

Cliff Middleton
cmiddleton6@kc.rr.com
1605 Cody Drive
Raymore, Missouri 64083

April 15, 2010

Mr. Jim Kanatzar
Prosecuting Attorney
Jackson County Courthouse
415 East 12th Street, 11th Floor
Kansas City, Missouri 64106
VIA U.S. CERTIFIED MAIL

Dear Mr. Kanatzar:

I filed an Notarized Affidavit in the Jackson County Clerk's office, under Missouri Law RSMo § 545.250 on July 24, 2007. (Over 32-months ago): "Request[ing] that [you] ... prosecute Mildred M. Anderson for this serious crime to the fullest extent of Missouri Law under RSMo § 575.040(1) and § 558.011(1)."

The Affidavit had attached exhibits from "A" through "F" proving everything I alleged against Mildred M. Anderson, for "perjury" in a First Degree Murder trial on February 21, 1991, which is a class A felony! I then immediately hand-delivered a filed stamped copy to your office, which was in a large addressed envelope prepared to mail to you with my home address. To this date, I have heard absolutely nothing from you concerning this serious crime!

Please send me a copy of the Affidavit with exhibits. Also, let me know what actions you plan to take, if any, against Mildred M. Anderson, for this serious crime? I am considering what further legal actions may be available to me in this matter.

Thank you in advance for your cooperation in this matter and I await the copies and your answer as soon as possible.

Sincerely,



Cliff Middleton

cc: file
Mr. Alvin Brooks
Mr. Kent Gipson

to walk out of here free at the end of your deliberation so that he can spend the property of Mr. and Mrs. Middleton --" (Trial Tran. page 535). Shortly after 1:00 p.m. that afternoon the jury returned a guilty verdict and recommended life without parole and 200 years incarceration. (Trial Trans. pp. 554-56). (See, Trail Trans. pp. 535, 554-56, Exhibit "B" attached hereto).

4. Years later, on March 25, 1999, Mildred Anderson gave sworn testimony in her Arkansas lawsuit against Kenneth Middleton which shows she clearly perjured herself on February 21, 1991. Prohibited by RSMo § 575.040(1): "It is committed during a criminal trial for the purpose of securing the conviction of an accused for **murder**, in which case it is a **class A felony**." (See, Exhibit "C" attached hereto). Mildred Anderson testified under oath that she and her family had indeed **been fully aware** of all assets belonging to Kenneth Middleton, including those properties in Arkansas; **prior to Katherine Middleton's death**. (Admitted into evidence at 2004 Rule "29.15" evidentiary hearing, LF Vol. II pp. 309-10, 320-21, **Exhibit 44 and 45**, Arkansas trial transcript; including Mildred M. Anderson's list of Kenneth Middleton's Arkansas assets). (See, Exhibit "D" attached hereto).

5. Geraldine Lockhart (Mildred Anderson's sister) also testified under oath in the Arkansas lawsuit against Kenneth Middleton, **corroborating** that Mildred Anderson knew of all Kenneth Middleton's Arkansas assets, down too a **hydraulic jack!!** (See, Geraldine Lockhart's sworn testimony and her lists of Kenneth G. Middleton's assets, Exhibit "D" attached hereto).

6. That there is no statute of limitations for a class A felony under RSMo § 556.036 Time Limitations -- "A prosecution for murder or any class A felony may be commenced at any time." (See, Exhibit "E" attached hereto).

7. The above perjury in a First Degree Murder case is a serious offense under RSMo § 558.011 Sentence of imprisonment, terms: "(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;" (See, Exhibit "F" attached hereto).

8. Mildred M. Anderson is a witness against herself ("confession from the witness stand") as clearly shown above. Gearldine Lockhart is also a corroborating witness against Mildred Anderson, for Anderson's perjured testimony in a murder trial on February 21, 1991; as required under RSMo § 545.250. Kenneth G. Middleton is also a witness against Mildred Anderson.

9. I request that Jackson County Prosecutor, Jim Kanatzar prosecute Mildred M. Anderson for this serious crime to the fullest extent of Missouri Law under RSMo § 575.040(1) and § 558.011(1). (See, Exhibits "A, C, E and F" attached hereto).


Cliff Middleton
Complaint/Affidavit

Subscribed and sworn to before me, the undersigned Notary Public in and for said County and State, this 24th, day of July, 2007.

Notary Public

My Commission Expires: _____

name, referring also to the name by which he is indicted, in the same manner, in all respects, and with the same consequences as if he had been indicted by his true name.

(RSMo 1939 § 3950)

Prior revisions: 1929 § 3561; 1919 § 3906; 1909 § 5113

(1964) Court erred in sustaining motion to dismiss information on ground that name in information was fictitious where name used was alter ego of corporation and no claim was made that defendant was not the person informed against. City of St. Louis v. Capital Vending Co. (A.), 374 S.W.2d 519.

545.240. Informations — how filed, verified.

— Informations may be filed by the prosecuting attorney as informant during term time, or with the clerk in vacation, of the court having jurisdiction of the offense specified therein. All informations shall state the name of the prosecuting attorney and be verified by his oath or by the oath of some person competent to testify as a witness in the case, or be supported by the affidavit of such person, which shall be filed with the information; the verification by the prosecuting attorney may be upon information and belief, all in the manner provided by supreme court rule. The names of the witnesses for the prosecution must be affixed to the information, in like manner and subject to the same restrictions as required in case of indictments.

(RSMo 1939 § 3894, A.L. 1997 S.B. 248)

Prior revisions: 1929 § 3504; 1919 § 3849; 1909 § 5057

CROSS REFERENCE: Misdemeanor prosecutions, Chap. 543, RSMo

(1951) Where accused does not attack information by motion to quash, failure of assistant prosecuting attorney to sign it, is unavailing on appeal. State v. Taylor, 362 Mo. 676, 243 S.W.2d 301.

(1951) Trial court has large discretion in granting leave to endorse names of witnesses on indictment at beginning of trial. State v. Farris (Mo.), 243 S.W.2d 983.

(1960) Information signed by an assistant prosecuting attorney of Jackson County held sufficient. State v. Eastley (Mo.), 338 S.W.2d 884.

(1964) Where information is supported by affidavit of private individual that individual must have actual knowledge of the offense but verification of information by prosecuting attorney may be upon information and belief. State v. Statler (Mo.), 383 S.W.2d 534.

(1967) It is only where the information is supported by the affidavit of a private individual that such person must have actual knowledge of the offense, and the prosecuting attorney may verify an information upon information and belief. State v. Crump (Mo.), 412 S.W.2d 490.

545.250. Who may make affidavit. — When any person has knowledge of the commission of a crime, he may make his affidavit before any person authorized to administer oaths, setting forth the offense and the person or persons charged there-

with, and file the same with the clerk of the court having jurisdiction of the offense, for the use of the prosecuting attorney, or deposit it with the prosecuting attorney, furnishing also the names of the witnesses for the prosecution; and it shall be the duty of the prosecuting attorney to file an information, as soon as practicable, upon said affidavit, as directed in section 545.240.

(RSMo 1939 § 3895)

Prior revisions: 1929 § 3505; 1919 § 3850; 1909 § 5058

545.260. Lost affidavit, how replaced. — If the affidavit or information shall be lost or destroyed, the prosecuting attorney may file another, and the case shall proceed without any delay from that cause.

(RSMo 1939 § 3897)

Prior revisions: 1929 § 3507; 1919 § 3852; 1909 § 5060

545.270. Form of information. — An information filed in writing and as allowed by supreme court rule may be in the following form:

The State of Missouri)
against) In the court.
A B.....)

