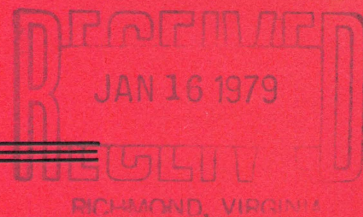


220 VA 26

CLERK
SUPREME COURT OF VIRGINIA



IN THE
Supreme Court of Virginia

AT RICHMOND

RECORD NO. 781161

KENNETH W. WILSON

Appellant

v.

COMMONWEALTH OF VIRGINIA

Appellee

JOINT APPENDIX
VOLUME I

Burton L. Albert
Harvey S. Lutins
Gordon H. Shapiro
LUTINS AND SHAPIRO
324 Washington Avenue, S. W.
Roanoke, Virginia 24016

Of Counsel for the Appellant

TABLE OF CONTENTS

VOLUME I

Indictment.....	i
Motion to Suppress.....	ii - iii
Amended Motion to Suppress.....	iv - v
Order.....	vi
Order.....	vii - x
Notice.....	xi - xii
Notice of Filing.....	xiii - xiv
Instruction No. D.....	xv
Instruction No. B.....	xvi
Instruction No. 2.....	xvii
Instruction No. 3.....	xviii
Instruction No. 4.....	xix
Instruction No. E.....	xx
Instruction No. F-1.....	xxi
Instruction No. G-1.....	xxii
Transcript of Suppression Hearing..... (Pages 1-91)	xxiii

VOLUME II

Transcript of Trial..... (Pages 1-169)	xxiv
---	------

INDICTMENT

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

APRIL 7, 1978

The Grand Jury charges that:

On or about January 29, 1978, in the County of Roanoke, Commonwealth of Virginia, Kenneth W. Wilson did steal property, namely, goods and chattels having a value of \$100 or more belonging to the Litton Office Products Centers, Division of Litton Business Equipment Group, Division of Litton Industries.

Upon the evidence of Detective E. C. Manuel, a witness sent to the Grand Jury to give evidence.

Virginia Code Section 18.2-95

V I R G I N I A :

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

COMMONWEALTH

vs.

KENNETH W. WILSON

*
*
*
* MOTION TO SUPPRESS
*
*
*

Comes now the Defendant, Kenneth W. Wilson, by counsel, and hereby moves the Court to direct that certain statements allegedly made by said Defendant were unlawfully taken by three (3) police officers in the County of Roanoke on February 1, 1978, and by one (1) police officer in the City of Roanoke on February 2, 1978; and, said Defendant further moves the Court to order and direct that such statements be suppressed as evidence against him in any criminal proceeding.

The Defendant, Kenneth W. Wilson, states that the alleged statements were unlawfully taken because on neither occasion were the Defendant's Miranda warnings properly given to him by the aforesaid police officers.

Respectfully submitted,

KENNETH W. WILSON

By: L. Richard Padgett, Jr.
Of Counsel

PADGETT & LAUTENSCHLAGER
102 North Market Street
Salem, Virginia 24153
L. Richard Padgett, Jr.
Counsel for Defendant

I hereby certify that on the 13th day of April, 1978,
a true copy of the foregoing Motion to Suppress was
delivered to John N. Lampros, Commonwealth's Attorney,
County of Roanoke, Courthouse Building, Salem, Virginia.

L. Richard Padgett, Jr.

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF ROANOKE

COMMONWEALTH

v.

KENNETH W. WILSON

*
*
*
*
*
*
*

AMENDED MOTION TO SUPPRESS

Comes now the Defendant, Kennneth W. Wilson, by counsel, and hereby moves the Court to direct that certain statements allegedly made by said Defendant were unlawfully taken by three (3) police officers in the County of Roanoke on February 1, 1978, and by one (1) police officer in the City of Roanoke on February 2, 1978; and, said Defendant further moves the Court to order and direct that such statements be suppressed as evidence against him in any criminal proceeding.

The Defendant, Kenneth W. Wilson, states that the alleged statements were unlawfully taken because on neither occasion were the Defendant's Miranda warnings properly given to him by the aforesaid police officers.

Further, the Defendant, Kenneth W. Wilson, states that the alleged statements are inadmissible in that said statements are not corroborated by any other competent, independent evidence to prove the corpus delicti, which under Section 18.2-108 of the Code of Virginia, as amended to date, would include a showing that the goods were previously stolen by some other person, that the Defendant bought or received them from another person, or aided in

concealing them, he knew they had been stolen, and that he so aided in concealing them with a dishonest intent (Reid v. Commonwealth, 206 VA 464 (1965); Parish v. Commonwealth, 206 VA 627 (1965); and, Pasonello v. Commonwealth, 206 VA 640 (1965)).

Respectfully submitted,

KENNETH W. WILSON

By: L. Richard Padgett, Jr.
Of Counsel

PADGETT & LAUTENSCHLAGER
102 North Market Street
Salem, Virginia 24153
L. Richard Padgett, Jr.
Counsel for Defendant

I hereby certify that on the 20th day of April, 1978, a true copy of the foregoing Amended Motion to Suppress was delivered to John N. Lampros, Commonwealth's Attorney, County of Roanoke, Courthouse Building, Salem, Virginia.

L. Richard Padgett, Jr.

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

COMMONWEALTH OF VIRGINIA

VS

)(O R D E R

KENNETH W. WILSON

This day came the Attorney for the Commonwealth and the defendant, Kenneth W. Wilson, who stands indicted in this Court of a felony, to-wit: Grand Larceny, as charged in the indictment, appeared in Court according to the condition of his recognizance, and came also his attorney, L. Richard Padgett, Jr., upon a motion of the defendant, by counsel, to suppress the evidence of the Commonwealth as to said indictment.

Whereupon, the Court, having heard the evidence and the argument of counsel, hereby denies said motion for reasons stated in the record, to which ruling of the Court, the defendant, by counsel, excepted.

Enter: May 1, 1978

F. L. Hoback
Judge

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

COMMONWEALTH OF VIRGINIA

VS

)(O R D E R

KENNETH W. WILSON

This day came the Attorney for the Commonwealth and the defendant, Kenneth W. Wilson, (DOB: 6-25-47), who stands indicted in this Court of a felony, to-wit: Grand Larceny, as charged in the indictment, appeared in Court according to the condition of his recognizance, and came also his attorney, L. Richard Padgett, Jr.

Whereupon, the accused was arraigned on the indictment, and after private consultation with his counsel, pleaded not guilty to the said indictment, which plea was tendered by the accused in person.

Whereupon, the Court then impanelled twenty (20) qualified jurors, free from exception for the trial of the defendant, in the manner provided by law. The Attorney for the Commonwealth and counsel for the defendant then exercised their right to strike names from the panel, in the manner provided by law, and the remaining twelve (12) jurors, to-wit: Margie A. Bailey, David P. Hancock, Frances D. McCann, Arthur L. Paxton, Faye K. Reed, Elmo M. Thompson, Benjamin C.

Payne, Charles S. Jordan, Jr., Violet G. Sutphin, Avis C. Garman, Michael J. Corridon and Robbie A. Sink, constituting the jury for the trial of the defendant, were duly sworn.

Whereupon, the Court and the jury heard the opening statements of counsel and the evidence presented by the Commonwealth, and at the conclusion thereof, the defendant, by counsel, moved the Court to strike said evidence for reasons stated in the record, which motion was overruled and exception noted.

Having heard all of the evidence, the instructions of the Court and the arguments of counsel, the jurors were sent to the jury room to consider their verdict. They subsequently returned the following verdict in open Court, reading:

"We, the Jury, find the defendant, Kenneth W. Wilson, Guilty of Receiving Stolen Goods as charged in the indictment and fix his punishment at confinement in jail for six months.

Michael J. Corridon
Foreman"

The Court then asked the defendant whether he desired to make a statement or to advance any reason why judgment should not be pronounced against him, and the defendant having declined, the Court finds the defendant guilty of Receiving Stolen Goods, a felony, as charged in the indictment, and sentences him to confinement in jail

for a term of six (6) months, and it is ORDERED that the Commonwealth of Virginia recover of the defendant its costs by it about its prosecution in this behalf expended in the amount of \$443.25.

After pronouncing sentence, the Court advised the defendant of his right to petition to the Supreme Court of Virginia for an appeal from the decision of the jury, and of his right to proceed in forma pauperis, should he qualify, and of his right to have the assistance of Court-appointed counsel.

Whereupon, the defendant, by counsel, signified his intention to apply to the Supreme Court of Virginia for a Writ of Error from the judgment of this Court and it is ORDERED that the execution on the above sentence is stayed for a period of thirty (30) days from this date or until the Supreme Court of Virginia has acted on the defendant's petition for a Writ of Error or if a Writ of Error is granted by said Court, until an opinion is rendered by that Court, upon the defendant executing a bond in the penalty of Two Thousand Five Hundred Dollars (\$2,500.00) within ten (10) days from this date, with good and sufficient surety to be approved by the Clerk of this Court.

The Court certifies that at all times during the trial of this case, the defendant was personally present and that his attorney was likewise personally present and capably represented the defendant.

The Court ORDERS that the defendant be allowed no days credit for time spent in jail awaiting trial.

And the defendant is released on the recognizance heretofore entered into by him pending the execution of the aforementioned bond.

Enter: May 15, 1978

F. L. Hoback
Judge

CERTIFICATE OF DELIVERY

I, L. Richard Padgett, Jr., Counsel for the Defendant herein, do hereby certify that I delivered a true and correct copy of the foregoing Notice to John N. Lampros, Commonwealth's Attorney for the County of Roanoke, at his office in the Roanoke County Courthouse, Salem, Virginia 24153, this 22nd day of May, 1978.

L. Richard Padgett, Jr.

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF ROANOKE

COMMONWEALTH OF VIRGINIA

Plaintiff

vs.

KENNETH W. WILSON

Defendant

*
*
*
*
*
*
*
*
*
*
*

NOTICE OF FILING

Comes now the Defendant, Kenneth W. Wilson, by counsel, and pursuant to Rule 5:9 of the Rules of the Supreme Court of Virginia, hereby gives notice that the transcript of proceedings had and evidence introduced before the Honorable F. L. Hoback, Judge of the Circuit Court for the County of Roanoke, Virginia, on May 1, 1978, at the Suppression Hearing had in the above-styled case was delivered and filed with the Clerk of the Circuit Court for the County of Roanoke, Virginia, on Monday, July 10, 1978.

Further, the Defendant, Kenneth W. Wilson, by counsel, and pursuant to Rule 5:9 of the Rules of the Supreme Court of Virginia, hereby gives notice that the transcript of proceedings had and evidence introduced before the Honorable F. L. Hoback, Judge of the Circuit Court for the County of Roanoke, Virginia, on May 15, 1978, at the trial by jury had in the above-styled case was delivered and filed with the Clerk of the Circuit Court for the County of Roanoke,

Virginia, on Monday, July 10, 1978.

Respectfully submitted,

KENNETH W. WILSON

By: L. Richard Padgett, Jr.
Of Counsel

PADGETT & LAUTENSCHLAGER
102 North Market Street
Salem, Virginia 24153
L. Richard Padgett, Jr.
Counsel for Defendant

CERTIFICATE OF DELIVERY

I, L. Richard Padgett, Jr., counsel for Defendant,
do hereby certify that I delivered a true copy of the
foregoing Notice to John N. Lampros, Commonwealth's Attorney
for the County of Roanoke, Virginia, Courthouse Building,
Salem, Virginia, this 10th day of July, 1978.

L. Richard Padgett, Jr.

INSTRUCTION NO. D

The Court instructs the jury that unless you believe from the evidence beyond a reasonable doubt that the two desks were previously stolen from Everett Waddey by some person other than the defendant, and that the defendant thereafter bought or received or aided in concealing such property with dishonest intent and knowing that it had been stolen, then you cannot find the defendant guilty of receiving stolen goods knowing them to be stolen, and you should find the defendant not guilty.

Given
F.L.H.

INSTRUCTION NO. B

The Court instructs the Jury that the burden is upon the Commonwealth to prove by the evidence beyond a reasonable doubt every material and necessary element of the offense charged against the defendant. It is not sufficient that the Jury may believe his guilt probable, or more probable than his innocence. Suspicion or probability of guilt, however strong, will not authorize a conviction, but the evidence must prove his guilt beyond a reasonable doubt. The Jury shall not speculate or go outside of the evidence to consider what they think might have taken place, but you are to confine your consideration to the evidence introduced by the Commonwealth and the defense and unless you believe, upon a consideration of all the evidence before you, that guilt of the defendant has been proved beyond a reasonable doubt as to every material and necessary element of the offense charged against him, then you shall find the defendant not guilty.

Given
F.L.H.

INSTRUCTION NO. 2

The Court instructs the Jury that if any person buy or receive from another person, or aid in concealing, any stolen goods or other thing, knowing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender be not convicted.

Given
F.L.H.

