

1 lawyers, I would think given the time constraints
2 we have, I would want to hear from Chris Davis
3 before anybody else, but that's your decision.
4 Anyway, so come on up, Officer. Let's get going
5 with the questions and I'll just deal with it.
6 I'll just have to cut people off if we get too far.
7 Come up over here.

8 ALFRED DAVIS,
9 after having been first duly sworn, was
10 examined and testified as follow:

11 THE COURT: All right, Mr. Jaffe, your
12 witness.

12 DIRECT EXAMINATION

13 BY MR. JAFFE:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Would you state your name for the record please,
17 sir?

18 A. Alfred Davis.

19 Q. And trying to cut through it as quickly as I can.
20 At one point you were a lieutenant?

21 A. Yes, sir.

22 Q. At the, what, Mobile?

23 A. Mobile Police Department.

24 Q. When did you last work there?

25 A. December of 2015.

1 Q. Did you work your way up to lieutenant?

2 A. Yes, sir.

3 Q. And where did you begin?

4 A. As an officer, PL1.

5 Q. Did you ever work as a detective or supervise
6 detectives?

7 A. Yes, I did.

8 Q. You then understand the importance of getting
9 statements from potential witnesses in homicide
10 investigations, civil and criminal?

11 A. Yes, sir.

12 Q. And you would want to speak to -- if it were you in
13 charge of the investigation, you'd want to speak to
14 everyone that you thought had relevant information
15 about a homicide investigation?

16 A. That's correct.

17 Q. Now, for the Court and for the record, Chris Davis
18 is your what, nephew?

19 A. Nephew.

20 Q. And more specifically how is he your nephew?

21 A. My sister's son.

22 Q. Okay. And how old is he?

23 A. He's, I think, 24 or 25.

24 Q. And Harry -- I always forget his last name,
25 Matthews, who is he?

1 A. I'm not familiar because I only met him up here.
2 But from my understanding, he's my nephew's
3 brother-in-law.

4 Q. So he would be Chris' brother-in-law?

5 A. Brother-in-law, yes, sir.

6 Q. And that names those three. Now, at some point,
7 did you bring Chris Davis down to the Mobile Police
8 Department?

9 A. That's correct.

10 Q. And how did that happen and when did it happen?

11 A. I was contacted by Chris Davis on or about August
12 3rd of 2020. He was concerned. He called me in
13 reference to the accident that we're here today
14 about. He stated that the officer wanted to speak
15 with him about that. I advised him the importance
16 of knowing who he's talking to by telephone, that
17 you just don't give a statement by phone. And I
18 advised him not to do such because it's not a smart
19 thing to do because he doesn't know. I advised him
20 that anything he says to police should be in
21 writing.

22 Q. Now, I'm just asking, did you tell him not to give
23 a recorded or an oral statement?

24 A. A verbal statement by phone or otherwise.

25 Q. Did you advise him not to be interviewed?

1 A. No, sir.

2 Q. Well, the reason I'm asking you this is because I
3 don't see an interview. If there is one, I'm not
4 aware of it, but I do see what is marked as
5 Defendant's Exhibit 2.

6 MR. JAFFE: May I approach the witness, Your
7 Honor?

8 THE COURT: Yes, sir.

9 Q. And let me show you if you know what this is,
10 Defendant's Exhibit 2?

11 A. Yes, sir, I am familiar with this.

12 Q. What is this?

13 A. This is the Traffic Accident Driver Witness
14 Statement.

15 Q. And who wrote it?

16 A. Chris Davis.

17 Q. In your presence?

18 A. No. I wasn't present when he wrote it.

19 Q. Where were you and where was he?

20 A. At my sister's house, at his home. I dropped him
21 off back home. I went to -- I think it was in
22 Eight Mile at one of my houses. I told him to let
23 me know when he finished, that I would meet with
24 him and then take it back to the precinct together.

25 MR. JAFFE: Let me just move for admission

1 for purposes of this hearing.