C M, prosecuting attorney within and for the county of, in the state of Missouri, informs the court that A B, on the ... day of, A.D. 20...., at the said county of, did then and there ... (here set out the offense as in an indictment).

C M, prosecuting attorney.

C M, prosecuting attorney (or E F, as the case may be), makes oath and says that the facts stated in the foregoing information are true, according to his best information and belief.

Subscribed and sworn to before me, this day of, A.D. 20..

G H (style of office).

(RSMo 1939 § 3896, A.L. 1997 S.B. 248)

Prior revisions: 1929 § 3506; 1919 § 3851; 1909 § 5059

545.280. Prosecuting witness, who deemed.

— When the information is based on an affidavit filed with the clerk or delivered to the prosecuting attorney, as provided for in section 545.250, the person who made such affidavit shall be deemed the prosecuting witness, and in all cases in which by law an indictment is required to be endorsed by a prosecutor, the person who makes the affidavit upon which the information is based, or who verifies the information, shall be deemed the prosecutor; and in case the prosecution shall fail from any cause, or the defendant shall be acquitted, such prosecuting witness or prosecutor shall be liable for the costs in the case not otherwise adjudged by the

court, but the prosecutor liable for costs in an

(RSMo 1939 § 3900)

Prior revisions: 1929 § 3510

(1967) Court Rule 29.01 ex p and imposes the duty upon arraignment, of his right counsel for an indigent S.W.2d 237.

545.290. Statute proceedings by info

jeofails, as applicable proceedings in prosecution; and any affidavit amended in matter of by leave of court before to all matters of form of the court, when to the prejudice of the substance on the merits, and no delay of the trial, to the defendant for good cause

(RSMo 1939 § 3898)

Prior revisions: 1929 § 3508;

(1951) Amendment of forged change date of offense check set out in information. State v. Redding, 362

(1953) Amendment of information commenced to allege that agent of owner and in possession only and not erroneous. State

(1960) The allowance of an ar close of state's case to charge was \$55 instead of \$193 amount. State v. Clark (M

(1971) Amendment of information to allege offense occurred 12:35 a.m., April 1, 1970, judge's discretion. State v.

(1971) Defendant is not entitled required number of terms demanded a trial and that for a reasonable length of time Failure to take affirmative waiver of that right and the correctly overruled. State

545.300. Inform substitution for def

information may be a substance at any time no such amendment operate to charge an charged or attempted information. If an indi

IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,)	
)	
Respondent,)	
)	
vs.)	No. WD 44671
)	
KENNETH G. MIDDLETON,)	
)	
Appellant.)	

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT
Honorable Edith L. Messina, Judge

STATE OF MISSOURI,)	
)	
Plaintiff,)	
)	
vs.)	No. CR90-0348
)	
KENNETH G. MIDDLETON,)	
)	
Defendant.)	

TRANSCRIPT ON APPEAL - VOLUME I

Mr. Patrick W. Peters
Assistant Prosecuting Attorney
Floor 7M
Jackson County Courthouse
415 E. 12th Street
Kansas City, Missouri 64106
Attorney for State

Mr. Robert G. Duncan
DUNCAN, COULSON, SCHLOSS,
CHANCELLOR & NORRIS
2800 B Kendallwood Parkway
Kansas City, Missouri 64119
Attorney for Defendant

Susan L. Steen, C.C.R.
Official Reporter, Division 12
16th Judicial Circuit
Independence, Missouri 64050

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VOLUME II

THURSDAY, FEBRUARY 21, 1991

THE COURT: Morning, ladies and gentlemen.

Morning, gentlemen. Mr. Peters, you may proceed.

(State's Exhibit No. 22 was marked for identification.)

MILDRED ANDERSON, being sworn by the Court, testified:

DIRECT EXAMINATION by Mr. Peters:

Q Ma'am, would you tell the members of the jury your name.

A Mildred Anderson.

Q And would you tell them how you're related to the victim in this case, Katherine Middleton?

A She was my sister.

Q And what part of the country did you and your sister grow up in?

A South of Harrison, about 20 miles.

Q Okay. And that's, as we've heard, in Arkansas?

A Yes.

Q Okay. How long have you known the defendant in this case, Mr. Kenneth Middleton?

A About 20 years.

Q Okay. And how long had he and your sister, your late sister, been married?

A About 17 years.

1 money if it was an accidental shooting and she
2 dropped the gun and it went off?
3 A That's true.
4 MR. DUNCAN: Okay, thank you. I have no
5 other questions.
6 THE COURT: Mr. Peters?
7 REDIRECT EXAMINATION by Mr. Peters:
8 Q Ma'am, if it had been an accidental shooting, in your
9 opinion, you wouldn't have filed the suit, would you?
10 A No.
11 MR. DUNCAN: I'm going to object to that,
12 Your Honor. Her opinion doesn't make any difference.
13 THE COURT: Well, I think you've opened the
14 door, Mr. Duncan.
15 Q (By Mr. Peters) Well, if it had been an accidental
16 shooting, in your opinion, you wouldn't have filed a
17 suit, would you?
18 A No, I would not.
19 Q You got along with Mr. Middleton until the facts and
20 evidence of this case and the investigation have been
21 brought out; isn't that true?
22 A Yes.
23 Q Quite a bit of holding down in Arkansas that you and
24 your family, including your sister, were unaware of?
25 A Yes.

1 THE COURT: Okay, that's all I wanted to
2 know.

3 (The proceedings returned to open court.)

4 MR. PETERS: I start to wonder if we've all
5 sat through the same trial. State has no particular
6 desire that we send Mr. Middleton to jail for the
7 rest of his natural life. But the State does desire
8 that, at long last, we hold him accountable for what
9 he did on February 12th in the home of Mr. and Mrs.
10 Middleton. And by law, that part is taken care of,
11 because he will be locked away for the rest of his
12 natural life without probation or parole. Unlike
13 Murder in the Second Degree, life imprisonment, he
14 really will be held accountable and locked away for
15 the rest of his natural life for what he did. And
16 that's fair and that's why we're here.

17 For this man to walk out of here free at the
18 end of your deliberation so that he can spend the
19 property of Mr. and Mrs. Middleton --

20 MR. DUNCAN: Oh, now, Your Honor, I'm going
21 to object to that. That's absolutely improper.

22 (The following proceedings were had at the
23 bench, outside the hearing of the jury:)

24 MR. PETERS: I think it's a reasonable
25 inference. And he brought up you filed a civil suit.

1 polled, we will go ahead and proceed at that point,
2 and then I will release the jury and ask them to
3 return to the jury room.

4 Again, my point in coming out before they
5 come down is just, again, out of an abundance of
6 caution to caution you to make no demonstration, to
7 make no comments, again, regarding approval or
8 disapproval of whatever the verdict is. Fair enough?

9 Okay, Scott.

10 (The jury returned with their verdict into
11 open court at approximately 1:10 p.m. And the
12 following proceedings were had:)

13 THE COURT: Ladies and gentlemen of the
14 jury, it's my understanding that you've reached a
15 verdict. Is that correct?

16 THE FOREMAN: Yes.

17 THE COURT: Mr. Spalding, would you please
18 hand the documents to Mr. Laurent?

19 "As to Count I, we, the jury, find the
20 defendant, Kenneth Middleton, guilty of Murder in the
21 First Degree as submitted in Instruction No. 5. We
22 assess and declare the punishment for Murder in the
23 First Degree at imprisonment for life without
24 eligibility for probation or parole."