INSTRUCTION NO. 3

The Court instructs the Jury that if you believe from the evidence beyond a reasonable doubt that two Steelcase Office Desks were previously stolen from Litton Office Products Center, Trading as Everett Wadley Company, by some person other than the defendant; that the defendant thereafter bought or received or aided in concealing such property with dishonest intent and knowing that it had been stolen, then you shall find the defendant guilty of receiving stolen goods knowing them to be stolen; and fix his punishment at confinement in the penitentiary not less than one nor more than twenty years, or, by confinement in jail not exceeding twelve months or by a fine not exceeding one thousand dollars, either or both.

Given
F.L.H.

INSTRUCTION NO. 4

The Court instructs the Jury that in order to prove that the defendant had guilty knowledge that the goods were stolen, it is not necessary to prove that the defendant actually witnessed the theft or that he knew any of the details thereof, but guilty knowledge of the defendant that the goods are stolen property may be shown by the circumstances under which he came into possession of the goods.

GIVEN
F.L.H.

INSTRUCTION NO. E

The mere naked possession of stolen goods, unaided by other proof, is no evidence that the possessor received the goods knowing them to have been stolen. But recent exclusive unexplained possession of stolen goods is a circumstance for the consideration of the jury.

Given
F.L.H.

INSTRUCTION NO. F-1

In relation to ownership of the two desks by
Everett Waddey, when the alleged owner thinks he has lost
property, but will not swear he has, the ownership is not,
by this evidence, sufficiently proved.

Tendered and Refused
Exceptions Noted
F.L.H.

INSTRUCTION NO. G-1

You cannot charge the defendant with knowledge that the goods involved in this case were stolen from the fact that in obtaining the goods he may not have exercised ordinary care or that degree of care that a man of ordinary prudence would have exercised under the circumstances; nor from the fact that he may have obtained them at less than their true value; but to charge the defendant with guilty knowledge, the burden is upon the Commonwealth to prove by the evidence beyond a reasonable doubt that the defendant had knowledge that the goods were stolen at the time they came into the possession of the defendant. And if the jury, after considering all of the evidence, entertain a reasonable doubt as to whether the defendant did know that the goods were stolen, then you must find the defendant not guilty.

Tendered and
Refused -- Exceptions
F.L.H.

TRANSCRIPT OF SUPPRESSION HEARING

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

COMMONWEALTH OF VIRGINIA

vs.

KENNETH W. WILSON

TRANSCRIPT of proceedings had and evidence introduced before the Honorable F. L. Hoback, Judge of the Circuit Court for the County of Roanoke, Virginia, on May 1, 1978, at the Supression Hearing had in the above-styled case.

APPEARANCES: John N. Lampros, Commonwealth's Attorney

Richard L. Padgett, Jr., Attorney
for the Defendant

Kenneth W. Wilson, the Defendant
in Person

I N D E X

	<u>Direct</u>	<u>Cross</u>
<u>WITNESSES CALLED ON</u> <u>BEHALF OF COMMONWEALTH:</u>		
Edward C. Manuel	5	17
Leonard J. Wade	23	27
J. A. Camden	30	34
 <u>WITNESSES CALLED ON</u> <u>BEHALF OF DEFENDANT:</u>		
Winford William Wilson	37	44
Lois Wilson	50	55
Claude D. Carter	62	67
Kenneth W. Wilson	71	83
 <u>DECISION:</u> 89		

BY THE COURT: Commonwealth of Virginia against Kenneth W. Wilson. Is the Commonwealth ready to proceed?

BY MR. LAMPROS: On the motions before the Court, yes, Your Honor.

BY THE COURT: Is the Defendant ready?

BY MR. PADGETT: The Defendant is ready, Your Honor.

BY THE COURT: This matter is before the Court on an amended motion to suppress filed on behalf of the Defendant. Mr. Padgett, you may proceed with whatever matters you wish to bring up in connection with the motion to suppress.

BY MR. PADGETT: Alright, Your Honor. We had filed an amended motion to suppress, I think Mr. Lampros has a copy of that, and we're contesting certain statements allegedly made by the Defendant on the occasion of February the 1st, 1978, in the County of Roanoke and on the following day, on February the 2nd, 1978, in the City of Roanoke before police officers. And we're alleging that these statements were unlawfully taken because the Defendant's Miranda Warnings were not properly given to him by the police officers present with Mr. Wilson on the above occasions. Further, we are alleging that the statements should not be admissible because the Commonwealth does not have independent, competent, corroborating evidence which would go to proving the corpus delicti, the

crime with which he is charged which is possession of stolen goods and that is pursuant to the case of Reid v Commonwealth 206 Va 464, 1965 case; Parish v Commonwealth 206 Va 627, 1965 case. We are prepared, Your Honor, to put on evidence at this time but I understand by the--

BY THE COURT: Well--

BY MR. PADGETT: --cases and realize that the Commonwealth has the burden to show by the preponderance of the evidence that these warnings were given.

BY THE COURT: Alright, sir. Do you take issue with that, Mr. Lampros?

BY MR. LAMPROS: Your Honor, insofar as counsel's statement is involved, I think this may be an appropriate time and place for the suppression motion, I don't believe it is a time or place to determine whether there is corroboration or not, that is at the time of the trial in chief of the matter.

BY THE COURT: Well, I agree with that. We can't without ruling on that particular matter until all the evidence is heard, I don't believe that would be a preliminary motion. You may make that at the conclusion of the Commonwealth's evidence.

BY MR. PADGETT: Yes, sir.

BY THE COURT: But at the present hearing it will be restricted to the statements that you are now objecting to.

BY MR. PADGETT: Yes, sir.

BY THE COURT: And if the Commonwealth will proceed--

BY MR. LAMPROS: Alright, sir.

BY THE COURT: --whoever took the statements and--

BY MR. LAMPROS: We shall.

BY THE COURT: --find out if any warnings were given at that time, at which time the Defendant may try to come back and counteract that.

BY MR. LAMPROS: Alright. Detective Manuel--oh, well, stand and be sworn please.

BY THE COURT: Everybody who intends to testify--

BY THE CLERK: Everybody who intends to testify, please stand and raise your right hands.

ALL WITNESSES DULY SWORN BY THE CLERK

BY MR. LAMPROS: Detective Manuel, have a seat in the witness chair, please.

EDWARD C. MANUEL, A WITNESS OF LAWFUL AGE, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. LAMPROS:

Q. Please state your full name and position.

A. Edward C. Manuel, detective, Sheriff's Department, Roanoke County.

Q. Were you so employed in January and February, 1978?

A. Yes, sir, I was.

Q. Were you involved in the investigation of an offense that arose out of the charges against Mr. Kenneth W.

Wilson, a charge of receiving stolen property?

A. Yes, I am in charge.

Q. In conducting your investigation, did you have occasion to talk with Mr. Wilson, not on February 1, 1978, but on January 31, 1978?

A. Yes, sir, I did.

Q. Was that conversation conducted in Roanoke County?

A. Yes, sir, it was conducted in Hunting Hills.

Q. In Hunting Hills?

A. Yes, sir.

Q. At a home in Hunting Hills?

A. 5241 Falcon Ridge Road.

Q. Whose home is that?

A. It's the home of Kenneth W. Wilson.

Q. And where did the conversation take place with Mr. Wilson?

A. In the garage portion of the home.

Q. Is that an attached garage?

A. Yes, sir, it is.

Q. Did you go to this home and this address alone or were you with other officers?

A. I was accompanied by Detective Camden and Lieutenant Wade was following us over.

Q. He followed you in a separate vehicle?

A. Yes, sir. We arrived about the same time.

Q. Did all three of you exit the respective

vehicles together?

A. No, sir, we were walking up toward the house, Lieutenant Wade pulled up, we just waited for him to join us and he did and we all entered.

Q. Alright. What portion of the home did you enter?

A. Garage.

Q. So that's the only portion that you went into?

A. At that time, yes, sir.

Q. Who was in the garage, if anyone, other than the law enforcement officers?

A. Kenneth Wilson and his mother and father.

Q. Are his mother and father in the Courtroom, in the back of the Courtroom?

A. Yes, sir, they are.

Q. Where was--how large a garage is this?

A. It's a two car garage, I'd say 30 by 30 feet.

Q. Where was Mr. Wilson in respect to the front of the garage?

A. He was sitting on a couch along the lefthand side of the garage.

Q. That's on the lefthand side of the garage--

A. Facing the garage, on the left.

Q. Alright, just describe to the Court what occurred at that time and place.

A. When we went up there to begin with I started

by introducing Lieutenant--Detective Camden to the parents and exchanging more or less general greetings. I explained a little bit of why we were there to begin with.

Q. Alright, what was that as best you can recall?

A. We were there to search for some personal belongings that a house guest of Kenneth Wilson had left there. The man had called me and suspected that something would be put in with his belongings to more or less discredit him.

Q. This is involving another case, is that correct?

A. It all stems from another case, yes, sir.

Q. Another offense, not this offense, it's not this offense, it stems from another offense?

A. Original offense was different, yes.

Q. Fine. Go ahead, please.

A. Well, I explained more or less general talk, I explained that--uh--Mr. Asey, who is the other man, thought that there would be either money or drugs put into his belongings without his knowledge. And he was afraid that when he came to get them that this would be in there and somebody would catch him with it. So it was about, oh, we were talking five, ten, could have been fifteen minutes, I'd say.

Q. What time d'you arrive there approximately?

A. About 7:30, somewhere around there.

Q. P.M.?

A. Yes, sir.

Q. Alright, go ahead.

A. My questions at first, and like I said, they were not official questions, they weren't about the present, they were just talking over old things, answering his questions, about five or ten minutes after this, I advised the man of his rights--

Q. How did you do so?

A. I recited'em to him, I had a card, I don't--

Q. Where did you have the card?

A. I don't remember whether it was in my shirt pocket or in my hand but I generally recite the rights, sometimes I hold the card, I rarely read them, you know, I--

Q. Go ahead, what did you recite to him?

A. His Constitutional rights--

Q. Go ahead.

A. I advised him he had the right to remain silent--

BY THE COURT: Advised who?

BY THE WITNESS: Mr. Wilson.

BY THE COURT: Alright, go ahead.

A. (Witness continuing) And if he waived this right, anything he said could be used against him in a Court of law. I told him he had the right to an attorney; and to have the attorney with him during any questioning; and if he couldn't afford an attorney one would be appointed by the Court. I further advised him that at any time he wished to

terminate his conversation, he had the right to do so.

Q. Who was present when you advised him of his rights?

A. Lieutenant Wade, Detective Camden, Mr. and Mrs. Wilson and Kenneth Wilson.

Q. Where was the defendant when you were advising him of his rights?

A. He was sitting on the couch and I was more or less in a kind of squatting position in front of him.

Q. Approximately what distance were you from him?

A. Pretty close, pretty close.

Q. Well, I mean--

A. I was almost eyeball to eyeball with him.

Q. After that did you inquire about this particular offense?

A. Yes, sir, I did.

Q. And what did you ask the defendant?

A. Well, I was talking about the furniture that was in question.

Q. What type of furniture is this?

A. This was office furniture that had been removed from Everett-Waddey Furniture Company without their knowledge.

Q. What type of furniture, specifically?

A. Office desks.

Q. How many?

A. Two.

Q. And how were they supposed to--were they crated or what?

A. They were in cardboard containers--uh--clearly marked by their trademark. The conversation--I can't remember word for word--I asked Kenny, I says--uh--why don't you admit that the desks were in the house. He said they weren't in the house. I said, well I know they were here, I saw them myself. And he said no they weren't here. I said Kenny I've got photographs to back up my statement and then he--he said yeah, yeah, alright, they were in here, I know they were stolen. I said why don't you admit they were stolen and that's when he, I can't remember his words, he said yeah I know they were stolen or something like that.

Q. What happened after that?

A. Well, after that he got a little upset and he started crying and beating the wall with his fist and saying why don't you leave me alone and all and we started to leave. We were outside the garage and he called us back.

Q. Who called you back?

A. Mr. Wilson

Q. Alright.

A. In fact the Lieutenant was getting in his car because the Lieutenant suggested --uh--you know, we better go and we were on our way out.

Q. Alright, what happened when Mr. Wilson called you back?

A. Well, I called him back and when he--

Q. You called whom back?

A. The Lieutenant. And when he was upset like this was at the point I was asking him to search the house and I told him he had to sign the form.

Q. A consent search, you were requesting a consent search of the house?

A. Right. And that was when he said--uh--he started beating the wall, he said go ahead, he said I don't care. I said I have to have this form signed first and he was so upset, that's when we left. Then when he called us back, he still refused to sign the form at first and then later he said okay I'll sign it and he let us search. And we left there about 11:00 O'clock, I believe.

Q. Eleven O'clock?

A. Yes.

Q. Counsel also has filed a motion on behalf of the defendant to suppress a statement taken in the City of Roanoke on February 2, 1978. Was there another time that you talked with the defendant?