2 THE COURT: The State has no objection, I'm
3 sure. It's in. Let's let her mark it.

4 (DEFENDANT'S EXHIBIT 2 MARKED AND ADMITTED IN
5 EVIDENCE)

6 Q. How did he get this statement, the form? It
7 actually says Traffic Accident Driver Witness
8 Statement Form.

9 A. That's correct.

10 Q. When did he get it?

11 A. On August 5th.

12 Q. Were you with him when he got it?

13 A. I was.

14 Q. Did he get it or did you get it and give it to him?

15 A. Actually, we went to meet -- he had set an
16 appointment to meet with the investigator.

17 Q. Which would be?

18 A. Officer McDougal, yes, sir.

19 Q. McCullough?

20 A. I think his name is McDougal, I'm not certain.
21 That was the first time I'd ever met him.

22 Q. McCullough?

23 A. McCullough, is it McCullough? Okay.

24 Q. Did Officer McCullough or Detective McCullough ask
25 to interview him?

A. That's correct.

1 Q. And who refused that?

2 A. I did.

3 Q. I don't want to belabor this and I know the Judge's
4 parameters but you, if you were doing this
5 investigation, you would want an interview, not
6 just about a 14-line statement, correct?

7 A. Well, if I can explain, if I can be allowed to
8 explain?

9 Q. Well, sure, but I want you to just answer my
10 question first.

11 A. Okay. Yes, sir.

12 Q. That'd be your preference, wouldn't it?

13 A. My preference would be a written statement.

14 Q. Right. Oh, instead of a real interview?

15 A. In this case with a traffic accident, it would be a
16 written statement.

17 Q. But you knew there was a fatality?

18 A. Yes, sir, that's why I want a written statement.
19 That's the important of this.

20 Q. Would you explain that?

21 A. Yes, sir. I'll be more than happy to. When I
22 started with the department in 1985, with
23 accidents, traffic accidents, there was no form of
24 that nature with the department. We didn't have
25 that.

1 So, as officers, when we went to the scene of
2 an accident, we would either have a little pad and
3 we got -- we took verbal statements from people.
4 The problem with that was if the person told me I
5 was traveling such and such, I jotted that down.
6 The problem with those verbal statements was
7 whenever those things went to an insurance company
8 and the insurance company is debating about this,
9 what would happen is the person would say that's
10 not what I told the officer. I'm sorry.

11 MR. JAFFE: I'm not cutting him off, Judge.
12 I understand the value --

13 THE COURT: Well, you did.

14 MS. RICH: Yes.

15 THE COURT: You did. You are cutting him
16 off. But look, I'm not upset about it, but I want
17 to be clear for the record, you did interrupt the
18 witness.

19 MR. JAFFE: I did and I --

20 THE COURT: Go ahead. Go ahead. Next
21 question.

22 MR. JAFFE: To save some time --

23 THE COURT: It's fine. Go ahead.

24 Q. I guess my question is and I hadn't asked it very
25 well, is would you agree that you can do both an

1 interview and a written statement?

2 A. The interview --

3 Q. But you can, can't you?

4 A. Well, the interview only after the written
5 statement. The importance of that is you do not --
6 you want that witness statement to be totally
7 independent. If I, as an investigator, asked that
8 witness questions, that witness could
9 subconsciously put on that statement what he thinks
10 or he or she thinks I want to know. Therefore,
11 it's important I don't poison that person's train
12 of thought in any manner whatsoever --

13 Q. Well, let me see -- let me ask you --

14 MS. RICH: Well, judge, again, he's cutting
15 him off and he's in the middle of a statement.

16 THE COURT: Yes, let him finish, Mr. Jaffe.

17 MR. JAFFE: All right.

18 THE COURT: Go ahead, Officer.

19 A. Thank you. It's very important that the officer
20 puts no suggestive information in that person's
21 head whatsoever prior to them writing that
22 statement. That is very important. And in this
23 case this involves a fatality.

24 In my opinion, this was very important that a
25 written statement unobstructed in any manner

1 whatsoever by me or anybody else and especially an
2 officer, whatsoever that person should be free and
3 clear to really think. It just can't be
4 obstructed.

5 Q. Okay. I didn't cut you off. Now I want to ask you
6 if the following is missing from this statement.
7 Is Chris Davis's address -- and I can hand it to
8 you if you want it.

9 A. No.

10 Q. Is Chris' address and contact information on the
11 statement?

12 A. The address, though it's not listed on that
13 statement, is the address that he previously lived
14 at when he was -- their house caught fire.

