

on her. Anita is described by many as not being very maternal, and her relationship with Melissa was not good.

Loretta McCullar was at the Cummings' house that night. Loretta was a family friend who lived with her father in Atoka, and visited the Cummings' house almost daily. Loretta had been having a sexual relationship with Jessie for some time, and she was close friends with Sherry, although she did not get along well with Anita. Loretta was at the Cummings' house visiting when Anita came home with Melissa, fuming about having to watch Melissa, especially since Judy was going to Roland's Bar in Lehigh, which was just up the road from the Cummings' house in Phillips.

Around 2:00 am Thursday morning, September 5, 1991, Jessie and Anita drove Loretta home. Debra Marie (who was 4) and Robbie (who was 3) were asleep in the kids' room. Melissa slept on the twin bed in the living room. When Jessie and Anita returned home, they and Sherry also went to bed. A short time later, Jess and Judy arrived from Roland's Bar. Jess went to bed in his bedroom, and Judy joined Melissa in the livingroom.

K. The Offenses and Discovery of the Bodies in 1991

On the morning of September 5, 1991, Jessie Cummings and others sleeping at the Cummings' household awoke. Present at the Cummings' home in Phillips that morning were Jessie, his father Jess, Sherry Cummings, Anita Cummings, the children, (Robbie, who had recently turned three, and Debra, who was four), Judy Mayo and her eleven year-old daughter Melissa Moody. Around 10:00 a.m., Jessie and his father left for Oklahoma City where his father had an appointment to check into Presbyterian Hospital for treatment of his cancer (T. 518 & 692; see also Appendix 47). When Jessie left, he told his family that he did not know when he would return, and that he might stay overnight at the hospital with his dad.

Although Sherry Cummings claimed that Jessie instructed her the night before to kill Judy on this day (T. 516-7), and Anita claimed that Jessie instructed her prior to leaving that morning to kill Judy (T. 691), no other evidence supports this testimony. The events of the day likewise do not support that a plan was underway to commit a homicide of Judy that day. Judy was not held away

from the sight of her friends or other persons in order to divert suspicion away from the Cummings' household after her death. Rather, this day began much like any other day at the Cummings' household, with friends coming by and being entertained, and family members going about a normal day's activities.

Just before Jessie and his father left for Oklahoma City (Appendix 42), visitors began arriving at the Cummings' household. The first were one of Judy's close friends, Ella Faye Potter, and Ella Faye's former sister-in-law, Vira Berthaleen Potter. After drinking coffee and visiting a while, Vira returned to her home located in Coalgate. Judy asked Ella Faye to take her to town to buy some cigarettes, and they left in Ella Faye's vehicle (Appendix 35), traveling the short distance from Phillips to Coalgate.

In Coalgate, the stops that Ella Faye and Judy made included Coalgate Flowers and Gifts (Appendix 35), where Ella Faye purchased flowers to be sent to her husband and children because it was her and Robert's anniversary. Judy visited outside with friends Juanita Heck and her daughter Paula Heck while Ella Faye conducted her business. Shortly after this, Judy and Ella Faye shopped at the United Dollar Store where Judy purchased several items for herself and Melissa, including a new nightgown. (Appendix 35 & 42)

While in Coalgate, Judy and Ella Faye came into contact with Anita who had in tow Judy's daughter Melissa. Anita had brought Melissa into town with her on her trip to the local Welfare Office (T. 692-3). Anita asked Judy if Melissa should stay with her or go with Judy. Judy told Anita to keep Melissa with her (PH-I 244; T. 693).

While Ella Faye and Judy were in town, and Anita and Melissa were at the Welfare Office, Robert Cogburn, Ella Faye's husband, and Michael Hicks stopped by the Cummings' house in Phillips looking for Ella Faye. Robert, who as usual had been drinking, became angry when he learned the women had gone to town, and said he could wring their necks (PH-I 18). Robert and Michael left the Cummings' home within 5-10 minutes of their arrival there. They caught up with Judy and Ella Faye in town, and had a brief conversation with them before going their own ways (Appendix 29 & 35).

When Ella Faye and Judy finished their errands in town, they headed back for Cummings' house in Phillips, stopping at the R&R convenience store for a pop on their way. Anita and Melissa were already back when Ella Faye and Judy got to the Cummings' house around noon (PH-I 245). Ella Faye stayed to finish watching a movie on the VCR, and then left for home (Appendix 35).

Judy had told her earlier in the day she had a date that night with her new boyfriend, Jesse Boone Wilson, and Ella Faye told Judy to come by her house for dinner first, to celebrate Ella Faye's anniversary (Appendix 35).