A. I wasn't too sure of the date and the other day I called Mr. Carter's office--

Q. Mr. Claude Carter's office?

A. Mr. Claude Carter. And I talked with his secretary, she said she asked him and call me back which she did. And she said that the date was 1 February about 1300.

Q. What is 1300?

A. One O'clock in the afternoon.

BY MR. PADGETT: February what?

A. (Witness continuing) February First. Now that--that's from Mr. Carter's office, I wasn't positive of the date and time, so I called his office.

Q. Had you previously had occasion to receive information Mr. Claude Carter represented Mr. Wilson concerning this offense?

A. Yes, sir, it was the night of the previous statement, I asked Kenny if he'd finally give me a full statement on the events from the other offense.

Q. Not this offense, the other one?

A. No, not this offense, the other one which leads into this one and he said he didn't want to do anything else unless his attorney was there. I said well you set it up with your attorney and I'll speak to you in his office with him present and he did set an appointment up and I believe it was the First of February.

Q. Where is Mr. Carter's office located?

A. It's on Jefferson Street downtown, I can't think of the name of the building.

Q. Across from the old Jefferson theater?

A. Right, right down in that area.

Q. Boxley--

A. Boxley Building, yes.

Q. And did you go to Mr. Carter's office?

A. Yes, sir, I did. I went down there and I had

a short talk with Mr. Carter.

Q. With or without the defendant?

A. Before Mr. Wilson came in the office. And then he called Mr. Wilson in the office.

Q. Who called him in?

A. Mr. Carter

Q. Alright

A. And we more or less did the same thing, we--

Q. Alright. Who was in the office at that time?

A. Mr. Carter, Mr. Wilson and myself.

Q. Alright.

A. We were talking generalities for a few minutes then I looked at Mr. Carter--

Q. Before we go to that point, what did you tell Mr. Carter you wanted? Did you explain to him why you were there?

A. Oh yeah, I explained--

Q. What did you tell him? As best that you can recall.

A. I--I briefly outlined my whole investigation and what I came up with on just about everything.

Q. Alright. Was this offense included?

A. Oh yeah.

Q. Alright.

A. And--uh--I told Mr. Carter that--uh--he'd already admitted, you know, the desks being stolen that were in his house. And then he called Mr. Wilson in. Kenny

wasn't in there when I was talking to him about this.

Q. Okay.

A. So we more or less sat around for a few minutes, normal talk, small talk. I looked at Mr. Carter and--uh--I was really confused and I says I got to advise him of his rights, sir, don't I have to advise him of his rights. With the attorney there, Your Honor, I wasn't really sure--

Q. You'd never been in this situation before?

A. No, I never had. And Mr. Carter said I don't think that's necessary and he looked at Mr. Wilson for acknowledgment, Mr. Wilson acknowledged in the affirmative.

Q. How did he acknowledge?

A. He nodded and he said something that was the equivalent of yes to me right there, I mean, he looked over, he said is that alright with you, something like that, motioned.

Q. Alright, what happened after that?

A. Then we went in to the questioning part, where I asked certain questions

Q. Alright, what did you ask him as best you can recall and what were the defendant's responses?

A. Well, the main thing--I made the statement to Kenneth, I said now Kenny you already admitted that you knew these desks were stolen, I said isn't that right, he said yes. I turned to Mr. Carter and I said see he even admits it in front of you. Shortly after that Mr. Carter said

that--uh--well, I asked him I said--uh--where do we go from here or words to that effect and Mr. Carter said he'll probably be looking for a new attorney. He'll probably want a new attorney in the morning, I don't know.

Q. What was the total length of time that you were in Mr. Carter's office as best you can recall?

A. Preliminary, about twenty minutes.

Q. That's before Mr. Wilson came in?

A. Right.

Q. How long were you in his office with Mr. Wilson?

A. About an hour, I guess. It was close to Three, I think, when I left.

Q. During the period of time that you were in the office with Mr. Wilson and Mr. Carter, what else took place?

A. Just questioning on the money--

Q. That's the other offense, is that what you're speaking of?

A. Well, it's no offense yet.

Q. You were questioning him about other matters other than this?

A. Other matters than this, yeah.

Q. And when you spoke with Mr. Wilson and Mr. Carter, did you identify the desks that you were inquiring about? Are there any other desks that you were investigating at this time?

A. No, I told Mr. Carter--uh--about the desks, about just about everything I turned up, it was more or less incriminating in itself.

Q. Against this defendant?

A. Right. I also told him that he hadn't admitted some of these things at first and then later he did admit having knowledge of some of these things like the money. He says never heard of it and then he later said yes, I did know about it.

Q. Alright, answer any questions counsel may have.

CROSS EXAMINATION
BY MR. PADGETT:

Q. Alright, Detective Manuel, when you--on January 31st, when you went over to Mr. Wilson's house, he had been placed under arrest for the--

A. He was arrested on the Twenty-ninth of--uh--December--January.

Q. Alright, what was, again, what was your purpose for going over to Mr. Wilson's house that night?

A. To--the primary purpose was to search Mr. Asey's effects, that was the primary purpose.

Q. What prompted you to go over there for that?

A. Mr. Asey's request.

Q. Was it not because you had heard that Mr. Wilson was afraid that a certain amount of money might be planted in his house and that you got word of that from the

State Police and that's the reason why you--

A. No, no, sir, I had no word from the State Police whatsoever. I went to the State Police myself, requested assistance but Mr. Wilson went to the State Police-- according to what I heard--to get them to do it because he wasn't satisfied with my work.

Q. Okay. What was the first thing you said to Mr. Wilson when you arrived? Can you recall?

A. How're you doing Kenny or something like that.

Q. And then the discussion went into what?

A. Oh, just small talk. I introduced the Lieutenant, he had never met the parents or Ken as far as I knew.

Q. Did you tell Mr. Wilson the reason why you were there at his house that night?

A. Oh, yeah.

Q. What did you tell him?

A. I told him I wanted to search Mr. Asey's effects, I told him that a television set among Mr. Asey's effects was reported stolen to me. I ran that, it didn't come back stolen.

Q. The primary purpose that you were there tonight (sic) was just to look into Mr. Asey's effects, is that correct.

A. That's the primary, primary purpose.

Q. And that you asked Mr. Wilson permission to search his home in relation to that?

A. Mr. Wilson volunteered that part much later. I was mainly interested in the effects, you know, and after he went in to his--uh--he got upset, then he said search the whole place but I couldn't do it until he signed the consent search form which he did and we did search the place.

Q. As a matter of fact, Mr. Wilson told you that he would not answer any questions or would not allow a search until he contacted his attorney, is that correct?

A. No, he didn't.

Q. Did he go back in to the room and call Mr. Carter to ask him some advice about that?

A. He went back there for something, I don't know, but that was later on.

Q. Did he tell you that he went back to call his attorney?

A. I don't remember him--

Q. That was he wished not to make any statements?

A. I don't remember him saying then that he called his attorney, later on after a lot of this had passed, he did say he wanted his attorney. That's why we set up the appointment in Mr. Carter's office but this was afterwards, I'm not--

Q. So what you're saying is, you went there-- you're telling me that you went there to search Mr. Asey's goods but then shortly thereafter you started to read Mr. Wilson his rights?

A. Right. I figured I had to do that.

Q. On what--so you were there actually for the investigation of the charge against Mr. Wilson, is that right?

A. No, usually if I'm going to get a man to sign a consent search form, I'll read him his rights first anyway. I've always done it, I don't know whether it's correct procedure, but it couldn't be incorrect.

Q. So you're saying that immediately before having him to sign the consent form you read him his rights?

A. No. I read him his rights because I knew what I was going to ask him later, that's the only reason I read him his rights.

Q. Did he know what you were going to ask? Did he know where you were going?

A. Well, I'm sure he knew what I was going to ask.

Q. But you didn't tell him that you were there for the express purpose of investigation the charge against Mr. Wilson, is that what you're telling us?

A. I wasn't there for the express purpose of investigating the charge against Mr. Wilson.

Q. So in other words, you--you--uh--

A. It was more or less secondary, when I'm investigating a case that's so close as this one is, there's a primary purpose to go which was the belongings but the other stuff just fell in, it's normal.

Q. Who--who again was present when his rights

were read?

A. I believe his mother, his father and Lieutenant Wade and Detective Camden, myself and Mr. Wilson.

Q. How close were you to Mr. Wilson when his rights were read?

A. About eyeball to eyeball.

Q. Was he upset, was he emotional?

A. He had been emotional several times but not--uh--not until later. He got emotional later, it was very visible but--uh--I wouldn't say he was really, you know, going off the deep end or anything.

Q. Alright, you said you pulled the card out, did you read from that card?

A. I had the card in my shirt pocket because I carry it in my car with me and I usually take it out of the car and put it in my pocket when I'm going in to anybody's house. But usually I recite the rights, I don't read them every time. I've done that I don't know how many times, I couldn't tell you whether I recited'em or read'em at any given time. I do give'em and I make sure the defendant understands them.

Q. Alright, didn't you tell Mr. Wilson that you--that you would like to talk to him again at some other time?

A. Later on I probably did, yeah, I said that about four or five times to him.

Q. Uh-huh. And what did he tell you?

A. He told me he'd talk to me.

Q. He said he'd talk to you?

A. Um-hmm.

Q. But only with his attorney present?

A. Eventually, yeah.

Q. At what point did he sign the consent form to allow you to search the house?

A. After I read him his rights and after he admitted that the desks were stolen, then he signed the consent search form and that was even after he got upset because when we asked to go in, he didn't want to sign the form. And when I insisted is when he got upset and then he called us back after that and then he signed the form.

Q. So you're saying you were getting ready to leave and you asked Mr. Wilson to sign a consent form?

A. I was getting ready to leave, I was already leaving. And then he called me back himself and then I called the Lieutenant. I says come on back a minute and then he had calmed down and then he signed the form.

Q. Let me ask you this, Mr. Manuel. You took-- went to the trouble to get Mr. Wilson to sign a consent form to allow him to search his home, why didn't you go to the trouble to get him to sign a form waiving his Miranda Rights?

A. I didn't have any with me.

Q. Okay. And you don't recall Mr. Wilson going back into another room and calling Mr. Carter on two separate occasions after he had told you that he wished not to make

any statements or to allow you to search the home until he had talked to Mr. Carter, you don't recall that at all?

A. I don't recall him specifically telling me he was going to call Mr. Carter but I do remember--uh--we were moving around the place there later on and I wasn't watching him. He could have very well of done this, I'm not--uh--I don't doubt him.

Q. Did Mr. Wilson understand what he had read, well you said you had read his Miranda Rights to him, did he understand them?

A. Sure.

Q. Do you think he did?

A. Sure.

Q. He wasn't so upset he would not know what you were saying to him?

A. No. I wouldn't say that.

Q. I have no further questions.

BY MR. LAMPROS: Questions, Your Honor?

BY THE COURT: No questions.

BY MR. LAMPROS: Stand aside.

WITNESS STANDS ASIDE

BY MR. LAMPROS: Lieutenant Wade.

LEONARD J. WADE, A WITNESS OF LAWFUL AGE, HAVING
BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. LAMPROS:

Q. Please state your full name and position.

A. Leonard J. Wade, Lieutenant Traffic Division, Roanoke County Sheriff's Department.

Q. Lieutenant Wade, is it correct that you were with Detective Manuel and Detective Camden on the 31st of January of this year?

A. Yes, sir.

Q. About 7:30 p.m. of that day?

A. Yes, sir. They'd asked me earlier to meet them over there that night at approximately 7:30.

Q. Just go ahead and tell the Court what occurred as best you can recall. This was not your case?

A. No, sir.

Q. You were just responding for assistance, is that right?

A. That's correct.

Q. Okay, go ahead, please.

A. When I arrived on Hunting Hills Drive, Detective Manuel and Camden was (sic) already there going up the driveway. At that time there was snow and ice on the ground, it was treacherous going up the driveway. The garage door was open, people were in the garage, we went in, I learned it was Kenneth Wilson.

Q. How did you learn that?

A. Through an introduction from Detective Manuel. And he also introduced me to Mr. and Mrs. Wilson, who was (sic) in the garage. There was a lot of small talk, I didn't pay a lot of attention to it--uh--after several

minutes--uh--I heard Detective Manuel advising Mr. Wilson of his rights. At the same time we were talking with his mother and father back and forth. A lot of conversation between everybody. Next thing I knew--uh--Mr. Wilson here became very upset.

Q. Why do you say that?

A. He was crying, raising his voice, got up, took his hand was beating on the wall, and at that time I called Detective Manuel over to me, I said Gus, I said, the best thing for us to do is leave, this guy here is pretty upset and apparently he's not going to sign your form.