25 The verdict form is signed by Mr. Spalding,

1 the foreman.

2 "As to Count II, we, the jury, find the
3 defendant, Kenneth Middleton, guilty of Armed
4 Criminal Action as submitted in Instruction No. 9.
5 We assess and declare the punishment for Armed
6 Criminal Action at 200 years." Again, the form is
7 signed by Mr. Spalding, the foreman.

8 Is there a request that the jury be polled?

9 MR. DUNCAN: Yes, Your Honor.

10 THE COURT: Ladies and gentlemen, I'm going
11 to poll you individually on each of the verdicts.
12 Let me deal, first of all, with the verdict on Count
13 I, which is Murder in the First Degree. When I call
14 your name, would you please indicate by saying yes or
15 no, whether this is your free and voluntary verdict.

16 Lawrence Wilson?

17 JUROR WILSON: Yes.

18 THE COURT: Beverly Viter?

19 JUROR VITER: Yes.

20 THE COURT: James Campbell?

21 JUROR CAMPBELL: Yes.

22 THE COURT: Anthony Korba?

23 JUROR KORBA: Yes.

24 THE COURT: Patricia Bradshaw?

25 JUROR BRADSHAW: Yes.

REPORTER'S CERTIFICATE

I, Susan L. Steen, Certified Court Reporter, hereby certify that I am the official court reporter for Division 12 of the Jackson County Circuit Court; that on February 15, 19, 20, 21 and 22, 1991, and April 5, 1991, I was present and reported all the proceedings had in the case of STATE OF MISSOURI, Plaintiff, vs. KENNETH G. MIDDLETON, Defendant, Case No. CR90-0348.

I further certify that the foregoing pages contain a true and accurate reproduction of the proceedings.

In compliance with Supreme Court Rule 84.18 I further certify that the cost of preparing this transcript is as follows:

594 pages @ \$2.05 per page \$ 1,217.70

Susan L. Steen, C.C.P.
Official Court Reporter

Transcript completed: August 5, 1991

sideration of his concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

2. Concealing an offense is a class D felony if the offense concealed is a felony; otherwise concealing an offense is a class A misdemeanor.

(L. 1977 S.B. 60)

Effective 1-1-79

575.030. Hindering prosecution. — 1. A person commits the crime of hindering prosecution if for the purpose of preventing the apprehension, prosecution, conviction or punishment of another for conduct constituting a crime he:

- (1) Harbors or conceals such person; or
- (2) Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law; or
- (3) Provides such person with money, transportation, weapon, disguise or other means to aid him in avoiding discovery or apprehension; or
- (4) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

2. Hindering prosecution is a class D felony if the conduct of the other person constitutes a felony; otherwise hindering prosecution is a class A misdemeanor.

(L. 1977 S.B. 60)

Effective 1-1-79

575.040. Perjury. — 1. A person commits the crime of perjury if, with the purpose to deceive, he knowingly testifies falsely to any material fact upon oath or affirmation legally administered, in any official proceeding before any court, public body, notary public or other officer authorized to administer oaths.

2. A fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect, or did substantially affect, the course or outcome of the cause, matter or proceeding.

3. Knowledge of the materiality of the statement is not an element of this crime, and it is no defense that:

- (1) The defendant mistakenly believed the fact to be immaterial; or

- (2) The defendant was not competent, for reasons other than mental disability or immaturity, to make the statement.

4. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement in the course of the official proceeding in which it was made provided he did so before the falsity of the statement was exposed. Statements made in separate hearings at separate stages of the same proceeding, including but not limited to statements made before a grand jury, at a preliminary hearing, at a deposition or at previous trial, are made in the course of the same proceeding.

5. The defendant shall have the burden of injecting the issue of retraction under subsection 4 of this section.

6. Perjury committed in any proceeding not involving a felony charge is a class D felony.

7. Perjury committed in any proceeding involving a felony charge is a class C felony unless:

- (1) It is committed during a criminal trial for the purpose of securing the conviction of an accused for murder, in which case it is a class A felony; or

- (2) It is committed during a criminal trial for the purpose of securing the conviction of an accused for any felony except murder, in which case it is a class B felony.

(L. 1977 S.B. 60)

Effective 1-1-79

575.050. False affidavit. — 1. A person commits the crime of making a false affidavit if, with purpose to mislead any person, he, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.

2. The provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

3. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:

- (1) The falsity of the statement was exposed; or
- (2) Any person took substantial action in reliance on the statement.

Mrs. Anderson was asked if the Middletons had children. She stated there were no children. She was asked if she knew how much Kenneth and Katherine's estate was valued at. She stated that she believed from what her sister had told her that it was between \$200,000 and \$500,000. She was asked if she knew of any life insurance policys on her sister, and she stated at this point she had no idea if there were any policys on her sister.

Due to the complexity of the information that was developing in this interview, reporting detective requested Mrs. Anderson to come to police headquarters to be interviewed, and she stated she would. An appointment was set for 02/14/90 at 8:30 a.m. for the purposes of taking a formal statement.

Investigation to continue. EOR

Page 2 of 2

Reporting Officer



Exhibit "44"

IN THE CHANCERY COURT OF NEWTON COUNTY, ARKANSAS

GERALDINE LOCKHART, MILDRED M.
ANDERSON, JOYCE M. HENSON and
JESSIE J. BREWER

PLAINTIFFS

NO. E-91-17-1

KENNETH G. MIDDLETON, LYNN CARL MIDDLETON,
ROCKIE LEE MCCUTCHEON, SHEILA MCCUTCHEON,
NEWTON COUNTY BANK and JOYCE L. MIDDLETON

DEFENDANTS

TRIAL ON THE MERITS, BEFORE THE HONORABLE JOHN LINEBERGER, ON
ASSIGNMENT
MARCH 25, 1999

VOLUME ONE

APPEARANCES:

Mr. Steven B. Davis, of
DAVIS & GOLDIE
P.O. Box 1595
Harrison, AR

for Plaintiffs

Mr. Thomas A. Martin
THE MARTIN LAW FIRM
P.O. Box 454
Jasper, AR

for Lynn Carl
Middleton

Mr. Christopher O'Hara Carter
Attorney at Law
P.O. Box 369
Flippin, AR

for Kenneth G.
Middleton

COPY

EXHIBIT "44"

b53

1 MR. DAVIS: I have none.

2 THE COURT: You may step down. Thank you, Mr.
3 Carlson. You may be excused.

4 Call your next witness.

5 MR. DAVIS: Mildred Anderson.

6 MILDRED ANDERSON, after having been first duly sworn, gave the
7 following testimony:

8 DIRECT EXAMINATION

9 MR. DAVIS:

10 Q. Mrs. Anderson, state your full name for the record, please.

11 A. Mildred Anderson.

12 Q. You're also known as "Millie"?

13 A. Yes.

14 Q. Can I call you that?

15 A. Yeah.

16 Q. For the record, tell us what is your relationship to Kathy?

17 A. She was my sister.

18 Q. Within the family structure, where were you? Were you older
19 or younger than Kathy and by how much?

20 A. I was about two years younger than Kathy.

21 Q. Tell the Judge a little bit about your family. You were born
22 a Brewer. Is that correct?

23 A. Yes.

24 Q. Where were you born?

'5 A. We were born at Everton.

b65

Q. You've already testified, Millie, your last visit to the Middleton home place would have been Christmas, of 1989?

A. Yes.

Q. That was about two months before Kathy was killed?

A. Yes.

Q. Not quite, right around two months. Have you previously visited that Middleton home place?

A. Yes.

Q. Were you familiar with, first of all, the brick home that is shown in Plaintiff's Exhibit Two and Three?

A. Yes.

Q. Were you familiar with that white wooden house where Oshia Middleton used to live?

A. Yes.

Q. Did you know Oshia Middleton?

A. Yes.

Q. Also were you familiar with what I will call personal property? Just basically everything but real estate that either Ken Middleton or Kathy Middleton had down here on the Middleton home place in the State of Arkansas?