After Ella Faye left, Anita and Sherry fed lunch to the three children (PH-I 245). Shortly after this, Judy and Melissa again left the Cummings' home and drove the short distance to Coalgate to visit Vira at her home. Judy and Melissa were driving the red pickup that Judy and Eugene were purchasing from Jessie. They arrived at Vira's house at 1 p.m., just as Vira had finished watching a favorite soap opera. Judy showed off her purchases to Vira, including her new nightgown (Appendix 8).

Judy and Melissa seemed in good spirits at that time. Contrary to the testimony of Sherry that she and Judy went house-hunting on this day, neither Judy nor Melissa made any mention of any plans, or even any need, to hunt for a new home to replace their present residence to Judy's friend Vira (*id.*). Other relatives and friends of Judy have also confirmed that Judy was not interested in leaving her residence or moving away from her husband's grandparents who lived across the street from Judy's home in Tushka. Judy remained close to them even though her marriage to Eugene Mayo was coming to an end. (Appendix 7).

In addition to discussing the recent purchases Judy had made, Judy and Vira discussed whether either was going to Ella Faye's later that day in connection with Ella Faye and Robert's anniversary. It was Vira's understanding that Judy intended to be there that evening, although Vira had decided not to make an appearance (Appendix 8). After visiting with Vira for about fifteen minutes, Judy told Vira that she and Melissa needed to return to the Cummings' home in Phillips, placing her return at the Cummings' home at approximately 1:20- 1:30 p.m. (*id.*). The visit with Vira on the early afternoon of September 5, 1991, is the last known time that Judy was alive and in

the company of an adult other than Anita and Sherry.

Although the exact sequence of events at the Cummings' household on the afternoon of September 5, 1991, is not easily discernable from the women's testimony and the other available evidence, three key points are clear from a thorough review of the known evidence. First, it is undisputed that Jessie Cummings was with his father, who was admitted to Presbyterian Hospital in Oklahoma City for testing. Second, it is clear from Anita's and Sherry's testimony that it is impossible for both Anita and Sherry to have testified truthfully at Jessie's trial. Their respective inconsistent statements, both prior to trial and at the trial, are diametrically opposed on key events (see Appendix 11).

Third, Anita's testimony is contrary to other known physical evidence. This evidence includes the information contained in the Medical Examiner's autopsy reports (Appendix 14) and the investigation by law enforcement agencies in the months following the homicides. Although the Medical Examiner could not identify the order of the bullet paths in Judy's body, the varying paths made by the gunshot wounds to her body could not have been made as testified by Anita Cummings. Anita's testimony was that she stepped into the living room, stood in one location about 7' away from Judy at a right-angle, and repeatedly fired shots at Judy.

Anita testified that, during this shooting spree from a single location, Judy never moved from the couch, but slumped over on the couch and died instantly (T. 695). However, the paths of the bullets which struck Judy came from more than one direction. Two shots entered toward the upper rear of Judy's body, specifically through a hump on her shoulder area and to her neck. The shot into Judy's neck, from which a bullet was recovered, came from the right side with the projectile traveling to her left. The gunshot wounds to the hump in Judy's upper back was a through and through shot. The Medical Examiner could not determine the direction of travel of the bullet that caused this wound. (Appendix 14).

Another shot entered Judy's body in the mid-chest area and traveled downward from right to left, with a bullet being recovered from her protruding belly. The trajectory of this wound indicates a significantly different direction of travel than what is shown by the two wounds in the neck and

shoulder area. Another gun shot wound to the chest area follows yet another trajectory which is also inconsistent with Anita's claims that all the shots were being fired from one location. This gunshot wound consists of an entry wound into Judy's right breast, with the trajectory being in a sharp upward direction from left to right (*id.*). This physical evidence strongly refutes Anita's testimony that Judy was repeatedly shot while sitting in one location on the couch in the Cummings' household.

Another key piece of physical evidence is revealed in the autopsy examination of Judy's body. On the calf of Judy's right leg, the autopsy documents a large anti-mortem abrasion (*id.*). This injury was clearly indicated as a pre-death injury and it was the Medical Examiner's opinion this injury would have occurred just prior to Judy's death (Appendix 7).