Q. What form are you talking about?

A. He was asking him to sign a consent to search form. To search belongings of Mr. Asey, which Mr. Wilson had told us during this conversation that most of Mr. Asey's effects were right there in the garage, which there was a lot of stuff piled up there in boxes, a bed, stereo, bunch of stuff in the corner of the garage. And at that point, I went on out of the garage and Detective Manuel and Camden were following me, I went down the driveway and as I was opening the door to my car, Detective Manuel called me back. He said he's called us back, he's agreed to sign the consent search form. So at that point I proceeded to go through the personal effects of which I had been told belonged to Mr. Asey there in the garage.

Q. Were you dressed in a uniform, driving a marked car?

A. It was an unmarked car, I was in uniform like I am now.

Q. Now, you say you heard Detective Manuel advise the defendant of his Constitutional rights?

A. Yes, sir.

Q. Did you hear any questions after that?

A. No, sir. Mr. Wilson indicated that he understood the rights--uh--at one time Mr. Wilson said yeah I know, I know, like he was saying that he already knew his rights.

Q. Where were you at that time, what distance were you from the defendant?

A. Approximately six, seven foot.

Q. Did you know for what reasons that you were going to the home of Mr. Wilson?

A. I think mainly for the uniform and the assistance.

Q. Were you present when Mr. Wilson was questioned about these desks?

A. Yes, sir.

Q. What were the questions as best you can recall and what were the defendant's responses as best you can recall?

A. At times there seemed to be an argument between Wilson and Manuel and I heard--Gus did tell him, he said well I already got pictures of the desks when I was out here before. And what what his answer was I--I really can't remember.

Q. Okay. Answer any questions counsel may have.

CROSS EXAMINATION
BY MR. PADGETT:

Q. Lieutenant Wade, you said immediately after you all arrived or somewhat thereafter, Detective Manuel read Mr. Wilson his rights, is that correct?

A. Yes, sir.

Q. And what emotional state was Mr. Wilson in at that time?

A. He was not upset at that time.

Q. Didn't you tell me right before you came in here that he was very emotional and upset?

A. I told you that upstairs in the hall--uh--but that was later, I didn't say when it was.

Q. Did Mr. Wilson at any time indicate to you or Detective Manuel that he wanted to talk to his attorney before he made any kind of statement or allowed any kind of search? As a matter of fact, didn't he go back and call his attorney?

A. He did--

BY MR. LAMPROS: If he could answer the first question, Your Honor.

BY THE COURT: Answer the first question.

A. (Witness continuing) I don't recall any specific person he wanted to call--uh--like I said his mother and father were both talking and they were trying to talk to him and he did get up and leave the garage, a door in the end of the garage going in to the home itself, he did

go in to the home, who he may have called I don't know.

Q. Do you know for what purpose you were there at the garage on that night?

A. To assist the detectives.

Q. For what? To search the house?

A. For a search and I had the feeling that there might be some trouble, not from Mr. Wilson but just trouble in the area.

Q. Do you know for what you were searching?

A. Contraband, such as money or narcotics.

Q. As a matter of fact, when you all arrived the primary conversation was whether or not Mr. Wilson would allow you all to search the house, isn't that correct?

A. That wasn't my primary concern, my primary concern was assisting the detectives.

Q. I know but the primary conversation is what I'm talking about, the primary discussion was whether or not Mr. Wilson would allow you all to search his home?

A. That was the discussion after we arrived.

Q. Okay. And then did he say that he would allow no search because you all had been there numerous times before and that he would like to talk to his attorney before he did anything, isn't that correct?

A. There was a lot of small talk there which I didn't pay any attention to, the only thing I was concerned with was just waiting, if he did sign the form that I was to assist them in the search.

Q. When was the search conducted?

A. Possibly forty-five minutes to an hour after we arrived there.

Q. Where did you go when the search was conducted?

A. Primarily in the garage itself, then from the garage there was a pull down stairway that disappeared up into the ceiling of the garage. I pulled the stairway down and searched the attic after I searched the garage.

Q. Was Mr. Wilson with you?

A. No--er--at one time he was--uh--when I was in the garage searching that, he was on the couch; then when I went up to the attic--uh--I came back down and I asked him about an item that was in the attic, he couldn't remember it, I went back up to the attic, got the item and brought it partially down the steps and he said oh that belongs to me. So at that time I put it back in the attic where I found it.

Q. And you're saying to the Court that Mr. Wilson's Miranda Rights had been read to him previous to this--

A. Yes, sir.

Q. --is that correct? Did Mr.--uh--Detective Manuel pull out a card and read from that card or did he just recite it?

A. His back was to me, I don't know whether he had a card in his hand or not.

Q. Could you hear what he was saying?

A. He was telling him that he had a right to an

attorney, he had a right to stop the questioning at any time he desired to do so, I didn't hear everything word for word but it was just in general that he was being advised of his rights.

Q. Have you discussed this with Detective Manuel before coming in here today?

A. We have talked about it, yes.

Q. And this is all from your own recollection?

A. Yes, sir.

Q. I have no further questions.

BY MR. LAMPROS: Detective Camden.

WITNESS STANDS ASIDE

J. A. CAMDEN, A WITNESS OF LAWFUL AGE, HAVING BEEN
FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION
BY MR. LAMPROS:

Q. State your full name and position.

A. Detective J. A. Camden with the Roanoke
County Sheriff's Department.

Q. Detective Camden, were you so employed and on
duty on January 31, 1978?

A. Yes, I was.

Q. At that time did you have occasion to be with
Detective Manuel about 7:30 of that day?

A. Yes, I was.

Q. And for what purpose were you all together?

A. To go to the residence of Mr. Kenneth Wilson

and search the personal belongings of Charles Asey.

Q. This residence is the one earlier referred to by Detective Camden (sic) in Hunting Hills in Roanoke County?

A. Detective Manuel.

Q. I'm sorry, Detective Manuel.

A. Yes, it is.

Q. Just go ahead and tell the Court what occurred as best you can recall.

A. When we arrived some time shortly between 7:00 and 7:30--uh--Mr. Wilson and his mother and father and Detective Manuel and Lieutenant Wade and myself were in the garage portion of Mr. Wilson's house. We explained to him why we were there, to search the effects of Mr. Asey and in order for us to get in the house to get to Mr. Asey's belongings, we had to get permission from Mr. Wilson because it was in fact his house. Detective Manuel advised Kenneth Wilson of his rights.

Q. And where were you when this occurred.

A. Standing approximately four or five feet behind Detective Manuel.

Q. Where was Mr. Wilson at this time?

A. Seated on the sofa inside the garage on the left side.

Q. And where was Detective Manuel?

A. Standing directly in front of him.

Q. Just go ahead, please.

A. To the best of my knowledge, I believe Detective Manuel did have a card in his hand, I do not know if it was read from or recited. The def--Mr. Wilson acknowledged understanding his rights, then the questioning turned to some items that had been in the garage and were no longer there, specifically a large carton containing a business desk from Everett-Wadley Company.

Q. Alright, this is not your case so you're not familiar with the facts of that offense are you?

A. That is correct.

Q. Alright. Go ahead.

A. The defendant said that it wasn't there or Mr. Wilson said it wasn't there and he and Detective Manuel exchanged words for a few minutes and then Detective Manuel said we've got pictures to prove it and the defendant then or Mr. Wilson then admitted knowing that the desks were stolen and that they had been in the garage at that residence and had been moved from the residence.

Q. Did Mr. Wilson say where they had been moved to, as best you can recall?

A. No, he did not.

Q. What happened after this now? After he had made that statement, that comment.

A. Detective Manuel asked for permission to search the remainder of the residence and Mr. Wilson agreed; however, he refused to sign the consent search form and there was a discussion between Detective Manuel and Mr.

Wilson as to the merits of signing and not signing the form. To the best of my knowledge Mr. Wilson did get up from the couch and go in to the house under the pretenses of phoning his attorney. He was gone several minutes and in the interim Detective Manuel and Lieutenant Wade and myself talked generally with Mr. and Mrs. Wilson. The def--Mr. Wilson came a short time later back into the garage, sat back down on the sofa. There was some more discussion about signing or not signing the form and then Mr. Wilson began to cry, raised his voice, told us we could do anything we wanted to, we could search his whole damn house if we wanted to, but he wasn't going to sign anything. He then got up and walked around a little bit in front of the sofa and banged his fist against the wall and his mother and father were trying to calm him down all the time. So then Lieutenant Wade suggested we leave, Detective Manuel and myself and Lieutenant Wade left the residence. I had already gotten in the car and started it, preparing to leave, when Detective Manuel motioned for me to come back into the garage.

Q. Where was Lieutenant Wade at that time?

A. He had already gone to his car, was down at his car to the best of my knowledge which was some twenty-five or thirty feet back behind mine on the road. We went back to the garage and Mr. Wilson then did sign a consent search form to search the remainder of his residence and we did search his residence and we left some time between 11:00 and 11:30 that evening.

Q. Answer any questions counsel may have.

CROSS EXAMINATION
BY MR. PADGETT:

Q. You said you arrived at 7:30?

A. Some time between 7:00 and 7:30 in the evening.

Q. So you were there four hours, right?

A. Approximately, yes, sir.

Q. Alright. I'll ask you the same thing, at what point were the Miranda Warnings given to Mr. Wilson after you all arrived? How much time had elapsed?

A. Maybe thirty minutes.

Q. Alright, what discussion did you all have previous to the reading of the rights?

A. Mr. and Mrs. Wilson were curious as to what had taken place previously in this case and another case and we answered the questions for Mr. and Mrs. Wilson, we answered questions for Kenneth Wilson.

Q. As a matter of fact, the primary conversation was centered around--uh--possibility of finding--uh--stolen goods belonging to another individual who had resided with Mr. Wilson, is that correct? Specifically a stolen T.V.?

A. Yes, sir, that was part of the conversation.

Q. And that was you all's specific purpose for being there that night, isn't that correct?

A. To recover the television set? It was supposed to have been stolen and in the effects of Mr. Asey and to search the belongings of Mr. Asey in order to detect any

possible contraband which Mr. Asey believed might be placed in his belongings.

Q. Okay, so after all that Detective Manuel proceeded to read Mr. Wilson his rights?

A. To the best of my knowledge, yes, sir.

Q. And you say he acknowledged those Miranda Warnings, Mr. Wilson that is?

A. Yes, sir, he did.

Q. How did he acknowledge them again?

A. I hadn't said earlier but to the best of my knowledge, he shook his head and agreed that he did understand.

Q. What was his emotional state at that time?

A. He was defensive at that time and wanted to be precise in what he was doing and to be sure of what he said before he said it or before he acted.

Q. Well, isn't it a fact he was quite emotional, he was enraged about you all being there that night? And he said that he wanted to talk to his attorney before you all did anything else before he said anything else? Isn't that a fact?

A. No, sir, he wasn't enraged. He did make the remark that he wanted to call his attorney and left--

Q. He did in fact call?

A. --immediate--well, I don't know if he did or not.

Q. But--but--but he went for the phone--

A. --he left with those pretenses.

Q. Oh, okay. And when he came back what did-- what did he say to you all?

A. I don't recall. Immediately when he came back, I don't recall.

Q. Did he something like that his attorney had advised him to allow you all to go ahead and search but that he still didn't want you all to search the home?

A. I don't recall that if he did.

Q. Detective Camden, are you sure of what you're saying today? Could it--could you not be confused by the reading of the waiver form to allow you--the police officers-- to search his home with that of the reading of his Miranda Warnings?

A. No, sir.

Q. You sure you're not confused on that point?

A. Yes, sir.

Q. Did you hear or was--was--did you tell Kenneth Wilson that--uh--that you all would like to talk to him again?

A. I don't believe I did.

Q. Well, was that in the discussion?

A. Yes, sir, it was.

Q. Let me ask you this question, Detective Camden. Doesn't it kind of seem strange to you that Mr. Wilson on the one hand would say that he is not going to sign the consent form to allow you all to search the home but on the other hand would acknowledge his Miranda Warnings

and then proceed to incriminate himself?

BY MR. LAMPROS: If Your Honor please now, we--

BY THE COURT: That calls for an opinion beyond the scope of
this examination.

BY MR. PADGETT: Withdraw the question.

BY THE COURT: Question withdrawn.

BY MR. PADGETT: That's all I have at the present time.

BY MR. LAMPROS: Stand aside. Judge, that's all we have.

WITNESS STANDS ASIDE

BY THE COURT: Alright, sir.

BY MR. PADGETT: I call Mr. Wilson to the stand.

WINFORD WILLIAM WILSON, A WITNESS OF LAWFUL AGE,
HAVING BEEN FIRST DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. PADGETT:

Q. State your name for the Court, please.

A. Winford William Wilson.

BY MR. LAMPROS: What was the first name?

BY THE WITNESS: Winford.

Q. (Mr. Padgett continuing) Are you of any
relation to Mr. Kenneth Wilson?

A. He's my son.

Q. Were you present on the night of January 31st
at approximately 7:30 to 9:00 O'clock, somewhere in there,
when Kenneth Wilson and Detectives Manuel, Camden and Wade
were there?