15 Q. Is his driver's license on the statement?

16 A. I don't know if there's a space for the driver's
17 license.

18 Q. I'm going to hand it to you.

19 A. Okay. But no, I don't think I saw that on it.

20 Q. Is the speed he was going on that statement?

21 A. No, it's not.

22 Q. Is whether he drank substances on that statement?

23 A. No, it's not.

24 Q. Is the exact time when he made the turn on that
25 statement?

- 1 A. No, it's not.
- 2 Q. Is it on the statement who was with him?
- 3 A. No, it's not.
- 4 Q. Is it on the statement where he was going?
- 5 A. Yes, it is.
- 6 Q. Is it on the statement why he was going there?
- 7 A. No, it's not.
- 8 Q. Is it on the statement who else was in the car?
- 9 A. No, it's not.
- 10 Q. And it is 12 something at night, correct?
- 11 A. That's correct.
- 12 Q. Is it on the statement what he did when he got
- 13 there?
- 14 A. Yes, it is.
- 15 Q. In terms of going into the motel and staying there?
- 16 A. No, it's not.
- 17 Q. Is it on the statement who he was with in the
- 18 motel?
- 19 A. No, it's not.
- 20 Q. And I can keep going on, but these are going to be
- 21 very important -- and I can go on but I don't want
- 22 to waste the Court's -- these are very important
- 23 factors that aren't on that written statement,
- 24 correct?
- 25 A. No, they're not.

1 Q. And they're important?

2 A. No, they're not. What's important on that
3 statement there --

4 MR. JAFFE: I didn't ask him that.

5 MS. RICH: Judge --

6 THE COURT: Mr. Jaffe, let him answer. He's
7 got a right to answer when you have a question and
8 let him answer.

9 Q. All right, sir.

10 A. What's important is relevant information as to what
11 he knows about that accident. Anything else is
12 irrelevant.

13 Q. Okay. You answered. Now, all the questions I just
14 asked you --

15 A. Yes, sir.

16 Q. -- are you saying that they're not relevant, his
17 speed, all that stuff isn't relevant?

18 A. His speed is on here. I stand to correct myself.
19 His speed was he stopped to make a left turn,
20 that's his speed.

21 Q. Right, and is it on there --

22 A. Yes, sir, it's on there.

23 Q. Wait a minute. Is it on there how far it was
24 before he turned in front of another vehicle?

25 A. Yes, it is.

1 Q. How far?

2 A. Up in the distance. It doesn't have an exact
3 distance.

4 Q. Is it on there?

5 A. Yes, sir.

6 Q. The distance he was when he turned in front of that
7 vehicle?

8 A. I doubt very seriously if he could measure.

9 Q. His estimation, is it on there?

10 A. His estimation was a vehicle way up in the
11 distance.

12 Q. Okay. And was it on there whether he had a turning
13 signal?

14 A. No, it's not.

15 Q. Now, you understand that this is a fatality, you
16 mentioned that?

17 A. Yes, sir.

18 Q. And if it's a fatality, is it on there that he left
19 the scene that night? Is that on that statement?

20 A. Sir, he wasn't involved in a fatality.

21 Q. I'm just asking, is it on there? Is it on there?

22 A. I don't understand the scene, he left the scene.

23 Q. He left a fatality that occurred after he turned in
24 front of that car?

25 A. Sir, that's incorrect information.

1 Q. He left the scene?

2 A. That's incorrect.

3 Q. Just let me ask my question.

4 A. Yes, go ahead.

5 Q. Is it on there that he didn't call 911?

6 A. No, sir.

7 Q. Okay. Is it on there that he didn't call the
8 police, they had to run him down? Is it on there?

9 A. No, sir.

10 Q. Now, you being a patrol officer and all the way up
11 to lieutenant, you're aware of statutes that
12 require individuals -- and I'd like to cite the
13 statute, I can show it to you.

14 A. I'll take your word for it.

15 Q. Well, I don't want you to do that now. Title 32,
16 Section 10-1 of the Alabama Code. So were you
17 aware that he did not stay and give a statement to
18 law enforcement, that he left without providing his
19 information that evening?

