. The Internal Affairs Unit has been informed of this situation by Colonel Schlein, Lieutenant Colonel Mark Schlein. Basically, we're looking at two situations; one is a pending criminal case involving a vehicular homicide. This is a case, a court case. It's a Broward County criminal case. The case number is 90-1338CF10, which involves an individual, a Mr. Estevez who has been charged with two counts of Vehicular Homicide. This is being prosecuted by Assistant State Attorney Sharon Wood. What is your involvement in this case Deputy Swope?

A: As to what?

Q: Are you going to be a witness in this case?

A: Am I gonna be a witness in this case? Yes.

Q: Okay. Have you been subpoenaed in this case?

A: No. I don't believe yet.

Q: Okay.

(Attorney Nutall speaking) Let me clarify something...when you say, "you're going to be a witness?", at this point, you just believe the attorney is going to put your name on a witness list, correct?

(Deputy Swope speaking) Yeah, I don't know if I'm gonna testify at this point. I haven't done anything to...

(Attorney Nutall speaking) And how about received a subpoena "UNINTELLIGIBLE"?

(Deputy Swope speaking) No.

Q: How did you become involved with the attorney involved, Moldof, the attorney that's gonna ask you to testify in this case?

A: Well, I don't know if he's gonna ask me to testify. I'm assuming he will.

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Q: Okay. Have you been retained by Mr. Moldof?

A: My firm has been retained, yes.

Q: Okay. When did this take place?

A: I don't know.

Q: Have you received any payment or has your firm received any payment from Mr. Moldof?

A: I, I have not received payment. My firm had received payment. I have co-owners in the firm as well.

Q: Who are the co-owners?

A: That's none of your business.

Q: Well, I would suggest to you that it is. I'm gonna ask you again as this relates to business of the Broward Sheriff's Office and you've received permission from the Sheriff to conduct outside employment. I'm gonna give you a direct order to tell me who your partners are.

A: No, then I'm not gonna answer it. I have a private firm. There are owners in there. I can answer for myself in the firm. I am not gonna answer for my other owners. They have nothing to do with the Broward Sheriff's Office. That is a private company.

Q: Alright, can you speak for the firm then?

A: I speak for part of the firm, yes. The part that I own I'll speak for.

Q: Okay. When was your firm retained by Mr. Moldof?

A: I'm not sure.

Q: Has, has your firm received any compensation from Mr. Moldof?

A: The firm has, yes.

Q: How much was that compensation?

A: I'm not sure. I'd have to look.

Q: Okay. Would it refresh your memory if I told you that Mr. Moldof gave you a check for \$1,000.00 on June 11th?

A: It could be more or less. It could be more, but I'm not sure.

Q: Okay. Do you have any of those records with you?

A: No.

Q: What work have you done on this case for Mr. Moldof?

A: None.

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Q: Okay, what, what has your firm done for this case?

A: I don't know. My other partners are working the case and I don't know what they've done. I know as of yesterday, they haven't done pretty much anything. They're waiting for Sharon Wood to release the truck.

Q: Do you recall having a telephone conversation with Mr. Moldof on or about June 28th, 1990 concerning your firm's involvement in this case?

A: I don't know. Refresh my memory.

Q: Well, this is a letter that Mr. Moldof provided to me. It's addressed to Rick Swope. It's dated June 28th, 1990. I'll read it into the record if you'd like and then you get read...

A: If I'd like I can just...I'd like to...

Q: I'll read it into the record. It says: "Rick Swope, P.O. Box 290547, Davie, Florida. This is reference State of Florida vs. Gilbet, Gilberto Estevez, Case No. 90-1338CF. Dear Rick: This letter is in confirmation of my telephone call with you regarding the inspection of the truck. Enclosed please find a letter I sent to Ms. Wood in an effort to move the inspection along as well as discuss some plea negotiations to a lesser charge. I did not want to appear as being unacceptable to any resolution of this case, however, I do not think Mr. Estevez is in a posture to accept the plea to a homicide." (SECOND PARAGRAPH - I think this is the area of interest here.) "This letter will further confirm that we have retained your office to perform the inspection of the truck as well as provide testimony at trial concerning accident reconstruction and the mechanical investigation of the truck. I will be happy to utilize your other experts in the area of trucks, however, I would simply like to meet with those individuals to ensure that they would be good witnesses for trial. In that regard, if you could schedule an appointment or if I can simply speak with these individuals by phone, I would appreciate that at their convenience. If you have any further questions, please feel free to contact me, I remain, Respectfully yours, Hilliard Moldof." Does that ring a bell to you at all?