A. Yes.

Q. From your personal experience?

A. Yes.

Q. Now, in addition to the list that you gave me of the Blue Springs assets, did you also prepare me a list of what you

b66

1 recalled to have been here in Arkansas at the Middleton home
2 place?

3 A. Yes, I did.

4 MR. MARTIN: Let me just take a look at that list.
5 I think it will be okay.

6 MR. DAVIS: It's the same one I gave you earlier
7 except I previously on some of the mother's stuff, I
8 thought it was in Blue Springs, but it was actually in--
9 (inaudible).

10 MR. MARTIN: No objection.

11 MR. CARTER: Your Honor, the only objection I have
12 is there is no allegation that this stuff has been, with
13 the exception of the three vehicles, that it's been
14 fraudulently conveyed or conveyed at all.

15 THE COURT: I ruled on that earlier.

16 MR. MARTIN: It's relevant to the issue of
17 solvency.

18 THE COURT: Yes, sir, it is. I will overrule the
19 objection again and admit the document.

20 (PLAINTIFF'S EXHIBIT NUMBER SIX (6) PROPERTY LIST, admitted into
21 evidence and appears on the following pages)

22 THE COURT: Are you through questioning with regard
23 to the last one?

24 MR. DAVIS: With Number Six. It has been admitted
25 hasn't it, Judge?

SCHEDULE A

Blue Springs, Jackson County, Missouri House

Washer and Dryer	Lawn Mower
Hanging Lamp	Walker (Electric) (Kathy) Treadmill
Night Stand	Sewing Machine
Chest	¼" Gold Chain & Bracelet (Kathy)
4-Poster Bed (Queen)	Mirror Floor Stand
Couch	Foot Stool
Chair	3- Accessory Trees
End Table	9" TV
2 Wall Mirrors	Princess House Chu Crystal
TV - 25" Zenith	Brass Dressing Table
V.C.R.	Floor Lamp Table
Table with 4 Chairs	Marble Elephant
Refrigerator	Brass Articles (dec)
Stove	Wall Hangings
Chest of Drawers	Hall Tree
13" TV with stand	Desk
Small Kitchen Appliances	French Phone
White Iron Bed (Mother's)	Roll-top Phone
Small Brass Alarm clock (Grandfather's)	2 Chaise Lounges
Family Bible (Mother's)	Sunbeam B-B-Q Grill
Guitar (Kathy's)	Gold-Fleck Lamp & Smoke Stand (Mother's)
Mother's Personal Papers - Purse (\$300.00 in purse)	Tape Recorder & Tapes



b67

1 THE COURT: Yes.

2 MR. DAVIS:

3 Q. I will show you what I have marked as Plaintiff's Exhibit
4 Number Seven and ask you if that is the schedule of personal
5 property that you recall as of December, of 1989?

6 A. Yes.

7 Q. I will also show you what I have marked as Plaintiff's Eight,
8 Nine, Ten and Eleven and ask you if you are familiar with these
9 photographs?

10 A. Yes.

11 Q. Who took those?

12 A. I did.

13 Q. Do those represent some of the assets that you listed on
14 Plaintiff's Exhibit Number Eight?

15 A. Yes, they did.

16 Q. Seven, I'm sorry.

17 A. Yes.

18 Q. Tell the Judge, briefly, refer to the numbers on the back of
19 the photographs and what's represented there?

20 A. Number Eight is one of --

21 THE COURT: Have you all seen these photographs?

22 MR. MARTIN: I think --

23 THE COURT: Show them first to the --

24 MR. MARTIN: -- they are the ones we've seen before.

25 A. This is one of the two three-wheelers they had. This is

b68

1 Kathy's car.

2 MR. DAVIS:

3 Q. Now, when you say "Kathy's car" you're talking about the '85
4 Buick Riveria?

5 A. Yes.

6 Q. In fact, apparently, it's titled in Ken Middleton's name?

7 A. Yes.

8 THE COURT: Any objection to the admissibility?

9 MR. MARTIN: I have no objections at all.

10 THE COURT: All right. Eight, nine, ten and eleven
11 are admitted.

12 (PLAINTIFF'S EXHIBIT NUMBER EIGHT (8), PHOTO, admitted into
13 evidence and appears on the following page.)

14 (PLAINTIFF'S EXHIBIT NUMBER NINE (9), PHOTO, admitted into
15 evidence and appears on the following page.)

16 (PLAINTIFF'S EXHIBIT NUMBER TEN (10), PHOTO, admitted into
17 evidence and appears on the following page.)

18 (PLAINTIFF'S EXHIBIT NUMBER ELEVEN (11), PHOTO, admitted into
19 evidence and appears on the following page.)

20 MR. CARTER: Well, Your Honor, I just want her to
21 describe the other two --

22 THE COURT: Let me see those as you are describing
23 them. I would like to see those. Number Eight, again,
24 is what, ma'am?

5 A. This three-wheeler. That was taken in Vendor.

SCHEDULE B

Vendor, Newton County, Arkansas House

D. M. Middleton Homeplace

1985 Buick (Kathy's)
Yellow Truck
Dump Truck
Dozer
Low-Boy Trailer - Tractor
16' or 18' Cattle Trailer
Horse
John Deere Tractor
Hay Rake
Lincoln Welder with Trailer
Floor Jack
Overhead Camper

1988 Ford Truck
Two 3-Wheelers
Backhoe
Jeep Canvas Top
Horse Trailer
100-130 Cattle (Cows - calves)
Ford Tractor
Hay Bailer
Washer & Dryer
Power Washer
Hydraulic Jack !

Iron Bed (Mother's)
Antique Dresser with Mirror (Mother's)
3-leg Round Oak Table (Mother's)
Oval Picture of White House (Mother's)

Bookcase (Mother's)
Refrigerator (small - 1 door) (Mother's)



b80

1 Kansas City?

2 A. Yeah, I was. Sorry.

3 Q. Okay. I was going to give you the streets if I could find it
4 in my notes.

5 A. I was living on Park Avenue in Kansas City.

6 Q. Which was roughly four blocks away from where they were
7 living?

8 A. I think Kathy had an apartment there or something. I don't
9 recall.

10 Q. Would it be fair to say that, at that point, given your --
11 given that that is your sister and the proximity of the location,
12 that you started to see her a lot more than when you were 50 miles
13 away?

14 A. Well, at that time, when she was married, I worked with her
15 at AT&T for the first eight years after I came to Kansas City.

16 Q. Okay. So, I take it, actually, you were living up in --

17 **THE COURT:** Let's move on along. I don't mean to
18 interrupt, but we are wasting a lot of time. We will be
19 forever trying this case. Get on down to the question
20 you are about to ask her.

21 **MR. CARTER:**

22 Q. Can you describe for the Court -- well, let me back up. Were
23 you familiar with Kathy's wedding ring?

24 A. Yes, I was.

25 Q. Can you describe it to the Court?

b81

MR. DAVIS: Judge, I object to the relevance --

THE COURT: What is the relevance?

