

1 THE COURT: Mr. Emery, I remind you,  
2 you are still under oath.

3 THE WITNESS: Yes, sir.  
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5 KENNETH EMERY

6 was recalled as a rebuttal witness by the Defense and,  
7 being first duly sworn, was examined and testified on  
8 his oath as follows:  
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10 DIRECT EXAMINATION

11 BY MR. MCCOLLOUGH:

12 Q State your name for the jury.

13 A Kenneth Allan Emery, Sr.

14 Q Mr. Emery, are you the same Kenneth Emery who  
15 testified here this morning on behalf of the  
16 State?

17 A Yes, sir.

18 Q Mr. Emery, do you know Mack Caulder?

19 A Yes, sir.

20 Q How long have you known Mack Caulder?

21 A About as long as I have been employed with  
22 Southeast. That's been about five years.

23 Q How do you know Mack Caulder?

24 A Was my supervisor when I started working. He  
25 was supervisor when I started working.

1 Q And did you know him during his employment there  
2 the whole period of time there?

3 A While he was there, yes, sir.

4 Q Did you know him in October of 1979?

5 A Yes, sir.

6 Q And is that the time that you worked on the job  
7 at the Jacksonville Naval Air Station?

8 A Yes, sir.

9 Q What kind of foreman was Mr. Caulder?

10 A I thought he was a real good foreman.

11 Q Did you ever see or know of Mack Caulder  
12 accepting any form of payment for marking  
13 someone present on the payroll?

14 A No, sir.

15 Q Did you ever see anyone hand Mack Caulder any  
16 money?

17 A Yes, sir.

18 Q And who would that have been?

19 A For loans during the day when we were short of  
20 lunch money.

21 Q Now, why would they be repaying Mr. Caulder?

22 A It's like this, Mack was the type of foreman  
23 that he didn't like to see any of his men go  
24 hungry because at the base we were doing extra  
25 heavy work with different layers of material,

1 and some days some of us would run short of cash  
2 for lunch and we could borrow from him. And we  
3 could give it back to him on Friday.

4 Q So, it's your testimony that Mack Caulder would  
5 loan the employees money to buy lunch if they  
6 didn't have money?

7 A Yes, sir.

8 Q And anytime you saw any kind of money being  
9 handed to Mr. Caulder it was repayment for  
10 that lunch money?

11 A That's what I assumed it was.

12

MR. MCCOLLOUGH: Pass the witness.

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MR. WALSH: Can we have just a second,

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Your Honor?

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THE COURT: Yes, sir.

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CROSS EXAMINATION

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BY MR. ANDERSON:

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20 Q Mr. Emery, before you testified this morning,  
21 did I explain to you that normally you're only  
22 allowed to testify to things that you personally  
23 saw?

24 A Yes, sir.

25 Q And did I tell you not to testify about things

1 that you knew were going on, but you didn't  
2 personally see?

3 A Yes, sir.

4 Q Did you know that some employees' time cards  
5 were forged with hours and days that they were  
6 not there?

7 A Yes, sir.

8 Q You knew about that going on?

9 A Yes, sir.

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11 MR. ANDERSON: I pass the witness.

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REDIRECT EXAMINATION

14 BY MR. McCOLLOUGH:

15 Q Did you ever know Mack Caulder to ever do  
16 anything like that?

17 A No, sir.

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MR. McCOLLOUGH: No further questions.

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RE CROSS EXAMINATION

22 BY MR. ANDERSON:

23 Q But you did see Mack Caulder take money from  
24 some of the men?

25 A Yes, sir.

1 Q Were those large sums of money?

2 A That would be debatable question.

3 Q Well, let's go to when did you ever see any  
4 of the foremen take large sums of money at  
5 Tom's Liquor Store?

6 A Excuse me, I think you mean Sam's.

7 Q Whichever liquor store it was?

8 A Yes, Sam's, yes, sir.

9 Q Did you see money pass hands there?

10 A Yes, sir.

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MR. ANDERSON: I pass the witness.

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FURTHER REDIRECT EXAMINATION

15 BY MR. McCOLLOUGH:

16 Q Did you ever see Mack Caulder there?

17 A No, sir.

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MR. McCOLLOUGH: No further questions.

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MR. ANDERSON: Nothing further, Judge.

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THE COURT: Thank you. May the witness

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be excused?

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MR. McCOLLOUGH: Yes, sir. Mack Caulder

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can be excused.

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MR. ANDERSON: Yes, sir.

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THE COURT: All right, he may be excused.

MR. MCCOLLOUGH: Your Honor, before we proceed further and just as an administrative thing, the Defense has filed a brief which was presented to the Court, I believe, yesterday. We would like that brief filed of record.

THE COURT: Yes, sir, it will be.

MR. MCCOLLOUGH: Your Honor, at this time the Defense closes.

THE COURT: All right.

MR. WALSH: The State rests and closes, also, Your Honor.

THE COURT: All right. Ladies and gentlemen, that concludes the evidentiary portion of this trial. That means that all the evidence is now before the jury. So, we have completed those stages that I have been carrying you through. We now have some more stages to consider. Tomorrow the Court will read the Charge to the jury. After the reading of the Charge, each side will be given an opportunity to make a final summation or argument and after those final arguments the Charge will go with you to

1 the jury room and at that point in time you  
2 will begin your deliberations. I need to  
3 check something. Would you approach the  
4 bench just a minute, please.

5  
6 (Whereupon, a discussion was  
7 had at the bench, between Court  
8 and counsel, out of the  
9 hearing of the jury, after  
10 which the proceedings continued  
11 as follows:)

12  
13 THE COURT: All right, ladies and  
14 gentlemen of the jury, I need to discuss  
15 with the lawyers some timing things we have  
16 to do and things we have to do outside the  
17 presence of the jury. So, I think we will  
18 start with the reading of the Charge at  
19 1:00 o'clock tomorrow afternoon rather than  
20 having you sit up here while we take care  
21 of things in the morning then that we are  
22 going to have to take care of outside the  
23 presence of the jury. If you will report  
24 to Courtroom B, the Bailiff will be out in  
25 the hall to tell you how to get to Courtroom B.

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I have just been informed that we will be in this courtroom. All right, then, we will just report here. We are going to let Judge Steib have his courtroom back in the morning. He will be through. So, we will report here at 1:00 o'clock and we will start just as soon after 1:00 o'clock as we can. I remind each of you once again not to discuss the case with each other nor with anyone else, including your families and friends. Don't read any newspaper, magazine, periodicals or written material concerning this case. Don't view any television programs and don't listen to any radio broadcasts concerning this case. Don't seek any information from any outside source. I would appreciate if you would follow these instructions and I will see you back here at 1:00 o'clock in the afternoon. Thank you very much. You are excused.

(Whereupon, the jury was dismissed for the day, after which the following proceedings were had:)



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THE COURT: Anything else to be brought before the Court?

MR. WALSH: Would you like us to start at 9:00 o'clock tomorrow morning to talk about the Charge unless we need some more time?

MR. HIGGINBOTHAM: Where, Your Honor?

THE COURT: Courtroom B. Let's go at 10:00 o'clock tomorrow morning.

(Whereupon, the trial was recessed, to reconvene at 10:00 a.m., April 11, 1984.)