A. Yes, sir, I was there.

Q. When did--when did you arrive?

A. Sir, I went with Kenny we went--

Q. And what time did you all get home?

A. I guess it was somewhere between Seven and Eight, I don't know, somewhere around that.

Q. Who was there when you all arrived?

A. Uh--Detective Manuel and--uh--Jack--uh--
Wade--uh--Jack--

Q. Detective Camden?

A. Camden, yeah.

Q. Okay, was Officer Wade there too?

A. He came up a few minutes after that.

Q. Okay. Mr. Wilson, I'd ask you'd maybe speak up a little bit louder maybe--

A. Okay.

Q. --and talk toward the Judge so that everyone can hear you, okay?

A. Yes, sir.

Q. Now, after you all arrived, what did you and Mr. Wilson, Mr. Kenneth Wilson, do?

A. We went in the garage, he opened the garage door, we walked in the garage and--uh--with Detective Manuel and the other detective and in a few minutes the sheriff in uniform, he come up, he came in and they wanted to look at Asey's stuff. They--said they knew Asey's T.V. was stolen.

Q. Who was Asey?

A. Charles Asey, that's the boy that'd been

staying with Kenny.

Q. Okay.

A. And they wanted to look at that, they said they was (sic) told it was stolen. And that was their purpose for being over there and so they started looking at that and they had to get the T.V. back off, to get a serial number out of it, said it was a name in it and--uh--Kenny had some tools setting over in the corner of the garage there. And--uh--I got a, they was (sic) trying to get the back off, didn't have no (sic) tools to get the back off to look at the serial number, look at the name was supposed to be in there and I got to looking around in the tool boxes and got some tools and helped them get the back off.

Q. Alright, and then what happened after that?
What--

A. Well--

Q. --was said after that?

A. Well, it taken (sic) us a long time to get the back off, we's a long time before we could find any tools to fit the screws and bolts and things in it to get the back off. And--uh--after that, why they wanted to a--after they looked at that, they showed him--he gave them some bookie papers that--of Asey's, was in Asey's stuff and--uh--

Q. This was given to whom?

A. To Detective Manuel.

Q. By Kenneth Wilson? Right?

A. Yeah.

Q. Alright.

A. And that's all they looked at of Asey's, they said oh we can't find nothing (sic); they didn't put the back back on or nothing, just left it laying there, didn't look at nothing else. Then they wanted to--uh--search his house and he told them he didn't want them to search his house till he talked to his lawyer.

Q. Alright, and what did--what did Kenneth do then?

A. Well, he told them he wasn't going to do it until he talked to his lawyer and so they talked and talked there for a while about first one thing and another and wanted--uh--he went and called his lawyer and he come back and he told him his lawyer said something--I don't know what it was now--but said he wasn't going to let'em search.

Q. Kenneth said that?

A. Yeah.

Q. Alright. At any time, during--up until this point in time that you've testified to already, did you at any time see Detective Manuel pull out a card or hear him recite Mr. Wilson's rights to remain silent?

A. At no time, no rights were read.

Q. Do you know what we're talking about when we're talking about Miranda Warnings?

A. Pardon?

Q. Do you know what we're talking about when

we're talk--when we say Miranda Warnings, do you know what we're talking about?

A. No, not right off I don't.

Q. Well, did you hear Detective Manuel state to Mr. Wilson that he had a right--

BY MR. LAMPROS: Your Honor, I think the questions should be what did he hear him tell him.

BY THE COURT: That's correct, you're leading.

Q. (Mr. Padgett) Alright. What did you hear Detective Manuel tell Mr. Wilson at any point?

A. Well, he just told him he wanted him to sign that paper, he wanted to search the rest of his house.

Q. What was this paper about?

A. Looking for some stuff that was supposed to be planted in Kenny's house, maybe some stolen money. There was supposed to be a big sum of money in there, that was planted in there.

Q. Alright, did Detective Manuel read this paper to Kenneth?

A. He read the paper where he wanted him to sign to search the house.

Q. Alright, did he at any other time read Mr. Wilson any other?

A. He didn't read anything else.

Q. Or recite to him anything else?

A. Never recited anything.

Q. Are you positive, Mr. Wilson?

A. I'm positive. There was not another thing read that night in that house but that paper to search that house.

Q. When did--when did Kenney sign this--uh--the consent form to allow them to search the house?

A. Well, after he got upset, he got all upset because they was on him and wanted him to sign it. And me and his mother tried to calm him down and--uh--we told him, Kenny go ahead and let them search, you ain't got nothing to hide, there's nothing in your house to hide, you haven't got anything here to hide. So finally after he got all upset and everything, he told--uh--Detective Manuel, said give it to me, said I'll sign it, said just get off my back, leave me alone.

Q. Alright, what point was this now?

A. That was after he'd got all upset.

Q. Alright, but where were the officers at this time?

A. Well, they done started to the car, I guess, they probably done (sic) got to the car.

Q. Alright. And the officers searched the house?

A. They went in and searched, me and the wife went with them and then this one detective Kenny said wen-- I mean--uh--uniformed officer, he went up in the attic over the garage and searched there. Manuel and the other one and the wife and myself went in the basement and they looked

around. They said well it ain't gone to be hid, if there's any money planted in here it's going to be out where we can see it and so they just looked all over the stuff--we had alot of furniture that was down there, we'd just moved out, we'd been remodeling our house and moved it over there in his basement.

Q. Were you with Detective Manuel during most of this--

A. I was with him all the time.

Q. All the time?

A. All the time. In the basement while he was looking for the stuff was supposed to be planted in there, I was with him when he taken the back off of the T.V. and I was with Manuel all the time.

Q. So in other words, you're testifying to us today the only thing you heard Detective Manuel say to Kenneth was a statement regarding his consent to allow them to search the house, is that what you're saying?

A. That is the only thing was read in that house that night.

Q. Or recited to him?

A. Recited, anything, yes, sir.

Q. Now is this from your own recollection? Have you talked to anybody about this?

A. This is--I know, I was in my own recollection, my recollection. I was--I was, I know it was no rights read that night. Nothing but that paper to search that house,

that was the only thing that was read.

Q. Alright, answer any questions Mr. Lampros may have.

CROSS EXAMINATION
BY MR. LAMPROS:

Q. Mr. Wilson, you say you and your wife, Mrs. Wilson, and your son were present when the officers arrived, is that correct?

A. Well, I think that--uh--Detective--uh the two detectives were there when we got there, when we drove up.

Q. Well, do you know whether you came before they did or did they come before you did?

A. They was there when we pulled up.

Q. And where did you park your car?

A. In front of the house.

Q. How many cars were in front of the house?

A. We coul--we couldn't get up on the street, the--uh--one the detectives was driving and--uh--the one Kenny was driving.

Q. So you're saying that Detective Manuel and Detective Camden were present before you and your wife arrived.

A. They was there when we pulled up.

Q. So you don't know how long they had been there with your son, is that correct?

A. My son was with me, he wasn't with them.

Q. So you all went in to the garage?

A. We went in the garage together, yes, sir.

Q. And did your son sit down on the couch?

A. No, he didn't.

Q. He never sat down on the couch?

A. He did later on.

Q. And how much time went by before--uh--the consent search was requested?

A. Oh, it was--uh--I guess a half an hour.

Q. Did you and your wife inquire about why the officers were present?

A. Well, Kenny had already told me why they wanted to go over to his house to look at this stuff, stolen stuff.

Q. Did you ask these officers anything?

A. I didn't ask them anything.

Q. You didn't have any conversation with the officers?

A. Only thing, I was trying to help them get the back off of the T.V.

Q. But you had no conversation with them about why they were there?

A. Not at all.

Q. Did your wife have any conversation with them at all?

A. Not when they first come there.

Q. Did she have any conversation with them about why they were there, did she ask any questions about why

they were there?

A. No--

Q. She didn't either?

A. I didn't--not as I know.

Q. Was she in your presence--

A. Yes.

Q. --the entire time?

A. Yes, she was.

Q. She never left your presence?

A. No.

Q. Were you in Detective Camden's presence the entire time?

A. I was with him and Manuel, yes.

Q. The entire time. You only saw an individual read one thing to him, is that right?

A. That was the only thing that was read in that house that night.

Q. Did Detective Manuel talk with your son at length?

A. Oh, we was around talking, they were wanting to get Kenny to sign the paper and we was talking. He asked me did I see any boxes setting there the night--on another occasion. I told him I wasn't looking for boxes that night, somebody got shot and I was looking for the one who shot somebody.

Q. You didn't notice any huge boxes in the garage at that time?

A. I didn't not--I wasn't looking for boxes.

Q. Did you notice any?

A. I didn't notice any because we had a lot--we had a lot of boxes ourself, we'd just packed our stuff--

BY MR. PADGETT: I object, I think it's getting off the--

A. (Witness continuing) --and moved out of our house over there.

BY THE COURT: Overruled.

Q. (Mr. Lampros continuing) Did you in the course of conversation that evening, the evening that this statement is alleged to have been taken, did you see Detective Manuel talking with your son over a long period of time, did they converse on numerous occasions that evening?

A. No.

Q. They did not?

A. No.

Q. You said there was at least a half an hour went by between the time the officers arrived and between the time the consent form was exhibited to your son, is that correct?

A. Yes, there was.

Q. Did not Detective Manuel talk to your son for that one half hour?

A. He was talking to me, he was talking to my wife, he was talking to the others, he was talking to all of us.

Q. Was he talking to you about the offense?

A. He wasn't talking to me about--the only thing--

Q. What was he talking to you about?

A. Well, he was talking about the T.V., he wanted to get the serial number, he said it's supposed to be a name in there, says it supposed to be stolen, a man done told him it was stolen, he knowed (sic) it was stolen.

Q. Did he talk to you about anything else?

A. That's all I remember.

Q. That's all you remember. Did you and your wife talk about why the police were present?

A. Well, why did the--why they wanted to search.

Q. Did you and your wife talk together?

A. We didn't--we didn't talked, we just talked once in a while.

Q. Did your son leave the room?

A. He went--that one time he went to make a phone call.

Q. Was this after he was asked to sign the consent form?

A. That's right.

Q. And then he came back and was upset as described by the detectives and he beat the wall?

A. He was--he was upset before but he got more upset and--

Q. Did he beat the wall?

A. Yes.

Q. With his fists?

A. Yes, he did.

Q. At that time did Lieutenant Wade and the two detectives leave?

A. They started to leave because he wouldn't sign the paper for them to search.

Q. Did they go out on the driveway and go to the car?

A. They started towards their car.

Q. Who called them back?

A. He--Kenny called them back, we done talked to him and told him let'em go ahead and search, didn't they would go get a search warrant and come back, just take up more time and why not go ahead and let'em search then, he didn't have anything to hide.

Q. Thank you.

BY MR. PADGETT: That's all, Mr. Wilson.

BY THE COURT: Mr. Wilson, did you hear your son tell the officer anything about the desks, office furniture?

BY THE WITNESS: Well, Gus asked me did I see the boxes in there that--

BY THE COURT: I'm just asking you, did you hear your son tell the--Detective Manuel anything concerning the office furniture, the two desks?

BY THE WITNESS: I heared (sic) Gus Manuel say to him that they were stolen, Kenny says I didn't know they was stolen until you arrested me for it.

BY THE COURT: Well, at any time did he refuse to talk,
saying I'm not going to talk to you, I'm not going
to give any kind of information without my attorney
being here?

BY THE WITNESS: He told him that he didn't want'em to
search his house that he--wasn't nothing else
there and without his attorney, talking to his
attorney.

BY THE COURT: Did you ask the officers to leave and want
the attorney to be there--

BY THE WITNESS: Did I?

BY THE COURT: Yes, sir.

BY THE WITNESS: No, sir.

BY THE COURT: Alright, sir. Thank you.

WITNESS STANDS ASIDE

BY MR. PADGETT: Mrs. Wilson.

LOIS WILSON, A WITNESS OF LAWFUL AGE, HAVING BEEN
FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. PADGETT:

Q. State your name for the Court, please.

A. Lois Wilson.

Q. Alright are you--

BY MR. LAMPROS: What was your first name, ma'am?

BY THE WITNESS: Lois.

Q. (Mr. Padgett continuing) And you're Kenny's
mother?

A. Right.

BY THE COURT: Mrs. Wilson, if you'll speak louder, we're recording this and I'm afraid they won't pick up what you have to say.

Q. (Mr. Padgett continuing) Mrs. Wilson, relate to the Court as best you can remember what happened on the evening of January 31st between the time of 7:30 and 9:00 O'clock, who you were with and where you were and so forth.

A. Well, Kenny and his father and myself went over to his house, he was--uh--Gus Manuel had called him and I heard the conversation because he called him on his mobile phone and said that he needed to go over there to search Chuck Asey's belongings. So my husband and I went with Kenny over there to meet'em.