A: Let me look at it.

Q: Sure.

A: If that was the date that he said he talked to me, then that would, then that would probably be the day.

Q: Okay.

A: I remember I've talked to him a couple of times about when my partners could look at the truck, yes.

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Q: Okay. Do you recall receiving this letter?

A: I don't recall receiving it. I probably have it.

Q: Okay.

A: I have, get many letters.

Q: Okay. If we could just then wrap it up just for the record, it's your firm's intention then to testify or act on behalf of Attorney Moldof in this matter?

A: Members of my firm will be acting, that's correct.

Q: Okay. Did you say you had or had not received the subpoena concerning this case?

A: I have not.

Q: Okay. Just for the record also, I have a, from the 17th Judicial Circuit, this is a Notice of Reciprocal Discovery. It's State of Florida vs. Gilbet, Gilberto Estevez and this is from Mr. Hilliard Moldof. It's a copy. Signed by Mr. Moldof. I received this from the prosecutor, Sharon Wood, which indicates, "The following persons are expected by defense counsel to be called as witnesses at the trial or hearing of this case" and it says "Rick Swope, 9137-A, S.W. 20th Place, Fort Lauderdale." And then it says, "Any and All State Witnesses". According to this, it's Mr. Moldof's impression that you're gonna be called as a witness. Is there some misunderstanding there?

(Attorney Carey Nutall speaking) Probably if there is any misunderstanding, I think it's on your part. The witness list is just issued. I, I do them all the time and I put everybody and anybody if there's any chance that I might call even if I haven't told them I'm gonna call them.

Q: Well, I'm just curious because he doesn't mention anyone else on there besides Mr. Swope.

A: Well, the reason and I can tell you right now that he wouldn't mention anybody else is number one, the experts that I have in my firm has not been able to look at the truck yet because of Miss Wood. My firm, my name is on every...and I haven't seen this. This is the first time I've seen this. To my knowledge, my office does not have this, but it could be I haven't seen it. But to my knowledge, my name is on every subpoena that our firm works.

Q: Okay.

A: And it's every case that comes in. My name is on it because I'm the principal owner.

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Q: Okay. Did you tell Mr. Moldof that you were a Plantation Police Officer?

A: No. I don't know where he got that impression. I heard that from Lieutenant Rios. As a matter of fact, I know his partner very well, Charlie Whitelock. I don't know where he got I was a Plantation police officer.

Q: Did you tell Mr. Moldof that it would be no problem for you and your firm to testify in this matter.?

A: No problem for my firm to testify, that's correct.

Q: Okay. How about for you?

A: No. At that time there was a problem, but it ain't gonna be after today.

Q: Okay. I'll let you, provided you with a copy to read of a memo from Sergeant Rucker to Chief Vrchota. It's in the pile there with the other statements.

A: I got it.

Q: Okay. On page two of this memo, in the second to the last paragraph from the bottom, Sergeant Rucker states, "During the course of this investigation, this writer responded to Central Courthouse, 201 S.E. 6th Street, Fort Lauderdale on 06/29/90 at 9:00 am, the 6th floor, State Attorney's Office, Felony Division, to confirm Deputy swope's attendance in court on 06/07/90 and 06/08/90. It was learned through State Attorney... do you want a pen?"

A: No, it's alright.

Q: it was learned through State Attorney Penn Fairington that State Attorney Sue Bailey had used Deputy Swope in a trial. She was not available to speak to this writer at that time. On 06/29/90 at approximately 9:30 am, this writer responded to the B.S.O. Court Liaison, 200 S.E. 6th Street, Fort Lauderdale, 5th floor, where a check of Deputy Swope's sign-in sheet and court docket revealed that Deputy Swope's name did not appear." The last paragraph..."On 06/29/90 at 10:30 am, contact was made via telephone with State Attorney Sue Bailey who related the following information. Deputy Swope was privately retained by the State as an expert witness reconstructionist and that he represented Rick Swope & Associates and not the Broward Sheriff's Office. Deputy Swope testified on a criminal DUI/Manslaughter trial. The original accident occurred within Broward County at I-95 and Griffin Road and was originally investigated by FHP, sometime in October 1989, involving an Alamo rental. Deputy Swope received approximately \$75.00 an hour as his fee from the State. Deputy

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Swope had been placed on stand-by on 06/05/90 through 06/11/90 by State Attorney Sue Bailey. The defendant was Howard Brooks and the court case number is #89-22385." Would you like to tell me about your involvement with this case we just, that Sergeant Rucker talks about in his memo?