MR. DAVIS: -- of this lady's wedding ring.

THE COURT: What is the relevance of this?

MR. CARTER: Your Honor, they have obtained a judgment of 1.35 million dollars against my client. The wedding ring has not been indicated that it is a mater of probate. It certainly hasn't been applied to the estate and I --

THE COURT: Did you get the wedding ring?

A. Yes.

THE COURT: Go ahead and ask her about it. You can ask her if she got the wedding ring.

MR. CARTER:

Q. Okay, you got the wedding ring?

A. Yes. !

Q. How did you get the wedding ring?

A. I picked it up from the Blue Springs --

MR. DAVIS: I object to this because Kenneth Middleton was -- there was litigation in Missouri and all of his rights with regard to Kathy Middleton's estate were foreclosed under Missouri law because he killed his wife.

THE COURT: Well, I sustain the objection because it if's hers it has nothing to do with him. It's her

wedding ring. So, I sustain the objection.

MR. MARTIN: I was interested only because there was some indication that Kenneth might have gotten them and if he did --

THE COURT: I was going to let you do that but she says she got the wedding rings. Let's move on along.

MR. CARTER:

Q. So, when you indicate in the deposition that you thought Ken had them, that was false?

A. Yes.!

Q. Why did you say that?

A. Because I believed he did at one time.

Q. But that was prior to the time you got them from the Blue Springs Police Department?

A. Yes.

Q. Did you also get her tenth anniversary--

THE COURT: Let's move on along. We are just spinning our wheels now. We will be here for weeks at this --

MR. CARTER: Your Honor, if it's --

THE COURT: Whatever was hers, was hers. Let's move on along, Counsel.

MR. CARTER: Your Honor, my point is this. If it's not part of the probate estate and it's not applied to the judgment, then that is an asset that is out there.

1 And merely because --

2 THE COURT: If it's hers, it's hers and not his.
3 Let's move on along.

4 MR. DAVIS: Could I respond to that too, Your
5 Honor.

6 THE COURT: Go ahead --

7 MR. DAVIS: The judgment is 2.4 million dollars.

8 THE COURT: Yes, sir, go ahead and ask your next
9 question.

10 MR. CARTER:

Q. With regard to that anniversary ring, do you have that?

A. Yes.!

Q. Now, you've already indicated you didn't make it any part of
estate or --

THE COURT: Counsel, please, now I am going to warn
you one more time and that is all. Let's move on along
with the case, let's get the relevant facts of the case
in because I've tried to be as patient as I can. But
you are talking about things that this Court can't do
anything at all with in this case. Move on along.

MR. CARTER: Your Honor, if I can approach the
bench on this?

THE COURT: Yes, sir. Just talk from there. You
don't have to come up here. Show me how it is relevant.
I don't see how any of this is relevant at all to the

1 facts of this case.

2 MR. CARTER: Your Honor, it may ultimately become
3 relevant --

4 THE COURT: It's not now. If it does I will let
5 you bring it then, but it is not relevant now.

6 MR. CARTER: Your Honor, it's my position that I
7 have to establish Ken Middleton's worth on or about, not
8 only May, of 1990, March, of '91, but also May 26, of
9 '92.

10 THE COURT: Well, if you want to talk about his
11 assets, that's fine, but not about Kathy Middleton's
12 assets. Let's move on along.

13 MR. CARTER: Your Honor, if she gets these things
14 before she's appointed administrator and is not part of
15 the probate estate and it's not part of --

16 THE COURT: Well, show me what -- show me what she
17 has that's his. Can you give me a dollar value that you
18 are talking about? How many dollars --

19 MR. CARTER: That's what I want this witness --

20 THE COURT: How many are we talking about. We are
21 not going on a fishing expedition.

22 MR. CARTER: These rings --

23 THE COURT: This case has been pending since 1991.

24 MR. CARTER: Eighteen thousand, seven hundred
5 dollars (\$18,700.00) for these rings.

b97

ultimately develop because the Court has --

THE COURT: All right. Mr. Martin, do you have questions?

CROSS EXAMINATION

MR. MARTIN:

Q. I think we have established that Ken Middleton did not get those diamond rings so he didn't have those to spend, did he or to sell?

A. What now?

Q. Those diamond rings are out of there. You just said that in the deposition just as, what, kind of a throw away line? You don't really know why you lead us down that trail, do you?

A. Well, I won't go into that.

Q. Okay, but certainly we don't have to worry about that he did have them. But, according to you, he did have every bit of that property in Schedule A to dispose of and it was in his control, as far as you know?

A. I would say it was in his control, yes.

Q. The same way with Schedule B. All of that was in his control? All of that personal property was in his control, right? Did they keep their property in pretty good shape?

A. Do you mean --

Q. Keep it up or was it a bunch of junk?

A. I would say it was in good shape.

Q. So, it was fairly valuable property?

b99

1 A. I don't believe so, no.

2 Q. So, as far as you know, Ken Middleton had control of whatever
3 was generating that eleven thousand dollars (\$11,000.00)?

4 MR. DAVIS: Judge, I have to object as far what she
5 knew about what Ken Middleton had.

6 THE COURT: Well, she said she didn't know anything
7 about it. So, I take that to be her answer here. Is
8 that your answer, ma'am?

9 A. Yes.

10 THE COURT: All right.

11 MR. MARTIN:

12 Q. Finally, as Mr. Carter has pointed out, to some extent, it
13 was Kenneth Middleton's usual mode of business to deal in cash?

14 A. I've seen some of that from him.

15 Q. In big cash money?

16 A. I never did mention the amounts, but I know that he did do
17 cash transactions, yes.

18 MR. MARTIN: That's all I have.

19 THE COURT: Any other questions?

20 MR. DAVIS: Just real briefly, Judge.

21 RE-DIRECT EXAMINATION

22 MR. DAVIS:

23 Q. Just so we are real clear on this, Millie, the personal
24 property that you have described to the Court in Plaintiff's
25 Exhibit Six and Seven, those two schedules, that's what Ken had

b100

1 prior to the time that he killed Kathy?

2 A. Yes.

3 Q. You don't know what he had after he killed her?

4 A. No.!

5 Q. You haven't been able to find it and Mr. Carter asked you if
6 we had done the Writ of Execution as far as those assets down here
7 in Arkansas. We did, in fact, ask Kenneth Middleton and Lynn Carl
8 Middleton, his brother, through Interrogatories down here, what
9 happened to them and they denied that it existed. Isn't that
10 right?

11 A. I would say yes.

12 THE COURT: Any other questions?

13 (NO RESPONSE.)

14 THE COURT: You may step down. Thank you, Mrs.
15 Anderson. Call your next witness.

16 MR. DAVIS: We call Geraldine Lockhart.

17 GERALDINE LOCKHART, after having been first duly sworn, gave the
18 following testimony:

19 DIRECT EXAMINATION

20 MR. DAVIS:

21 Q. Geraldine, state your full name for the record, please?

22 A. Excuse me.

23 Q. State your full name for the record, please.

24 A. Geraldine Lockhart.

5 Q. You're also known as, Gerri?

b107

1 Q. Same question for Exhibit Seven. Is that list consistent
2 with your personal memory of the personal property you observed
3 down here at the Middleton home place in Vendor, prior to the time
4 of Kathy's death?