Q. And what time did you all arrive? Do you recall?

A. It was--uh--I'm not exactly sure, I think between 7:30 and 8:00 something like this.

Q. Alright, and then?

A. And when we got there Mr. Manuel and the other detective were already there, they were up at the--uh--garage, the garage door wasn't opened but they were already up there. And so we parked the car across the street and walked on up the driveway and opened the garage door and--uh--we went in and--uh--they said they wanted to look at--uh--Mr. Asey's belongings, said that it'd been reported that some of it, something may be stolen. So they

looked through that and they took the back of the T.V. and they said that--uh--the T.V. was stolen. And I asked them, well are you sure, how do you know, he said well he could tell by the number on the back of it.

Q. Okay, how much time had elapsed by this time, can you recall?

A. Well, it's quite a time because we were--there was different ones talking, you know, there wasn't just one talking, I'd say twenty to thirty minutes. After he'd--uh--searched Mr. Asey's belongings, he told Kenny that he wanted to search his house, that he'd been informed that there might be--uh--a hundred and--I forget the amount, I think it was a hundred and fifty or sixty thousand dollars--planted in Kenny's house. Now Kenny said he wasn't going to let him do it, Kenny got very upset, he got real upset, he said he wasn't going to do it, said they'd been in there enough times to know what he had. And--uh--Gus said well it'd be to your own advantage for us to search it because if it's in there then we'll know that somebody'd planted it there. Said if we find it in there later on, said we can think that you did it. So my husband and I talked to Kenny and tried to get him to go on and let them search and he was--oh he was just real upset and he wouldn't do it. And--uh--

Q. At any time, up to the point that you have testified, was anything read to Kenny or recited to Kenny by Detective Manuel?

A. No. The only thing that was read that night

was--uh--what do you call it--uh--consent, you know, giving them the right to--uh--search his house. And he read that, the officer read that because I, well first he'd given it to Kenny to read and Kenny'd been crying and his eyes was all red and he couldn't half read it and he said oh I can't read it and threw the paper down because he couldn't even see it. He gave it to me to read and I read it and after I'd read it, I'm not too familiar, you know, with those terms and I wanted to be sure that what I thought was in there was in that, you know. So I asked Gus, I said are you sure, I said we're trying to get Kenny to let you search the house, to sign this paper, I said are you sure that all this paper means is for him--for you to search tonight, no other time, just tonight and it doesn't take in anything else, just for you to search the house tonight? And so Gus read the paper, then he read it.

Q. Alright, was that the only thing ever recited to Kenny the entire night by Detective Manuel?

A. Yes, it certainly was.

Q. Alright. Were you with Detective Manuel pretty much that night?

A. I certainly was, in fact, me and my husband both were.

Q. Were you with him all the time?

A. Yes indeedy (sic). We stayed right with him. The other two, Detective Jack, one time when we was (sic) in the basement, he walked upstairs, I don't know what he did,

he was gone a few minutes but he came back. But we was (sic) with Detective Manuel the whole time.

Q. Was there any discussion about the charge of possession of stolen goods between Detective Manuel and Kenny or any other officer that you heard?

A. Any what?

Q. And discussion concerning a particular charge that Kenny is char--is--uh--facing, the possession of stolen goods, was there any discussion about that?

A. Not at that time. Later on, a long time, right before they left he--Gus said something to Kenny about the desks and asked him if he knew they were stolen and Kenny told him no. He said he didn't know they were stolen, he said you told me they were.

Q. Okay. And that was the only thing that was said?

A. Yes.

Q. Are you positive that this is from your own recollection, that nothing else was read or recited to Kenneth Wilson other than the consent form to allow the police officers to search his house?

A. Yes, I'm real positive, absolutely.

Q. At no time--

A. That's the reason even on the other paper, I wanted to be sure on that when he did read that what it was. And if they'd read any other paper I'd have questioned that too. I'd have wanted to know what it was. I'd have certainly

heard it.

Q. Did you hear Kenny make any statements concerning a charge of possession of stolen goods? Other than what you've already told the Court?

A. Nothing, no. In fact he said he was not--he did--he was not going to talk to Gus unless he was with his lawyer.

Q. Okay.

A. And he became so upset that they was wanting him to sign that consent form, he was crying he was so upset and then he sort of got upset with me and his father too because we were sort of pushing him to sign it. And he even hit the wall with his hand. He was crying.

Q. I have no further questions.

CROSS EXAMINATION
BY MR. LAMPROS:

Q. Mrs. Wilson, you say right before the officers left the house for the final time was the time that Detective Manuel asked your son if he knew that the desks were stolen?

A. Yes, wasn't too long before they left.

Q. Let's say about 11:00 O'clock?

A. Well, something near that time, it was right before they left, I mean I'd say within fifteen minutes before they left, ten or fifteen minutes.

Q. And this happened inside the living room or the basement or where?

A. In the garage.

Q. Garage?

A. As far as I remember, Kenny never went out of the garage except to use the telephone.

Q. You wouldn't know that, would you?

A. I said as far as I know, I was out there a big part of the time, what time I wasn't with Gus in the basement.

Q. So there were times that you were not in the presence of Detective Manuel, is that correct?

A. No, I was with Detective Manuel in the basement when he was looking for the furniture. Isn't that Manuel right there?

Q. You said a moment ago that the time that you were not with Detective Manuel you were in the garage with your son, now you're saying--

A. No, I didn't say that the time that I wasn't with Manuel, I said I was with Kenny most of the time, part of the time but I was with Gus the whole time.

Q. Now, did your son leave the garage?

A. He went to make a telephone call.

Q. Did he leave the garage any other time?

A. Not that I know of unle--he went to mak--call his lawyer.

Q. Did you go with him went he went to talk with his lawyer?

A. No, I didn't go with him.

Q. So you don't know what that conversation was

about from your own knowledge, is that correct?

A. I don't know what their conversation was about, I know what he said when he came back.

Q. Now, how long did the detectives and Lieutenant Wade talk with your son before he was requested to sign a consent search form?

A. Just a few minutes.

Q. How long might that be?

A. Well, they--uh--they first came in, they wanted to--

Q. Five minutes?

A. --talking about, let's see I got to get the time frame in my mind--uh--the T.V., all of that. After they had looked at the T.V. and those things was when they--uh--

Q. Do you have any estimate as to how much time had passed?

A. Twenty to thirty minutes.

Q. At that time did Detective Manuel talk with your son at length?

A. Well, he was talking to different ones, all of us were talking, it wasn't just him standing there talking, you know, it was different ones talking.

Q. Did you inquire about why they were there and the facts of this case or any other case that your son was involved in?

A. I didn't inquire to that because when he came

in he said he was there to look through Chuck Asey's belongings.

Q. You didn't ask any questions at all?

A. No, I didn't see no reason to. I did ask about the--uh--paper, consent paper, you know, that he wanted Kenny to sign.

Q. How big was that paper?

A. About like that, you know, a paper but it wasn't no card in other words.

Q. Did you hear everything that was said that evening?

A. Yes.

Q. Everything?

A. Everything that was said when Gus was around because we were with him. We made it a point to be with him.

Q. And you were--did you ever sit down that evening?

A. One time for just a minute or two I sat down on the end of the couch, yes. And Gus was right there in the garage.

Q. And your son was seated on the couch at that time?

A. Yes, but this was later on in the evening. When we first went in, my son was standing, I was standing, Gus, all of us were standing. And even up to the time when they searched the T.V. and all that, we were all standing then. It was later on after they had--uh--well, he sit

(sic) down on the couch when they went down in the basement to search for money or whatever they were looking for. They said it was in an obvious place, they didn't do much searching.

Q. What time did they start searching?

A. Well, we was (sic) there--it was--uh--it was a good hour I guess, I'm not sure, but I believe it was a good hour, I'm not sure.

Q. About 8:30?

A. Well, if it was 7:30 when we got there, I guess it'd be 8:30.

Q. What time did the officers leave?

A. I think it was around Eleven, I'm not sure of that time either, I didn't have my watch on.

Q. Were you present when the officers left the first time?

A. Yes.

Q. They go down to their car?

A. Well, they didn't all get down to the car. I think Mr. Wade had gotten down to his.

Q. So they left on their own initiative at that time, is that correct?

A. Yeah, they said seeing that Kenny was so upset.

Q. They left. Who called them back?

A. Well, Kenny did and we did too. We told them--Kenny to go ahead and let them search because Mr.--uh--well, Mr. Manuel had kept saying well if you don't let

us search we're going back and get a search warrant. And we told Kenny, we said there's no sense in letting--having them go get a search warrant and them all having to come back over here. We said you haven't got anything to hide, just go ahead and let them search.

Q. Now, who said they were going to go back and get a search warrant?

A. Mr. Manuel.

Q. Who was present?

A. Kenny, his father, myself, all of us, all of us. He said it more than one time.

Q. And so at that time you, after the officers left, you called--Mr. Wilson called them back, the defendant called them back?

A. Yes, we did too.

Q. Did you ask the officers to leave at any time?

A. No, we didn't ask them to leave. We didn't _____. We had no reason to. We thought they were there for a job, they wanted to search Mr. Asey's things and they said that T.V. was stolen, we asked them when they left why they weren't taking it with them and they said they'd be back the next day to get it.

Q. Who said the T.V. was stolen?

A. Mr. Manuel and Jack both did. I said how do you know, they said the serial numb--some kind of number on the back of it.

Q. And you didn't hear Mr. Manuel question your son about the desks until about--shortly before they left, the officers left?

A. Yes.

Q. And where did that questioning take place?

A. In the garage.

Q. At that time, did you hear all of the conversation?

A. Yes.

Q. What distance were you from your son?

A. From here to there, no further. Right there in the garage--the way the things were sitting in there, you couldn't get but so far from each other unless you went all the way over on the other side of the things that were in there.

Q. And what did Detective Manuel ask, what was the question that was asked?

A. He asked Kenny if he knew the desks were stolen.

Q. And your son responded what?

A. Said he did not. He said you told me they were stolen, when I was arrested you told me they were.

Q. Alright, thank you, ma'am.

WITNESS STANDS ASIDE

BY MR. PADGETT: Mr. Claude Carter.

CLAUDE D. CARTER, A WITNESS OF LAWFUL AGE, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION
BY MR. PADGETT:

Q. I believe your name is Claude Carter.

A. My name is Claude D. Carter.

Q. And your position?

A. I'm an attorney.

Q. Mr. Carter, I would like to direct your attention back to on or about February 1st, did you have occasion to meet with Kenny Wilson on that day?

A. I met with Kenny Wilson and his mother, I believe on January the 31st and on February the 1st, we met at the General District Court for an arraignment, yes.

Q. Okay. And had you talked to Detective Manuel at any time previous to the arraignment, either on the day before or that day?

A. No, I had not.

Q. What happened after this arraignment?

A. Mr. Wilson and his parents and I went to the Detective Department here in the County to see Mr. Manuel and did not find him.

Q. Why did you all do that?

A. Why did we?

Q. Yes, why did you go by there?

A. Well, I'd understood from Mr. Wilson that Mr. Manuel wanted to talk to him and that he wanted to cooperate with him.

BY MR. LAMPROS: He--I'm just trying to repeat--he

wanted to cooperate with him, is that what you said?

BY THE WITNESS: Well, that was my understanding, yes, sir.

Q. (Mr. Padgett continuing) Was Detective Manuel there?

A. He was not there.

Q. Alright. And what happened thereafter then?

A. Well, again it's a question as to whether or not it happened that afternoon or maybe the next day which would have been February the 2nd but Mr. Manuel and Mr. Wilson, I believe, did have some telephone conferences back and forth in an effort to meet at my office in the afternoon. I believe it was February 1st, it was that afternoon, but I can't remember the exact date. But it was shortly after, it was either the same day of the arraignment or perhaps the next day.

Q. Now you all did meet in your office one afternoon, if not the same day the following day, right?

A. Yes, sir.

Q. Okay. Who arrived first at your office?

A. Mr. Manuel.

Q. Mr. Manuel? Did you all have any discussion before Mr. Wilson arrived?

A. Yes, sir, we did.

Q. What was that discussion about, can you recall?

A. It's difficult to remember but generally it

was about the--uh--overall investigation that Mr. Manuel was conducting.

Q. Investigating--investigation concerning what? This specific charge, the possession of stolen goods charge?

A. No, apparently he was involved in a much broader investigation of events that were occurring in the County, apparently beyond the involvement of Mr. Wilson. I can't remember the full extent of it.

Q. Alright, Detective Manuel's testified that he told you at one point that Kenneth Wilson had already given a statement the night before, is this a fact or can you recall whether or not this happened?

A. I don't recall that that was--that he told me that at all, no, sir.

Q. Okay. During the time of this discussion with Mr. Manuel was any--was there any discussion about the charge of possession of stolen goods on Kenneth Wilson before Kenny came into the office?

A. I'm sure there was but I really can't remember the full extent of our conversation. Yes, sir, I would say that there probably was.