The evening before her death, Judy had gone drinking and dancing with her father at Roland's Bar in Lehigh, leaving Melissa with Anita at her workplace in Atoka. There is no evidence to suggest Judy had a leg injury the day before her death or during her shopping trip to Coalgate the morning of her death. Judy was in the company of various relatives and friends the morning of her death, and nobody mentioned seeing an injury to Judy's leg, which would have been noticeable given that Judy was wearing shorts coupled with the size of the injury (Appendix 14). An injury of that size would have been painful, and Judy probably would have been limping and at least complaining about how much it hurt. In addition, neither Sherry nor Anita provided any explanation for this injury in their testimony or their pre-trial statements.

It is apparent that this injury had been inflicted during the altercation that resulted in Anita killing Judy around 3:00 pm on September 5, 1991. One of the few details in Anita's statements to the police and her in-court testimony that has not changed over time is that Anita shot and killed Judy at the Cummings' home that day. However, as discussed above regarding the Medical Examiner's findings, Anita's description of her actions in committing this homicide is not a truthful account of her actions that day. The absence of credibility in Anita's account of the details of shooting and killing Judy Mayo casts doubt on the veracity of her claim that she killed Judy because Jessie had told her to do so that morning. The available information points to Judy's death resulting

from an argument between the two women that escalated into violence and ultimately resulted in Judy's death. This explains the physical injuries inflicted on Judy.

Given what is now known about Jessie and his limited intellectual functioning, (Appendix 5) and what is known about the women's bisexual relationship with each other and their fighting capabilities (Appendix 7), it is absurd for the State to claim that Jessie had some mysterious ability to exert mind control over the women from 116 miles away to force them to kill Judy. Sherry claimed she had no problem refusing Jessie's alleged request to kill Judy the night before (T. 516-7). Moreover, the women could either have contacted the sheriff or left Jessie while he was in Oklahoma City. They had several operable vehicles at the house including two pickups, they had the children with them, and they could have taken anything they wanted from the house. Sherry's mother and other relatives lived in nearby Atoka. Anita's parents were a phone call away in Arkansas.

In addition, the uncontroverted medical evidence shows Judy did not meet her demise in a dispassionate, pre-meditated shooting by a broken, controlled woman with no choice but to follow orders who blankly emptied a handgun while standing in one place, as claimed by Anita Cummings. Judy clearly was shot from more than one angle based on the autopsy findings regarding the bullet paths (Appendix 14). Also, Judy incurred an injury to her lower right leg that cannot be attributed to Anita and Sherry moving her body after she was killed by Anita Cummings in a barrage of gunfire, because it is an anti-mortem injury (Appendix 7). That leg injury is consistent with Judy being kicked or stomped during a struggle. The varying trajectories shown by the bullet paths are likewise consistent with shots fired in a struggle while Anita and Judy faced each other, with the final two shots being to the neck and back area to ensure that Judy did not rise from the floor to further fight with Anita. Such a struggle accounts for the leg injury and the vastly different paths of the bullet wounds inflicted in Judy's chest and abdominal area.

Jessie had absolutely no motive to want his sister and niece dead. Anita and Sherry acknowledged that Jessie had no motive, that Jessie and Judy got along and did not have problems (T. 541 & 714). Judy was a lot older than Jessie and had been like a mother to him, often providing

him a place to stay when their mother's alcoholism made life too unbearable at home (see T. 947). Judy and Jessie's elderly father recently had been diagnosed with cancer and did not have long to live, and in fact died two months after Judy and Melissa were killed. It is inconceivable that Jessie would want Judy and her daughter to die during the last months of Jess' life. This points towards this offense arising out of an unexpected argument between the women while Jessie and Jess were in Oklahoma City and not available to keep the peace, such that a spontaneous quarrel between Anita and Judy escalated to violence and, before anyone had time to think, Judy was dead, and Melissa's death soon followed.

From the accounts of persons familiar with Anita Cummings, she was not a strong maternal figure (Appendix 7). During the twenty-four hours prior to Judy's death, Melissa was thrice thrust upon Anita. First, while Anita was at work at the Dairy Queen the night before Judy died, so that Judy could go out partying with her father. This was particularly irritating to Anita because Roland's Bar was not far from the Cummings' household in Phillips, and Judy could easily have taken Melissa there herself. The second time Judy foisted Melissa on Anita was the next morning, when Judy left the Cummings' home to go to town with Ella Faye. The third time was when Anita, with Melissa in tow, came upon Judy in Coalgate. Anita was required to keep Melissa with her, when it would have been more logical for Melissa to go with her mother.