(Attorney Carey Nutall speaking) Um, let me, let me take a break one second. I want to talk to Rick about this...we didn't do that before, before we started on the tape. Now I just want to discuss, break something briefly "UNINTELLIGIBLE".

Q: Alright. We'll take a recess. The time is now 12:46. This is Sergeant Wright. We're back on tape now. It's 12:53 pm. Deputy Swope, what was your involvement or your firm's involvement with the case that Sergeant Rucker is talking about that was handled by Miss Bailey?

A: I work, I work with the Broward State Attorney's Office when they need an Accident Reconstructionist to prosecute a DUI/Manslaughter and the other police agency does not have someone as qualified or able to handle the case.

Q: Have you received permission from the Sheriff do this?

A: To my knowledge, yes.

Q: And to your knowledge...

A: My knowledge is my off-duty request for Accident Reconstruction in 87, yes.

Q: To testify in Broward County criminal cases?

A: It was my understanding that I could testify for the State Attorney's Office. I couldn't testify against them. That as long as I was doing it for the State Attorney's Office and prosecution, then I could do it.

Q: As a Deputy Sheriff?

A: No. I wasn't testifying as a Deputy Sheriff. I was testifying as an individual, but as long as I didn't hire myself off sort-of-speak for the defense against another police agency.

Q: Okay. So you did testify in this case?

A: Yes sir I did.

Q: Okay. As Rick Swope & Associates Accident Reconstruction whatever?

A: Yes sir.

Q: Not as Deputy Rick Swope?

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A: That's correct.

Q: Okay. Did you do anything else besides testify in this case?

A: I inspected the vehicle and that type of stuff "UNINTELLIGIBLE".

Q: Okay. I've spoke with Miss Bailey this morning, and she provided me with a copy, which you're more than welcome to look at it. It's a photostat of a bill, "Rick Swope & Associates" and it concerns according to it, State of Florida vs. Howard Brooks, State Attorney assigned Susan Bailey. It consists of four pages listing 25 items with hours spent and dates and particulars. Does this look familiar to you?

A: Yes sir.

Q: Okay. On page four there is a signature...

A: Yes.

Q: is that your signature?

A: It's not mine. It's signed for me. I believe my wife signed that.

Q: Okay, but you do acknowledge that this is a bill that was submitted by Rick Swope & Assoc, Associates to, to the State Attorney's Office?

A: That's correct. Yes sir.

Q: Okay and I'm not gonna ask you to add all this up, but it says total amount due, it says \$4,026.57. Is that, as far as you know, an accurate accounting of...

A: That's correct.

Q: the total?

A: I charge \$4,000. The other expert on the other charge, side charge \$50,000.00.

Q: Okay.

A: Actually \$49,800 they charge. So I think they got a good deal. And we won the case by the way.

Q: Did you tell your supervisor you're gonna be testifying in this case?

A: I don't recall...I mean which supervisor? Which...

Q: Sergeant Rucker?

A: As to this case, I don't think I did. I might have told him I'm gonna be in court, but I don't make it a point of telling him

what I'm gonna be doing when I'm on my off-duty time, which I was.

Q: Okay. According to, going back to Sergeant Rucker's memo...well, before we get into that, I just wanted to...concerning this, this bill...if you'd refer to your copy and you're telling me that your entire involvement in this case was as Rick Swope private individual Accident Reconstruction person?

A: To my knowledge, yes. I don't recall anything else that I did...

Q: Okay.

A: in the case.

Q: Item #10 says on 04-16-90, 3 hours and it says the reference description: "To Court reference search warrant on obtaining suspects vehicle. After hearing was concluded, vehicle was then removed by Macs Towing. Followed vehicle to tow yard to maintain custody of same." Did you obtain a search warrant?

A: No, Susan Bailey obtained the search warrant and she asked me on this particular day, which whatever day it was, the 16th, I went to court reference her and apparently we could, she could not get the vehicle. She wanted a search warrant. When I went to court, got the vehicle, followed her to the yard and then after...

Q: Wait, she got the search warrant? Who, who obtained the search warrant? What was...

A: To my knowledge she, to my knowledge her signature is on the search warrants. I believe that's the way it works.

Q: Who is the affiant on the search warrant?

A: I believe I was on the search warrant.

Q: Oh, okay.

A: But she signed it. She signed it.

Q: That's what I wanted to find out. But it was based on an affidavit that you signed to establish "probable cause"?