20 A. Sir, he was not involved.

21 Q. He turned in front of the car, correct?

22 A. Sir, he made a left turn.

23 Q. I understand that and then he -- I get that. But
24 you know that he went into the motel --

25 A. Yes, sir.

1 Q. -- then he came back out with other people?

2 A. I'm clear.

3 Q. Right. So are you aware that he just didn't give
4 any information, including the fact that he was a
5 witness?

6 A. He did not witness an accident.

7 Q. He turned in front of another car that ended in a
8 fatality, correct?

9 A. Sir, what he done was made a left turn --

10 THE COURT: Let him answer. Let him answer.

11 A. He made a left turn into the parking lot motel
12 where it was -- which was his destination. He did
13 not witness an accident.

14 Q. Are you aware that after he turned into the motel,
15 he went into the motel?

16 A. Yes, sir.

17 Q. But he also went out and saw that there was a
18 fatality?

19 A. After he went to the hotel, he contacted his
20 friends. They walked up to the front of the hotel
21 parking lot because they heard a noise. They
22 didn't know what they -- don't cut me off.

23 Q. Oh, I'm not.

24 A. Please. So they didn't know what occurred. They
25 had to walk approximately the length of two

1 football fields past the U-Haul to the Econo Lodge
2 where they saw all the people gathered and they
3 walked down there.

4 How long that took them to get there, I don't
5 know. But once they arrived, there were other
6 people there and that's in his statement.

7 Q. Sure. And by then, he clearly knew that there was
8 a fatality, didn't he?

9 A. Yes, sir.

10 Q. He went down there.

11 A. Yes, sir.

12 Q. And he knew he turned in front of that car, didn't
13 he?

14 A. No, sir. I don't know what he knew but --

15 Q. It's on the statement.

16 A. Sir, he said -- in his statement he says he made a
17 left turn. It doesn't say he turned in front of a
18 car. He made a left turn because he had clearance
19 is what this says.

20 Q. Exactly. But you know today he turned in front of
21 that car, don't you? There's a video.

22 A. Sir, what I know is at that time what he put in
23 this statement, I read the statement after he wrote
24 it, that he made a left turn as he had clearance to
25 do so.

1 Q. All right. Have you seen any videos of this case
2 at all?

3 A. Not really, no, sir.

4 Q. What do you mean?

5 A. I'm not privileged to any police information.

6 Q. I'm just asking you if the prosecutors met with you
7 this week?

8 A. Yes, they did.

9 Q. For how long and where?

10 THE COURT: Mr. Jaffe, really, we've got to
11 stay on the issues of purposes here. I am being as
12 patient as I can --

13 MR. JAFFE: And i appreciate it, Judge.

14 THE COURT: I said I wasn't going to put
15 boundaries and I haven't. I've allowed very broad
16 scope of examination, but we've got to stay on the
17 issues. This is not simply preparation for the
18 trial. This is not a deposition in general.

19 This is about the motion for mistrial and
20 alleged failure to properly and timely disclose.
21 And I'm yet to hear anything from this witness that
22 directly bears on it. I know all of the facts are
23 related, I know that, but we've got to get on the
24 issue at hand here. Okay. There's no jury. This
25 is good stuff for cross-examination, whether you

1 want him to say he turned in front and that's your
2 theory or part of your theory of the case, I know
3 that. But the jury is not in here, it's the Judge
4 and the issue is motion for mistrial and failure to
5 disclose. So, let's get to that issue.

6 MR. JAFFE: That's all I have, Judge. That's
7 it.

8 THE COURT: Anything from the State?

9 MS. RICH: No, sir.

10 THE COURT: Thank you, Officer. You can step
11 down. Mr. Davis. Wait out there with the other
12 two. Let's get Mr. Matthews.

13 MR. KNIZLEY: Judge, I don't want to run
14 afoul of your concern, but I do want to establish
15 some basic information about what --

16 THE COURT: I understand. I'm fine with it.
17 Ms. Walsh, I want you to pull up either Cameras 6
18 or 7 of scene -- and I'll turn this off and let you
19 find it -- where the three guys and Mr. Davis are
20 visible in it and I can give you a couple of spots.
21 The Defendant for the first time in 7 is seen at
22 12:51 and on 6, the Defendant is seen --

23 MS. WALSH: Not the Defendant, Your Honor.

24 THE COURT: I mean, not the Defendant, excuse
25 me, Davis, Davis -- at 12:51 something on 6 and