5 MR. CARTER: Your Honor, I realize --

6 A. Yes.!

7 MR. CARTER: -- this is already into evidence, but
8 I'd make the same objection. I don't want, on appeal,
9 a court to say --

10 THE COURT: Your objection is noted of record and
11 overruled.

12 MR. CARTER: Thank you, Your Honor.

13 MR. DAVIS: He can certainly have a continuing
14 objection.

15 MR. CARTER: I guess that would be the easiest
16 thing to ask for a continuing objection, with regard to,
17 all questions that may be asked of these lists.

18 THE COURT: Of Plaintiff's Six and Seven?

19 MR. CARTER: Yes, sir.

20 THE COURT: All right, sir. Go ahead.

21 MR. DAVIS:

22 Q. Now, on Seven, you did personally observe this?

23 A. Yes.!

24 Q. This personal property in Ken and Kathy's home place, the
5 brick building that's in evidence here, and the shop?

b108

1 A. Okay.

2 Q. That is accurate prior to Kathy's?

3 A. Yes.

4 Q. Gerri, let me show you what I have marked as Plaintiff's 12
5 and 13. Do you recognize these photographs that I have marked as
6 12 and 13?

7 A. Yes, I do.

8 Q. First, refer to the number on the back, tell us Plaintiff's
9 Exhibit Number 12, who took that photograph?

10 A. I did.

11 Q. Where did you take that photograph?

12 A. I took that when we were all down there at Christmas, of '89.

13 Q. Christmas, of '89. Since it's inside of a building, what
14 building is it inside of?

15 A. It's inside that big garage or the --

16 Q. The shop building?

17 A. -- shop building up there by the house.

18 Q. Okay and this is farm equipment that Ken and Kathy had down
19 here, as far as you?

20 A. Yes.

21 Q. And explain what is in photograph 13.

22 MR. CARTER: Your Honor, I guess for clarification,
23 I think the answer is, yes, as far as she knows.

24 A. No, it is not as far as I know.!

5 THE COURT: Let's let the witness answer the

b109

1 question.

2 MR. DAVIS: I suppose that is true of any witness,
3 Judge.

4 THE COURT: Let her answer the question. Go ahead.

5 MR. DAVIS:

6 Q. All right, explain what --

7 A. Yes, these are the things that belong to Kathy and Ken.

8 Q. And in 13, what does that show?

9 A. This is their home with the cattle truck sitting out in the
10 back, cattle trailer.

11 Q. All right.

12 MR. DAVIS: We offer Plaintiff's 12 and 13, Judge.

13 THE COURT: Any objections?

14 MR. MARTIN: No.

15 MR. CARTER: No, Your Honor.

16 (PLAINTIFF'S EXHIBIT NUMBER TWELVE (12), PHOTOGRAPH, admitted into
17 evidence and appears on the following page.)

18 (PLAINTIFF'S EXHIBIT NUMBER THIRTEEN (13), PHOTOGRAPH, admitted
19 into evidence and appears on the following page.)

20 MR. DAVIS:

21 Q. The same question and I don't want to plow too much ground
22 that Millie has already testified about, but none of those assets
23 have ever been recovered and applied to your judgment against Ken
24 Middleton?

5 A. No.

b116

1 THE COURT: Mr. Martin.

2 CROSS EXAMINATION

3 MR. MARTIN:

4 Q. You identified that and concluded that that property belongs
5 to Ken and Kathy. Is that correct?

6 A. Yes.

Q. So far as you knew?

A. I know they did.!

Q. I mean, was it titled in both of their names?

A. I seriously doubt it.

Q. Okay. It was titled in Ken's name, wasn't it?

A. Wasn't everything?

9 Q. So, that property was titled in Ken Middleton's name so far
14 as you know?

15 A. I don't know.

16 Q. But you would be extremely surprised if it were titled any
17 other way, but, in fact, you just don't know how it was titled, do
18 you?

19 A. I would be very surprised if my sister's name was on
20 anything.

21 Q. In fact, you don't know whether it was even titled in Ken
22 Middleton's name or how it was titled?

23 A. I would say it was titled in Ken Middleton's name.

24 Q. But that would be speculation on your part, wouldn't it?

5 A. No, it wouldn't.

CERTIFICATE

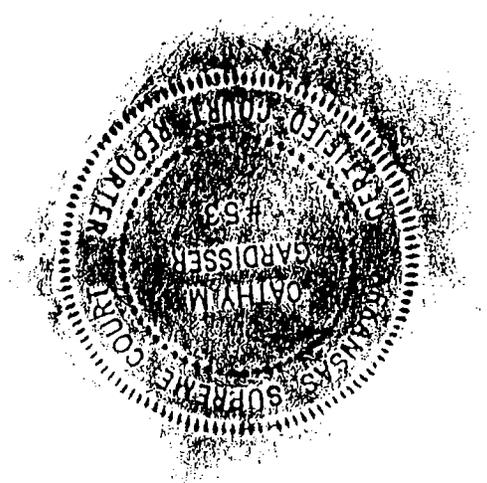
I, CATHY GARDISSER, Official Court Reporter in and for the Chancery Court, Fourth Judicial District of Arkansas, Second Division, do hereby certify that the above and foregoing pages represent a true and complete transcript of the record and proceedings had and done in case number E-91-17-1, Lockhart, et al v. Middleton, et al of the Chancery Court of Newton County, Arkansas, on the 17th day of December, 1998, and on the 25th day of March, 1999, before the Honorable John Lineberger, on assignment.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this 18th day of August, 1999.

Cathy Gardisser
CATHY GARDISSER, CCR #53
Official Court Reporter

My commission expires:

October 31, 1999



IN THE CHANCERY COURT OF NEWTON COUNTY, ARKANSAS

GERALDINE LOCKHART, MILDRED M. ANDERSON,
JOYCE M. HENSON and JESSIE J. BREWER-----PLAINTIFFS

VS. E 91-17-1

KENNETH G. MIDDLETON, LYNN CARL MIDDLETON,
ROCKIE LEE MCCUTCHEON, SHEILA MCCUTCHEON,
and JOYCE L. MIDDLETON-----DEFENDANTS

APPEARANCES:

MR. STEVEN B. DAVIS, ESQ.
Davis & Goldie
Post Office Box 1595
Harrison, Arkansas 72602-----FOR THE PLAINTIFFS

MR. CHRISTOPHER O. CARTER, ESQ.
Attorney at Law
Post Office Box 369
Flippin, Arkansas 72634--FOR DEFENDANT KENNETH MIDDLETON

MR. THOMAS MARTIN, ESQ.
Martin Law Firm
Post Office Box 454
Jasper, Arkansas 72641--FOR DEFENDANTS LYNN CARL
MIDDLETON, ROCKIE MIDDLETON,
SHEILA MCCUTCHEON, AND JOYCE
L. MIDDLETON

ALSO PRESENT: Mr. Lynn Carl Middleton
Ms. Joyce Henson

THE TELEPHONIC DEPOSITION OF MILDRED ANDERSON
TAKEN IN HARRISON, ARKANSAS
MARCH 19, 1999.