Anita could not simply leave Melissa with Sherry on these occasions. On the first, Anita was at work in Atoka. The next morning in the Cummings' home in Phillips, Anita could not impose on Sherry to care for Melissa, because Sherry was the dominant figure in the home, particularly when Jessie was away, as he was that day. Thus, Anita was relegated over two days the role of providing child care for Melissa when her preference was to not even assume the primary role in caring for her own child. This would have been especially irritating to Anita since Melissa turned 11 and had begun to enter that sassy-mouth stage characteristic of pre-pubescent girls (Appendix 7).

Under these circumstances, it is easy to see that Anita had been trying to contain her resentment over caring for Melissa, both at work the night before and the morning of September 5, 1991. This resentment would easily have grown stronger when Judy did not take charge of Melissa

when Anita came across her in town. Once everyone was back at the Cummings' home that afternoon and Ella Faye had left, it is easy to understand how Anita and Judy got into an argument over Melissa. This argument escalated into violence and the two women began to physically fight, with Judy's leg being kicked or stomped during this scuffle. Settling matters with physical violence was not uncommon in the Cummings' household and those in their social-economic status, where resolving an argument by going outside to fight is the norm.

Anita, the smaller of the two women, was a scrappy fighter, as was Judy, although Judy had the disadvantage of her large body. Anita also was somewhat skilled in fighting and kicking, having been coached on how to fight by both Jessie and Sherry. The injury on the back of Judy's right leg was inflicted during a physical confrontation with Anita that day. As the fight escalated, Anita grabbed one of the handguns this family owned for personal protection. Whether she intentionally shot Judy the first time or whether the handgun accidentally discharged became irrelevant when Anita continued to repeatedly fire the weapon at Judy, and caused her death.

Sherry, who was as much Anita's lover as Jessie's lover, alleged she had been on the back porch using the port-a-potty when Anita killed Judy (T. 520). Hearing five gunshots, Sherry claimed to have entered the house and discovered what Anita had done. Because Sherry was the dominant personality in the Cummings' home, particularly between the women, she assumed her normal role as matriarch of the home and as the dominant person in the relationship of the two women, and took over the situation in light of the unexpected death of Jessie's sister.

However, prior to being able to contain the situation, Melissa, the oldest of three children who were playing outside, came running inside upon hearing the gunshots. The sight of her mother laying dead would have sent the young girl, who cherished her mother, into hysterics. In a panic to contain the child's screams and avoid a discovery by nearby residents who could have connected the gunshots to the screams, Sherry either placed a choke-hold on Melissa or suffocated her in some way in an attempt to silence her. Sherry was familiar with the use of a choke-hold maneuver, which cuts off the flow of blood to the brain and renders a person unconscious (Appendix 7).

The medical examination of Melissa's body years later indicates that she had suffered

several knife wounds to the body. Such wounds would have caused a considerable amount of blood to be spilled in the Cummings' home, but no blood was detected when a luminol test was performed on the house (Appendix 41). Hence, it is possible that she was not stabbed at the house, but merely knocked out and incapacitated until the women could think about what to do with her.

There also is support in Anita's early statements that Melissa was not stabbed at the Cummings' home. Three years after the homicide, when Anita first began to detail her involvement with the deaths, Anita separately told Eddie Fields and Diane Fields that she had killed Judy, and that Judy's body and Melissa were still at the Cummings' home when Anita went to work that night, but they were gone when she returned from work (Appendix 25 & 26), which was before Jessie returned from Oklahoma City. This is also what she originally told the police (Appendix 16 & 17). Because Sherry was the one who got rid of Melissa while Anita was at work, Anita did not know the details of Melissa' death and could not provide any details about her death in her initial statements.

With Melissa incapacitated, the other children were quickly dispatched to another room in the house, and then efforts were made by Sherry and Anita to hide what had occurred. Judy was dragged out of the house by Sherry and Anita, and shoved into the storm cellar, which was located just outside the back steps (T. 525, 696). Although Anita recalled Sherry putting something white like a blanket on Judy before they dragged her out of the house (T. 696), Sherry did not concur with that claim. The cellar opening was then covered with something until a decision could be made about what to do with her body before Jessie returned and discovered what had occurred during his absence.

After Judy's body was moved to the cellar, the women cleaned up the house. Sherry claimed that Anita took charge and forced Sherry to assist (T. 523, 566), and Anita claimed that Sherry took charge and gave the orders (T. 568). (See also Appendix 11). Once the house was back in order, little Debbie and Robbie were permitted to go back outside to play, while Melissa's dead or incapacitated body was hid in a different room. In response to their questions about where Melissa and Judy had gone, this is probably when the women came up with the explanation that they had left in a black pickup.