Q. How long were you all in your office, you and Detective Manuel before Kenny arrived?

A. Maybe ten, ten, fifteen minutes.

Q. Then Kenny arrived and he went on in?

A. I believe my secretary called me and said that he was there, yes, sir.

Q. Alright, who was present in the office then?
At that point?

A. Kenneth Wilson and Detective Manuel and myself. His parents were in the waiting room but they were not present in the room with me.

Q. Did Detective Manuel at that time when you three were present relate to you and Kenneth what he wished to discuss or talk about?

A. Again, it's difficult to recall the conversation, I'm sure that he did.

Q. But you can't recall--

A. Mr. Manuel--

Q. --more than that?

A. Mr. Manuel had a list of questions that he had written out at some time or other that he indicated that these were things that he would like to talk about.

Q. Did you see those questions?

A. Yes, sir.

Q. Were they pertaining to the charge of possession of stolen goods?

A. I really can't remember what the questions were.

Q. Let me ask you again--up until this point, did you have any knowledge or had anybody told you at any time that Kenny had made a statement concerning this charge of possession of stolen goods, up until this point?

A. I--I really can't recall exactly what had

been said but it was nto my understanding that he had given any statement as such up to that time, no, sir.

Q. Did Detective Manuel at any time during the discussion in your office ever read Kenny Wilson his Miranda Warnings?

A. Mr recollection is that at no time were the Miranda Warnings given as they generally are, no it's as he testified earlier--again it's hard to remember--but there probably was some--something said concerning the Miranda Warnings, yes, sir.

Q. At any time did Kenny waive his warnings? Or waive his rights?

A. Well, again, it's difficult to specifically remember the exact conversations and the fact that I don't remember him giving them, I don't specifically remember Kenny waiving them either.

Q. What--what--you don't know what the substance of that conversation was then about the rights, the reading of the rights?

A. No, sir. I don't--I feel sure that, you know, that some mention was made of rights but the exact conversation and response I really can't say.

Q. Did Gus Manuel at any time begin to read the rights and maybe was then cut off by you?

A. I don't recall that the rights were given--

Q. At any point?

A. --at any point. But there was some discussion

concerning them, I feel sure of that.

Q. Can you recall any specific statements that Kenny made during this discussion concerning the charge of possession of stolen goods?

A. I had my first conversations with Mr. Wilson on January the 31st, the day before the arraignment, and I had subsequent conversations with him and it's difficult to know exactly what was said when.

Q. Well, I'm talking about in that conversation that--between you three, you, Detective Manuel and Kenneth, in your office. Can you recall any specific statements made by Kenny?

A. Well, again--

Q. Or just a general discussion or what?

A. It's difficult to distinguish what was said when and where.

Q. Okay, I have nothing further.

CROSS EXAMINATION
BY MR. LAMPROS:

Q. I assume from your responses, Mr. Carter, that what is bothering you is that you had a conversation with the defendant prior and you're having problems distinguishing what was said in that conversation which might be inculpatory with what was said in the presence of Detective Manuel which also might be the same, is that correct?

A. Well, that's not quite the answer, it's difficult to distinguish what I heard at the several different

times that I did have conversation with him. And the question asked me here was what was specifically said at the time that Mr. Wilson and Mr. Manuel were present in my office and it's just difficult to distinguish those two.

Q. How long were they present in your office?

A. I'd say for maybe forty minutes or so.

Q. And then Mr. Manuel--Detective Manuel was also present in your office for a period of time prior to that, is that correct?

A. Yes, sir.

Q. And was the purpose of the conversation or the meeting as you understood it to discuss with Detective Manuel in the presence of the defendant this offense and possibly other offenses that the defendant was alleged to have been involved in?

A. Well, there were two basic charges--one having to do with the shooting of Mr. Charles Asey and the second having to do with possession of several desks that had been stolen apparently; so our conversations were directed towards those although, again, the conversation was much broader than that as far as Detective Manuel's investigating a large sum of money that was supposedly missing and maybe a much larger problem than what Mr. Wilson was charged with. And in our conversation we did cover these broader things to some extent.

Q. Do you recall any specific questions propounded by Detective Manuel such as--well, let me first ask this,

you say Detective Manuel presented to you a list of questions, is that correct?

A. Yes, sir.

Q. That he wanted to ask the defendant, insofar as you know, were those questions asked?

A. Again, there's some question as to the purpose of that list, we also had conversation concerning a polygraph test and I believe that Detective Manuel had said that this was the list of questions that he would like to ask if a polygraph test were to be made.

Q. Do you have any recollection of any individual question or comment made by Detective Manuel or the defendant?

A. Well, it's hard to say that I don't but as I told you it's confusing to try to distinguish--

Q. Well, when you got to the area of the stolen desks, do you recall whether Mr. Wilson was asked about the stolen desks?

A. I'm sure that there was conversation about the stolen desks and also about--about the shooting, yes, sir.

Q. Do you recall Mr. Wilson, the defendant, his comment or response to the question about his knowledge of the stolen desks?

A. It's difficult--it's difficult because it's difficult to recall the questions and it's also difficult to recall the answers, it's--uh--

Q. You don't recall his answer to it?

A. I would be hesitant to try to testify under oath as to the exact conversations that either of these men had at that time.

Q. No further questions.

BY MR. PADGETT: That's all, thank you.

BY MR. LAMPROS: One additional question.

Q. (Mr. Lampros continuing) Just for the record, as I understand it you did in fact represent the defendant at that time?

A. Again, I might say that following my conversation with Mr. Wilson and his mother on the Thirty-first, they did not tell me that they wanted me to be the attorney and later that night he did call me at my home and indicated that he wanted me to be present with him on the following day which was February the 1st at the arraignment; and that was the first token employment. At that point, I did anticipate that I would be his attorney, I did appear with him in General District Court and at the time we met with Mr. Manuel I had anticipated I would be his attorney. Mr. Manuel's stated that I told him that I would not be his attorney after this conversation and he is mistaken on that. I did not tell him because this was not determined until some time afterward that I would not be Mr. Wilson's attorney.

Q. Alright.

WITNESS STANDS ASIDE

BY MR. PADGETT: Your Honor, my last witness would be Mr.

Wilson but only for the purposes of testifying to

the voluntariness or involuntariness of the statements that he made. If that's alright with the Court.

KENNETH W. WILSON, A WITNESS OF LAWFUL AGE,
HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION
BY MR. PADGETT:

Q. I believe your name is what?

A. Kenneth W. Wilson.

Q. Alright. And what is your position, Mr. Wilson, where do you work? What do you do?

A. Well, I work at Wilson's Family Restaurant.

Q. I'd like to take you back to on or about January the 31st, there's been some discrepancy, of course, in the dates here but we'll, just for the record, we'll be glad to say it was January the 31st, the evening of January 31st, can you relate to the Court as to what happened approximately between 7:30 and 11:00 O'clock?

A. Yes, sir.

Q. Okay. Relate to the Court what happened.

A. Previous to that night Gus Manuel called me at--uh--I was in Claude Carter's office talking to him about the charges and representing me--he said that he--he called me on the mobile phone and he said that he would as soon as possible meet me at my house to search or look through some things or meet me there. And--uh--we set a time and I met him there that night.

Q. Okay, about what time was this now?

A. I didn't keep up with the time that much exactly, I would say around 8:00 O'clock, somewhere in that neighborhood. And--uh--

Q. Who went with you when you arrived?

A. When I pulled up in front of my house across the street, my mother and father were in the car with me and Jack Camden and Gus Manuel were standing up at the house, near it. And--uh--we got out of the car and I walked up to the garage and opened the door, and left the door opened and walked on in. And my mother and father and Gus and Jack were there and then we had just started talking and then Mr. Wade pulled up and came in.

Q. Alright. Can you recall what the discussion was when you all went into the garage?

A. Gus wanted to look at the possessions of Charles Asey and wanted to what his things were and which ones were his and things of this nature and wanted to look at them and wanted to know about the T.V. And they took the back off of it and looked at it and my father helped them do that. Then after they had looked at the T.V., I think just a little bit after that he said where are the sheets or whatever and I--

Q. What sheets are you talking about?

A. They were bookie sheets that I had told the State Police about which Chuck had--Charles Asey had--and I'd also told the State Policeman about, it's a Sergeant Jessup at Salem headquarters, about the bookie sheets that

Chuck Asey had and the stolen T.V. and--uh--a diamond ring that he had that I thought--I'm pretty sure it's stolen and some tires on the back of his girlfriend's car.

Q. About how much time had elapsed up until this point?

A. Up until when?

Q. Up until the point that the T.V. was, of course, examined and the bookie sheets handed over, how much time had elapsed to the best of your knowledge?

A. Half an hour or so, there'd been general conversation, first one thing then another, then the T.V., looking at it--uh--talking about personal things, that's about it.

Q. Then what happened after that?

A. They wanted to search my house. Gus Manuel wanted to search it.

Q. Alright, what did you say to that?

A. I told him no; I told him I didn't want him to search it; I said you've been over here on the investigation, the night I called you and the night of the shooting, December the 5th--I called you the next day when I found the fabric, of a piece of jacket of the victim--or whoever, the burglar or whoever it was that did the shooting--

Q. This is on another occasion?

A. Another occasion. I called him back over there that day, the day after the shooting when I found that and the footprints. Then he came back one other time and--

uh--then my father helped him get a footprint out of the mud that they had made a mold of. He had been over there numerous times, they came back over one time and we looked for a bullet hole--

Q. This was on another case, is that right?

A. Yeah. He'd been in there plenty of times and I said you've done looked, you been in and out of the house, you've been in there enough, I've tried to help you out on the thing, and I said that's all, I just want you to leave, I don't want nothing else to do with you.

Q. Alright. And then what happened after that?

A. Well, he was trying to tell me well he would have to go get a search warrant and come back and do it the hard way and I said well, I hate to make it hard on you but you've already been over here and everything that comes up, I'm in question, I'm in doubt, you don't believe anything I've told you. And I said I don't see where you can start believeing me now. And I said, he had told me in Claude Carter's office that he would charge me with anything he could get on me and he was more or less out to get me.

Q. Alright, what was your emotional state at this point, Kenney?

A. I was getting pretty mad, I told him I'd rather they leave, I didn't have anything against Mr. Manuel, I didn't have anything against Mr. Camden, it was the first time I'd met Mr. Wade, I said I just would rather you leave. I do not want to talk to you, I do not want you

to search my house or anything happens it'll be with my attorney present or at least I talk to him first.

Q. Did you talk to your attorney?

A. Yes, sir, I went in the house, I told them to stay in the garage and I went in the house--I didn't more or less tell them to but I said I'll be back--I went in the house and used the phone, I called Claude Carter at home and asked him about it. I asked him about this form, I said I haven't read it because I--at the time, like I said, I'd been crying, I was upset, I just, you know, didn't want to, I couldn't tell you what was on the form. I said but I--they say that there's a form to search the house and that's the only thing it is to do with and if I sign this the only thing I'll be doing is letting them search my house that one occasion and I have to sign it before they can do anything. Mr. Carter said well if you don't have anything to hide, go ahead and let them search and I said I don't have anything to hide but I'm tired of them coming over here, you know, the neighbors probably thought I was _____ to death, you know, police over here all the time, you know, the questioning--the manner that they had questioned in investigating me disturbed me more than anything. I didn't mind investigating me but, of course, they have a right to ask all the questions they want to about me, but they do not have a right to say things like that I deal in drugs or stolen cars or stolen money and stuff like this. I was tired of it, I told them so and I also tried to clear up in the garage with Gus and

Jack that they claimed the night that I was to be arrested, they tried to get in touch with me--

Q. Alright, wait a minute. Kenney, now at what point did you go back to call your attorney?

A. It was about half way through the time that they'd been there, I don't know the amount of minutes or--

Q. Did you tell them that you were going to do this?

A. Yes, I told them I'd go call my lawyer.

Q. Alright, when you came back, you told them that you weren't going to let them search, is that correct?

A. Right.

Q. Alright, then what happened after that?

A. Gus said well you're just making it harder on yourself, you know, he said I'll just have to go get a search warrant and come back and do it. My mother and father the whole time had been trying to get me let'em go ahead and search and I said I'm not going to do it, you know, I'm not going to do it. And they kept on, so Gus said well, you're just making it harder on you and I said well, whatever, I said it's been hard this way. So he said we'll be leaving, they left to get in the car, I think maybe one or two of them had gotten in the car but they hadn't pulled off or anything. Gus, I think was pretty close to me right there and he said well I'm sorry you feel this way about it, he said you should let us go ahead and I just--the hell with it, search, I said, I'm tired, just get it over with, look

all you damn please and get out.

Q. Alright, were your parents talking to you any before this time about searching?

A. They had asked me two or three--a number of times to go ahead and let them search, said it be easier on you, just go ahead and let'em search, you don't have anything to hide, go ahead.

Q. Did you sign the consent form?

A. After I'd gotten pretty mad and I said yeah I'll sign the damn thing and I got it from Gus and he gave me a pen and I signed it.