SUSAN E. DUCK
CERTIFIED COURT REPORTER
P.O. BOX 2216
HARRISON, ARKANSAS
870-743-4972

COPY

Exhibit "44"

- 1 A Yes.
- 2 Q How often would you say you came to visit them?
- 3 A Probably about every two weeks.
- 4 Q Okay.
- 5 A Or more than that.
- 6 Q What about here in Arkansas? Did you come to visit them,
7 when they were in Vendor?
- 8 A Yes, I did.
- 9 Q How often would you come to visit them in Vendor?
- 10 A I was down there a couple of times before. I was in
11 there in '88. I spent a couple of days with Kathy then, and
12 then we was there in '89 for Christmas.
- 13 Q At Christmas, was that a big affair?
- 14 A Usually we got together at Christmas or Thanksgiving.
- 15 Q When you got together at Christmas and Thanksgiving, was
16 it generally in Arkansas?
- 17 A No.
- 18 Q I take it then your parents would come up to the Kansas
19 City area for Christmas?
- 20 A My dad died over 20 years ago.
- 21 Q What about your mother?
- 22 A My mother was up here. She stayed with us before she
23 passed away. She stayed with Kathy, and Gerry, and me.
- 24 Q Okay.
- 25 A Did I lose you?

1 A Against Ken?

2 Q Yes.

3 A He took my sister's life, and he was convicted, and, you
4 know, I mean, he did it intentionally as far as I can see.

5 Q Okay, but, what did that lead to in terms of bringing the
6 case here?

7 A The court. I mean, the property was in Arkansas, and
8 there was property in Missouri.

9 Q Okay.

10 A And they were married, so I would say joint property
11 would take you wherever the property went.

12 Q It wasn't because he'd been convicted and the prosecutors
13 restriction on not getting rid of any property disappeared?
14 Was that part of it?

15 A Now, say that again. Explain that one to me, please.

16 Q If Ken Middleton bonded out and one of the restrictions
17 was he could not dispose of any property, and he was convicted
18 on February 22nd, 1991, and this action was filed on February
19 28th, 1991, was there -- to your knowledge was there any
20 rationale' in filing it because the bond restriction was no
21 longer there?

22 A I don't think so, you know. I really don't know that
23 much about the bond and what restrictions the prosecutor put
24 on him.

25 Q Do you recall the first time you ever met the prosecutor?

1 A Yeah, I think we went -- me and Gerry went downtown and
2 talked to him. I think sometime in the summer maybe, of '90.

3 Q The summer of 1991?

4 A Maybe.

5 Q Excuse me, 1990?

6 A Yes, 1990. It was shortly after Kathy's death.

7 Q Mr. Davis pointed something out to me. You've been
8 saying "Gerry". When you say "Gerry", you mean Geraldine?

9 A Yes, yes, I do.

10 Q I've never had much discussion about your husband that I
11 can recall, and I was just assuming that was him, so when you
12 say "Gerry" and have said "Gerry" throughout, you mean
13 Geraldine, your sister?

14 A Yes, I'm talking about my sister, Geraldine.

15 Q Okay. Do you recall whether after the judgement was
16 obtained on May 26th, 1992, -- I think even Mr. Davis will
17 agree that that's when the one point three five million dollar
18 judgement was obtained in the Jackson County Circuit Court.

19 A I remember going to court.

20 Q Okay. Do you recall your attorneys sending out subpoena
21 inquiries to various banks and attorneys to find out what Mr.
22 Middleton may have had on that day?

23 A I don't recall that, no.

24 Q Do you know whether or not they ever inquired of Robert
25 Duncan or Dale Sullivan about what they may or may not have

1 Q I recall in reading in the police report and it listing -
2 - would it be fair to say that Kenneth Middleton didn't give
3 many things away, that possessions were important to him?

4 A Now, what are you saying?

5 Q Would it be fair to say that Ken Middleton was not a
6 donator to charity?

7 A In my opinion I would say, no, he wasn't a donator to
8 charity.

9 Q He wasn't too likely to give things away unless he was
10 getting a good deal?

11 A Well, now, I don't know if I'd go that far or not.

12 Q Okay. You had talked about a Mason's ring, and that
13 sparked something that I forgot to ask you. Earlier I had
14 some discussion with your sister. Have you talked to your
15 sister at all within the last hour or so?

16 A No.

17 Q We had some discussion about Kathy's 14 carat yellow gold
18 ring. Do you know what became of it?

19 A I would assume that Ken took it after he killed her.!

20 Q Okay.

21 A But, no, I don't.!

22 Q The jewelry that she was wearing -- or do you know if she
23 was wearing any jewelry at the time of her death?

24 A No, I didn't. No, I don't.

25 Q Do you know whether or not the estate of Kathy received

1 any jewelry from anybody?

2 A Now, what?

3 Q Do you know whether or not the estate received any
4 jewelry?

5 A No, I don't recall that.

6 Q Okay, did the police department ever give you any of her
7 jewelry or personal effects?

8 A Yes, they did.

9 Q Didn't that include the 14 carat yellow gold ring?

10 A I don't remember.

11 Q What ultimately became of that?

12 A I don't know.

13 Q You don't know what you did with it?

14 A No, I can't remember. I'd have to look back to see if I
15 even had it.

16 Q Okay. Do you not recall when you got it from the police
17 department?

18 A No. I don't recall getting it. I'd have to think back.

19 Q I have some documents that indicate that they gave it to
20 you on Monday, February 25th, 1991, at the orders of the
21 prosecutor. Do you recall that?

22 A I'd have to look back and check because I don't really
23 remember the dates.

24 Q But do you remember getting the stuff because the
25 prosecutor indicated you could have it?

1 A No, I don't recall getting it.

2 Q You don't?

3 A No.!

4 Q It wasn't part of the probate estate, we can agree on
5 that can't we?

6 A I'd have to look at the papers. I don't remember that.

7 Q Okay, that's fair. I have nothing further.

8 THEREUPON,

9 THE DEPOSITION WAS CONCLUDED.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

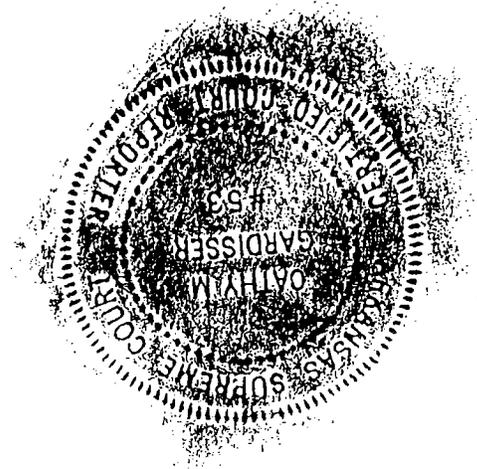
I, CATHY GARDISSER, Official Court Reporter in and for the Chancery Court, Fourth Judicial District of Arkansas, Second Division, do hereby certify that the above and foregoing pages represent a true and complete transcript of the record and proceedings had and done in case number E-91-17-1, Lockhart, et al v. Middleton, et al of the Chancery Court of Newton County, Arkansas, on the 17th day of December, 1998, and on the 25th day of March, 1999, before the Honorable John Lineberger, on assignment.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this 18th day of August, 1999.