A: Because she used me in that capacity and to get the vehicle, yes. She got a search warrant obtained uh I followed the truck down from the Federal Self Storage on, in Dania down at the Mac's Towing where it was stored and then I did my work on it later that day.

Q: Okay, but you were the affiant on the search warrant?

A: Sure.

Q: Okay and was this as...what was your "probable cause" for the

search?

A: To my knowledge, she used "probable cause" to take the vehicle for the criminal investigation because it was a State case, a manslaughter case and she attempted to...

Q: If you signed the affidavit, you're the one who is to state what the "probable cause" is, not the State Attorney. What was your probable cause?

A: The only reason I know that she took the vehicle or had the vehicle taken to my knowledge, she took the vehicle. You know, I followed it from point "A" to point "B", but to my knowledge, she took the vehicle because it was needed in a D.U.I. Manslaughter prosecution and she took the car because she couldn't....

Q: But you signed the affidavit?

A: Sure I did.

Q: As for what reason did...we're you conducting a criminal investigation at that point?

A: Well, I wasn't conducting it, no. She was. The State, I mean it's a criminal investigation on a D.U.I. Manslaughter, correct?

Q: Okay.

A: I, I don't follow where you're coming from.

Q: No, evidently you don't. Who searched the vehicle? Let me ask you this...what time of day was this?

A: I don't recall.

Q: Was it during the day?

A: When we got the search warrant, it was in the morning and I went back to the vehicle in the late afternoon I believe and I, I'm not sure "UNINTELLIGIBLE". But I believe I went to the vehicle on the, you know, the 16th.

Q: Who searched the vehicle? Hello?

A: I, I'm trying to think of who searched the vehicle. I don't...

Q: Did you search it?

A: I don't recall so, I'm not searching it, no. Searching for what?

Q: What, what did, what did you do with the vehicle?

A: The vehicle was taken based on inside storage so it couldn't be touched. I inspected the vehicle at another date.

Q: Is that considered your search?

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A: No.

Q: No?

A: To my knowledge, no.

Q: Then why did you need a search warrant?

A: She wanted the vehicle in custody because we could not inspect the vehicle, so the State took the vehicle for me to inspect. That's the way I understand it.

Q: Alright deputy. It says, Item #11, one hour 04/19/90: Return of Search Warrant and meeting with Susan Bailey reference case. You did a return on the search warrant?

A: I did a return on the search warrant. I took the paperwork up to her and we had an hour, hour and a half meeting discussing the case and what I plan to do with the inspection and those types of things.

Q: Did you do an inventory along with your return?

A: You mean, like an inventory search?

Q: No. No. When you do a return of a search...

A: I've never, I've never done a search warrant before. That was the first time I've ever had any involvement with a search warrant. I've never done one in Florida in six years.

Q: Well, let me explain it to you then the way it works with a search warrant. When you do a return, there's an inventory which you give back to the Clerk of the Court which indicates what was taken, if anything, from the vehicle or the residence.

A: I didn't do an inventory. All I did was I took back the warrant form or the search warrant form and I signed some little square piece of paper and that was it. I didn't hand in a sheet about what was taken on, we didn't take anything off the vehicle.

Q: Did you photograph the vehicle?

A: Yes. Not, not that day. I photographed at another, later occasion.

Q: This was the one that was at, you said what, Mac's...

A: Yes sir.

Q: Tow yard?

A: Yeah.

Q: Did anyone el, else assist you in this inspection of the vehicle?

A: There was a guy there from the other expert that I told you about, he was there.

Q: The defense expert?

A: Yes and I believe he had an assistant with him as well. I think it was a female. I think, but I could be wrong.

Q: Okay and you're doing all this in the capacity of Rick Swope & Associates?

A: Yes, other than what I told you before. I am not billing anything that...

Q: Was what you told me before.

A: I didn't...well, I talked to Susan about the search warrant and I took the search warrant back. That wasn't done on, on their time. That was done, I just did it as just part of my capacity in helping the State Attorney's Office.

Q: You mean when you followed the vehicle down to Mac's?

A: Yes. Yes. That's correct. I didn't bill them for...

Q: Well, how is it that you billed them for three hours for doing that?

A: I told you originally that I did not bill them for the time I followed them down to Mac's Towing and for the search warrant.

Q: That's what your bill says if you look at Item #10.

A: Well, I didn't prepare the bill. I make a bunch of notes and generally my secretary or my wife prepares them.

Q: Well, I'd suggest you better get with the State Attorney and correct that problem, don't you think?

A: Well, I'd have to look at my notes.

(Attorney Carey Nutall speaking) Your suggestion is noted.