Q. Did he read it to you?

A. They had earlier.

Q. In all this time, did Detective Manuel ever read your Miranda Warnings to you?

A. No, sir, at no time.

Q. He never recited or--

A. No, sir, he--

Q. He never read anything to you or--

A. The only thing that was read to me that night was that waiver form, whatever it was, and he read it to me because I couldn't really see it, I'd been crying, I was upset and that was it.

Q. Had he questioned you about the charge of possession of stolen goods on that night?

A. No, sir.

BY MR. LAMPROS: Pardon? What was the question again?

BY MR. PADGETT: Had he questioned Mr. Wilson about the charge of possession of stolen goods. That charge--

BY MR. LAMPROS: Before that night, was that the last part?

BY MR. PADGETT: No, uh-uh, during the night is what I meant to say.

A. (Witness continuing) During that night?

Q. Yeah, if I said before I meant at that time, during that whole period of time?

A. Gus said something about it.

Q. Did he question you directly about that charge?

A. No, sir. The reason he came over there was to search the house looking for--the way I heard it was he was coming to search the house for something that was to be planted in one of my houses, I have one up west of Salem and this one, that's the way I heard it but Gus had made the statement. But then Gus said that he came over there to search through Charles Asey's things supposing something was going to be put in Chuck's things rather than in mine is what he said that night.

Q. Did he say anything to you at all about the charge of possession of stolen goods that night either when he arrived or throughout the course of the conversation when he left?

A. I don't remember it.

Q. Did you make any statements concerning that?

A. No, sir. I don't remember saying it.

Q. Don't remember saying anything about it?

A. No, sir.

Q. Alright, after the officers had searched the house what happened after that? What was said to you?

A. Well, Mr. Wade went up in the attic and he came back down, then he just kind of looked through some boxes and stuff that was setting in the garage and me and him just sat there and Jack and Gus and my mother and father went in the basement as far as I know and they came back up in the garage and we just had general conversation and then they left.

Q. Did Detective Manuel say he wanted to talk to you at all?

A. Yes, sir, he wanted to--said he wanted to talk to me and like I told him before I told him I didn't have anything to say to him or I didn't want him to be back over there unless he had a reason and he said well he'd like to talk to me with my attorney present. And I said that's the only way I would do it and I said I'd, you know, arrange for you to meet at Claude's office or set up some arrangements, I said I'm willing to do that but only with my attorney there.

Q. Did you all make some kind of arrangements in which to meet with Detective Manuel?

A. Yes, sir, I had to go the next morning to the arraignment, I reckon you call it, the first time I had to

go to Court in any of this stuff, and he and Mr. Carter could stop by his office after that. So me--we went to Court, got out and went by his office and Mr. Manuel wasn't in and--uh-his secretary called him at home, I think it was right there we set a time to meet in Claude's office later that evening. And we did.

Q. Alright. And what time did you arrive at Claude Carter's office then that afternoon?

A. I believe it was about 2:00 O'clock, I'm not sure but I believe it was Two.

Q. Alright, who went with you or who was present?

A. My mother and father, they were asked to come along, told me bring them along and I did and when we got there Gus and Mr. Carter was (sic) already in the office talking and we sat down and his secretary called Mr. Carter. He come out and got me and we went back to his office and--uh--my mother and father sat out in the waiting room.

Q. And how long did you wait before you were called back to Claude Carter's office, do you recall?

A. How long what?

Q. How long did you wait before you were called back to Mr. Carter's office?

A. I'd say ten or fifteen minutes, something like that.

Q. Okay, then after you were called back there, who was present when you arrived?

A. Mr. Carter and Mr. Manuel.

Q. Alright, sir. Can you recall what was first said when you went in to the office?

A. No, sir, not exactly.

Q. The greetings, things like that?

A. Oh, just how you doing and things like that, I don't remember exactly what was said.

Q. Did Detective Manuel ever express to you the reason for the discussion that day and why he wanted to talk to you?

A. Well, him and Mr. Carter started more or less talking at first about everything that was in more or less in the picture. About a large sum of money that was supposed to be stolen, the shooting, stolen goods, a number of things like that and--uh--

Q. So this involved more than one case?

A. What they were talking about involved a whole lot more than just one thing.

Q. At any time did Detective Manuel read you your rights to you, the right to remain silent?

A. No, sir.

Q. Are you positive about this?

A. Yes, sir.

Q. Did he ever begin to read the rights to you?

A. No, sir.

Q. Or recite anything to you?

A. No, sir.

Q. Was there any discussion about this at all

between Mr. Carter and Mr. Manuel?

A. Like I said, they talked for a pretty good while about a lot of things and at times I really wasn't paying attention to everything they said because I'd already heard a lot of this, many times, and there may've been something said about it but I don't recall.

Q. Alright. Did Mr. Manuel questioned you about the charge of the possession of stolen goods during this conversation?

A. Yes, sir, he said something to me about it.

Q. Alright. Do you remember specifically what was said? Concerning that specific charge? And what kind of questions were asked you or anything like this?

A. I think he asked me did I have possession of them or something like that and--

Q. Possession of desks?

A. Yes.

Q. Did you at any time waive the reading of your Miranda Warnings to you?

A. Did I?

Q. Yeah.

A. No, sir.

Q. Did your attorney waive them for you?

A. No, sir.

Q. Okay. Did you sign any kind of waiver form or anything like this?

A. No, sir. The only time I signed anything was

the night before at my garage, it was a consent form to search the house.

Q. Answer any questions Mr. Lampros might have.

A. Yes, sir.

CROSS EXAMINATION
BY MR. LAMPROS:

Q. Mr. Wilson, on the night of the 31st when you and your parents were at your home along with the officers, how long had you and the officers been talking before you were asked to sign or review a consent search form?

A. I don't know the exact time lapse but it was about half way, approximately half way between the time they had arrived and the time they left, something like that.

Q. So it was between--

A. I didn't keep track of the time.

Q. Okay. But they had been there about half their total time?

A. Approximately, yes.

Q. So you'd all been talking for some length of time?

A. Yes, sir.

Q. And you all had been talking about the Asey case and the stolen goods case?

A. Yes, sir.

Q. Did you stand the entire time?

A. When they first got there, I stood and then--
uh--after they went in to the basement to search, my mother

and father and Gus and Jack went in the basement to search down there for the money or whatever was supposed to have been planted, Mr. Wade went up in the attic and I sat down on the couch and--uh--

Q. This was after you signed the consent form?

A. Yes, sir, sure, because they had started searching the house.

Q. Now, you say that you had asked the officers to leave at one point in time, is that correct?

A. Yes, sir.

Q. They did, in fact, leave?

A. Yes, sir. They started to.

Q. Then you called them back?

A. Yes, sir.

Q. When you called them back you told them at that time that you would sign the consent form, is that right?

A. Yes, sir. Gus had, actually, hadn't left, he was still within eyesight or talking--

Q. Within eyesight?

A. Within talking distance, you know.

Q. He was walking down the driveway?

A. No, he hadn't walked off, he was getting ready to and Jack and Mr. Wade had already left, they had already went (sic) to get in their car.

Q. And during that period of time, the 31st, you don't recall any conversation concerning stolen goods, is

that correct?

A. Right.

Q. So as far as you can recall nothing came up concerning stolen goods?

A. Right.

Q. And no one asked you about any of the stolen goods?

A. No, sir.

Q. That's correct?

A. Right.

Q. How old are you?

A. Thirty.

Q. And what is your educational background?

A. I went to Andrew Lewis High School, finished there and went to Hargrave Military School, one year. I went to school in Texas one year, went to Virginia Western a quarter.

Q. You had some college courses, also?

A. Yes.

Q. What day did Detective Manuel approach you and say concerning that he wanted to talk with you and your attorney about certain offenses? Was that the date of your arraignment?

A. Well, the--the night at my house, more or less, we made like an arrangement to meet the next day. After I'd went (sic) to the arraignment, Claude Carter and I went by Gus's office to meet him and he wasn't there so we

called him. He said he hadn't got on duty yet, that he'd meet us at Claude's office at tw--I think around Two O'clock.

Q. Alright. So you came by and arranged with one of the secretaries in the Detective Division to meet with Detective Manuel, yourself, in Mr. Carter's office, is that correct?

A. Mr. Carter more or less did it, I didn't.

Q. Alright. So you went--when you arrived at Mr. Carter's office with your parents, Detective Manuel was already inside Mr. Carter's office, is that right?

A. That's correct, um-hmm.

Q. And you waited some ten or fifteen minutes thereafter, is that correct?

A. Yes, sir, and then I went in.

Q. Then you went in. And how long did you stay within Mr. Carter's office with Detective Manuel?

A. I would say about an hour.

Q. An hour?

A. Approximately.

Q. And at that time, did you respond to any questions asked by Detective Manuel?

A. We talked about quite a few things, yes, sir.

Q. You all talked about the Asey case, I assume?

A. Yes, sir.

Q. You talked about the money you referred to here today?

A. Yes.

Q. Did you talk about that?

A. Um-hmm.

Q. Did you all talk about any stolen desks?

A. _____. Gus--

Q. What was your answer, I don't think that
picked up.

A. Gus asked me about it and--uh--

Q. You said you didn't talk about any stolen
desks, is that correct?

A. Gus did, yes.

Q. You didn't--you didn't make any response--

A. Not, no, sir.

Q. --or any comments about any stolen desks?

A. No, sir. No, sir.

Q. And no one asked you any questions about any
stolen desks?

A. No, sir.

Q. At that time, Mr. Wilson, had you not been
charged with receiving stolen goods, to-wit: some stolen
desks?

A. Yes, sir.

Q. And you say that didn't even come up?

A. I said Gus had talked about it, yes.

Q. But you didn't?

A. No, sir.

Q. No one asked you about it?

A. He asked, he tal--he asked me about it in the

office and Mr. Carter both.

Q. But you didn't answer any questions?

A. No, sir.

Q. And you are sure that you were not advised of your Miranda Warnings at that time?

A. Yes, sir.

Q. How do you know what the Miranda Warnings are, have you ever been advised of them before?

A. The night I was arrested, I was told then--

Q. Who were you arrested by?

A. Jack Camden and Gus Manuel.

Q. At that time Detective Manuel advised you?

A. Yes.

Q. Did he advise you at any other time?

A. No, sir.

Q. Thank you.

BY THE COURT: As I understand it then, Mr. Wilson, you deny making any statements either the night the officers were at your home or at Mr. Carter's office?

BY THE WITNESS: Yes, sir.

BY THE COURT: Alright, sir.

BY MR. PADGETT: Okay, step aside.

WITNESS STANDS ASIDE

BY MR. PADGETT: That's all the evidence we have, Your Honor.

BY THE COURT: Well, in the opinion of the Court, there is no suppression hearing here, it's a pure question

of whether a Jury believes he made the statements or didn't make them. He denies making any statements at all. Three officers says he did. So what are you asking the Court to suppress?

BY MR. PADGETT: The alleged statements that he made, Your Honor.

BY THE COURT: Your own client denies he made any, it's a jury issue. Now if you will concede that the statements were made, then we may have something to have a suppression hearing on but this is purely a question of whether the credibility of the officers or that of the defendant and his witnesses, is a matter for the jury to determine. Now unless you concede that your client did make the statements to the officer, then it becomes a suppression issue.

BY MR. PADGETT: No, Your Honor, we don't concede that.

BY THE COURT: Since you deny the statements were ever made, the three officers testified that he was warned and that he did make them.

BY MR. PADGETT: Yes, I understand that but we're--

BY THE COURT: So your motion for suppression is denied and it's a jury issue to be submitted to the jury along with all the evidence in the case. Has the case been set for trial?

BY MR. LAMPROS: May the 15th, Your Honor. I think it is, is that not correct, May the 15th?

THE DEFENDANT WAS PRESENT AT ALL STAGES OF THIS HEARING

C E R T I F I C A T E

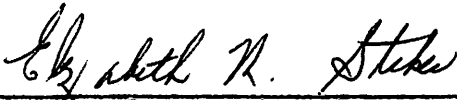
I, Nancy T. Wright, Court Reporter, designated and appointed to report and transcribe the case of Commonwealth of Virginia vs. Kenneth W. Wilson do certify that, to the best of my ability, the foregoing is a true and correct transcription of the proceedings had, motions made, and the evidence introduced in said Suppression Hearing of the aforesaid case on the 1st day of May, 1978.

Witness the following signature and seal this the 10th day of May, 1978.

Nancy T. Wright (SEAL)

C E R T I F I C A T E

I, Elizabeth W. Stokes, Clerk of the Circuit Court for the County of Roanoke, Virginia, do hereby certify that the foregoing copy or report of the testimony and other incidents of the trial in the case of Commonwealth of Virginia vs. Kenneth W. Wilson was filed with me as Clerk of said Court on the 10th day of May, 1978.



Clerk of the Circuit Court for the
County of Roanoke