Cathy Gardisser
CATHY GARDISSER, CCR #53
Official Court Reporter

My commission expires:

October 31, 1999



TEMPORARY RELEASE

COMPLAINT #	90-0111
KEY #	

ITEM NO.	RELEASED BY	PSN	ACCEPTED BY	PSN	DATE	RECEIPT NO.
7, 8, 9, 10, 11, 12	D. L. Lusk	334	KC Lab		02 12 190	90-022532A-1
7, 8, 9, 10, 11, 12	KC Lab/Action		Dave Lusk	334	09 10 690	90-022532A-1
					1 1	
					1 1	
					1 1	
					1 1	
					1 1	

PERMANENT RELEASE

DATE	RELEASED BY	PSN	AUTHORIZED BY	PSN
07 15 91	Dave Lusk	334	[Signature]	047
RECEIVED BY	ITEM NOS. RELEASED			
Mildred Anderson	1 through 12 only			
RES ADDRESS				
Rt 1 Box 128				
CITY	STATE	ZIP	PHONE	SIGNATURE
Pleasant Hill	MO	64080	(816) 987-5676	X Mildred Anderson

DATE	RELEASED BY	PSN	AUTHORIZED BY	PSN
1 1				
RECEIVED BY	ITEM NOS. RELEASED			
RES ADDRESS				
CITY	STATE	ZIP	PHONE	SIGNATURE
				X

PROPERTY DISPOSED OF

DATE	DISPOSED OF BY	PSN	AUTHORIZED BY	PSN
1 1				
ITEM NOS. DESTROYED				
ITEM NOS. AUCTIONED				
ITEM NOS. CONVERTED				

DATE	REVIEWING SUPERVISOR	PSN
1 1		

KRIGELS JEWELERS

Town Pavilion
1111 Main
Kansas City, Missouri 64105

Indian Springs Shopping Center
47th and State Avenue
Kansas City, Kansas 66102

Oak Park Shopping Center
11737 West 95th Street
Overland Park, Kansas 66214

Bannister Mall
5600 E. Bannister Rd.
Kansas City, Missouri 64132

Metro North Shopping Center
400 NW. Barry Road
Kansas City, Missouri 64155

Independence
2058 Independence
Independence, Missouri

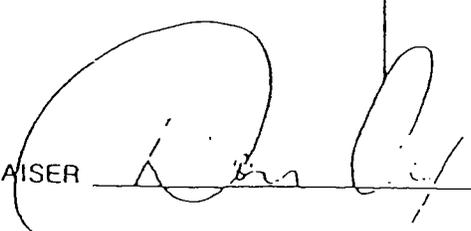
APPRAISAL FOR: Ken Middleton
1409 N. 48th St.
Blue Springs, Mo: 64015

DATE → march 10, 1989

DESCRIPTION	VALUE
<p>One ladies 14kt yellow gold ring. The ring contains 1) about 1.65ct american full cut diamond, 1x in color and 2 in perfection. The ring also contains 6) about .03ct american full cut diamonds all 1x in color and 3 in perfection.</p> <p style="text-align: right;">\$ Value:</p>	<p style="text-align: right;">\$13500.00</p>
<p>One ladies 14kt white gold ring. The ring contains 1) about .28ct american full cut diamond 1x in color and 4 in perfection. The ring also contains 16 about .17ct american full cut diamonds, all 1x in color and 4 in perfection.</p> <p style="text-align: right;">Value:</p>	<p style="text-align: right;">\$5200.00</p>
<p>NOTE: Two of the .17ct diamonds have noticeable chips in the girdles.</p>	

mrllDC

APPRAISER



Don Cox

The above estimated values are based only on our estimates of the cost in relation to the quality of this merchandise. No liability is assumed by us in respect to any action that may be taken on the basis of this appraisal.

The values are based only on our estimates of the current market values of the above item(s) whose presence has substantiated by you and/or described in previous appraisals.

Exhibit "45"

Chapter 556

PRELIMINARY PROVISIONS (CRIMINAL CODE)

Sec.	
556.011.	Short title.
556.016.	Classes of crimes.
556.021.	Infractions.
556.026.	Offenses must be defined by statute.
556.031.	Application to offenses committed before and after enactment.
556.036.	Time limitations.
556.037.	Time limitations for prosecutions for sexual offenses involving a person under eighteen.
556.041.	Limitation on conviction for multiple offenses.
556.046.	Conviction of included offenses.
556.051.	Burden of injecting the issue.
556.056.	Affirmative defense.
556.061.	Code definitions.
556.063.	Definitions.

Cross Reference

Dual jurisdiction of court in disposition of offender transferred from juvenile court, RSMo 211.073

556.011. Short title. — This code shall be known and may be cited as "The Criminal Code".

(L. 1977 S.B. 60)

Effective 1-1-79

556.016. Classes of crimes. — 1. An offense defined by this code or by any other statute of this state, for which a sentence of death or imprisonment is authorized, constitutes a "crime". Crimes are classified as felonies and misdemeanors.

2. A crime is a "felony" if it is so designated or if persons convicted thereof may be sentenced to death or imprisonment for a term which is in excess of one year.

3. A crime is a "misdemeanor" if it is so designated or if persons convicted thereof may be sentenced to imprisonment for a term of which the maximum is one year or less.

(L. 1977 S.B. 60)

Effective 1-1-79

556.021. Infractions. — 1. An offense defined by this code or by any other statute of this state constitutes an "infraction" if it is so designated or if no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized upon conviction.

2. An infraction does not constitute a crime and conviction of an infraction shall not give rise to any disability or legal disadvantage based on conviction of a crime.

(L. 1977 S.B. 60)

Effective 1-1-79

556.026. Offenses must be defined by statute. — No conduct constitutes an offense unless made so by this code or by other applicable statute.

(L. 1977 S.B. 60)

Effective 1-1-79

556.031. Application to offenses committed before and after enactment. — 1. The provisions of this code shall govern the construction and punishment for any offense defined in this code and committed after January 1, 1979, as well as the construction and application of any defense to a prosecution for such an offense.

2. Offenses defined outside of this code and not repealed shall remain in effect, but unless otherwise expressly provided or unless the context otherwise requires, the provisions of this code shall govern the construction of any such offenses committed after January 1, 1979, as well as the construction and application of any defense to a prosecution for such offenses.

3. The provisions of this code do not apply to or govern the construction of and punishment for any offense committed prior to January 1, 1979, or the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted, the provisions of section 1.160, RSMo, notwithstanding.

(L. 1977 S.B. 60)

Effective 1-1-79

556.036. Time limitations. — 1. A prosecution for murder or any class A felony may be commenced at any time. !!

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

Chapter 558

IMPRISONMENT

- Sec.
558.011. Sentence of imprisonment, terms — conditional release.
558.016. Extended terms for recidivism — definitions — persistent misdemeanor offender.
558.018. Persistent sexual offender, predatory sexual offender, defined, extension of term, when, minimum term.
558.019. Prior felony convictions, minimum prison terms — prison commitment defined — dangerous felony, minimum term prison term, how calculated — sentencing commission created, members, duties — recommended sentences, distribution — report — expenses — cooperation with commission.
558.021. Extended term procedures.
558.026. Concurrent and consecutive terms of imprisonment.
558.031. Calculation of terms of imprisonment — credit for jail time awaiting trial.
558.041. "Good time" credit, exceptions — rules, procedure.
558.046. Reduction of term of sentence, conditions.

Cross References

Definitions of correctional facility department organization, powers and responsibilities, for chapter 217 and chapter 558, RSMo 217.010
Dual jurisdiction of court in disposition of offender transferred from juvenile court, RSMo 211.073
Television, closed circuit coverage of prisoners for court appearances, when, requirements, RSMo 561.031

558.011. Sentence of imprisonment, terms — conditional release. — 1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

- (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment; /
- (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
- (3) For a class C felony, a term of years not to exceed seven years;
- (4) For a class D felony, a term of years not to exceed five years;
- (5) For a class A misdemeanor, a term not to exceed one year;
- (6) For a class B misdemeanor, a term not to exceed six months;
- (7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two

years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the defendant to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the defendant to the county jail or other authorized penal institution for the term of his sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

- (a) One-third for terms of nine years or less;
- (b) Three years for terms between nine and fifteen years;
- (c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the