Q: Okay. We certainly wouldn't want any fraud here. Okay and you did testify in this matter, is that correct?

A: That's correct.

Q: When did you testify? On what dates?

A: 06-07 and 06-08 of 90.

Q: Okay and were you scheduled to work that day with B.S.O.?

A: Hang on a second.

Q: Okay. You gotta look it up in your red book?

A: Yup. (yes)

Q: Okay. That's your record that you keep? Is that correct?
A: It's an official record. I make my daily's off of this.

Q: That you make entries into...
A: Right.

Q: Okay.
A: Okay, 6, 7...okay, on 06/08 I was in court from 8 to...or "UNINTELLIGIBLE" (mumbling). I've got four hours of unofficial comp time I got from Randy Goldberg, Sergeant Goldberg from working on the grant. At 2:00 p.m., I started work at the office and worked from 2 to 6 on the grant, so I had four hours comp time.

Q: Okay.
A: I had...was in court on the 6th from 7 to 11 and I took four hours comp time and I notified Sergeant Goldberg I was taking four hours comp time on that date because I had "UNINTELLIGIBLE" the firm.

Q: When did you notify Sergeant Goldberg?
A: I just have that I notified him, that was all.

Q: Could have it been on June 14th that you notified?
A: Oh wait, wait a second, wait a second...I looked at the wrong date.

Q: Oh, okay.
A: I'm sorry. Okay, on six, 06/06 of 90, which was June 6th, I notified Rucker that I was going to be in court possibly on the 7th and he said "okay" and to either let him know or let Randy know.

Q: And did he tell you to attend it on an on-duty status?
A: No.

Q: Did you tell him what the case was about?
A: No, if I'm off duty, why would I tell him what, what I'm doing on my off-duty time?

Q: I just wondered.
A: No.

Q: Well, if you were on-duty, why did you have to take comp time?
A: Because I'm testifying for the State in my private capacity.

Q: Okay.

A: It's not a sheriff's...

Q: Did he know that?

A: it's not a sheriff's office case. Did he know what?

Q: Did he know that you were testifying for the State in a private capacity?

A: No, I don't believe I made a point to tell him.

Q: Did you tell any supervisor?

A: Why would I tell him?

Q: Well, wouldn't he ask why you wanted the comp time to testify in court?

A: When, what did you say again?

Q: Why would, if I'm your supervisor and you tell me you have to go to court and then you tell me you want to take four hours of comp time to go to court, I'm gonna ask you why do you want to use your comp time when it's, you go to court on-duty? Everybody does. What's, I wouldn't understand that.

A: Does it make you a difference what I do on my off-duty time? My comp time? Because I want to take comp time? I believe my...

Q: It doesn't make any difference what you do to me when you're off or what, what you do to yourself or whatever you do when you're off-duty. I would as a supervisor be very curious if you tell me you have to go to court on a case, why you would put in to take the comp time unless there was, you know, unless it was a personal matter or you were testifying as an expert. And I would ask you that. Not just, did anyone ask you?

A: No. To my knowledge, I just told him I was taking off and I think I may have made mentioned something and I mentioned I was going to court, but that was about it.

Q: Okay. Is there anything that I've not asked you you'd like to add to this statement?

A: "UNINTELLIGIBLE" (Attorney Nutall and Deputy Swope conversing in a mumbling manner)

Q: (SIDE ONE OF TAPE CONCLUDED - TURNED OVER TO SIDE TWO) This is Sergeant Wright. We're back on tape. We ended the other tape abruptly. It's 1:09 p.m. and the last question I'd asked him, Mr. Swope, was if there was anything he would like to add to this statement. Is there anything you'd like to add Mr. Swope?

A: Yeah, probably a lot, but I better not, you know?

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Q: Well, if there's something that would assist this investigation, I would...

A: No, you guys' minds are already made up. Even you the people must have something better to do than look at this kind of stuff, you know? You should go out and get a real job.

Q: Well...

A: Sorry, that's, that's all I had to add I think to this statement.

Q: Deputy Swope, I consider your remarks inappropriate and I certainly take exception to them and consider them to be insubordinate, however, that's not the issue here. The issue is the truthfulness of your statement. Has everything you've said today been the truth to the best of your knowledge?

A: To my knowledge, yes.

Q: Thank-you very much. We'll conclude this statement at 1:10 p.m. This is Sergeant Wright. Just for the record, this statement commenced at 12:31 p.m. not a.m. on July 27, 1990.

----- STATEMENT CONCLUDED -----

Transcribed by: Gayle Munro