There is no evidence to corroborate the women's claims about putting Judy's body in the cellar. It is just as likely that they immediately loaded her onto one of the three pickups at the house, by backing it up to the back steps, and then covered it with something until nightfall. It is hard to believe that two small children would not notice something different about the storm cellar, or the women wouldn't have worried about being seen stuffing Judy's body in to it. The "back" steps were not at the rear of the house which faced South, but were on the East side of the house and hence in full view of cars driving past the house, which was not set back very much from the road. Likewise, the door to the storm cellar faced the road and was in full view of passer-bys.

The women's account of Melissa sitting cooperatively and passively in a bedroom for up to 12 hours, or being handcuffed but remaining silent for hours, is not only ludicrous, but is contrary to the nature of this child. Her childhood friends describe vividly their recollections of Melissa as active and outgoing child, who had entered the back-talking, sassy stage of pre-adolescence (Appendix 7). Melissa is also described as a mama's girl who would become anxious when separated from her mother (*id.*). It is implausible that Melissa meekly laid on the bed, whether restrained or not, for hours without asking why she had to stay in the bedroom and without asking for her mother, and without complaint or protest (T. 571-74). The only plausible reason for those inconsistencies is that Melissa was already dead or incapacitated, and gone from the house by the time Anita came home from work around 11:00 pm that night.

It is even more improbable that Melissa was a docile participant in sexual acts with Jessie Cummings after being confined for nearly 10-12 hours in this bedroom by the wives. Melissa was neither raped nor a willing participant in the sexual acts alleged by Anita to have occurred in the early morning hours of September 6, 1991. The allegations about this sexual assault were so unsupported by evidence that the trial court refused to permit the charge relating to these allegations to go to the jury (T. 855).

Anita's allegations of Melissa being raped or a willing participant in sexual conduct with Jessie were specious and offered by Anita solely to portray Jessie in the worst light possible. This is clear from an analysis of Anita's numerous pre-trial statements. Nothing about this alleged sexual

episode was mentioned in her initial statements to either Diane Fields or Eddie Fields (Appendix 25 & 26). In Anita's first "confessions", she consistently claimed that Judy's body and Melissa were gone from their home by the time Anita returned from work around 11:00 pm that night (*id.*). Jessie was still in Oklahoma City at that time, and did not return until after midnight. Hence, he could not have participated in their removal from his home.

Nor did the rape allegations surface when Anita first spoke with law enforcement authorities (*see* Appendix 18 & 19). A summary of Anita's initial confessions are set forth in the Appendix (Appendix 16). It is not until well into the second day after her arrest, late in the afternoon, that Anita volunteers a claim that Jessie had sex with Melissa before she died (Appendix 19, p. 3). Then Coal County Sheriff Ward, who had been questioning Anita on and off since 5:30 am the previous morning, expresses surprise and notes that Anita had never told him about that before (*id.*).

Not even Sherry provides corroboration for Anita's claim. Sherry initially claims that when Jessie returns from Oklahoma City, she and Jessie move Judy's body from the cellar to the pond, and then came home, leaving immediately with Melissa (Appendix 22). In her initial versions, there was no time for the sexual episode to have occurred. By the time of trial, however, after having had many opportunities to confer with Anita, Sherry changed her story to say that Jessie and Anita were alone in the bedroom with Melissa for about a half hour before they left with her (PH-I 112; T. 535). Sherry claims to have been sitting in the livingroom during this time, and disavows any knowledge of what happened in the bedroom (T. 585). In contrast, Anita insists that Sherry was in the bedroom with them (T. 702-3). Incredibly, Sherry describes Melissa and Jessie joking together when they emerge from the bedroom (T. 704 & 708).

Melissa was eleven at the time of her death. Her closest friends at the time were Linda Potter and Lisa Cathey, who were about the same age. They both remember Melissa vividly. They both were aware at the time that Melissa was not menstruating, was not sexually experienced, and was unfamiliar with what sexual intercourse would feel like, which is contrary to Anita's suggestions that Melissa actively engaged in sexual conduct with Jessie without fear, without pain, without embarrassment, and without discomfort in any form (T. 704). Vira Potter recalls that Melissa would

embarrass easily if even teased about liking a boy (Appendix 8).

Anita was scheduled to work the evening shift at the Atoka Dairy Queen that day. She was suppose to be at work at 4:00 pm, but was late in leaving because of the time it took to clean up the house after she killed Judy. The excuse she gave her boss for her tardiness was a flat tire, which has never been corroborated. After Anita's departure for work, Sherry was left to determine how to get rid of Judy's body and Melissa before Jessie returned from Oklahoma City. She knew she had to wait until nightfall, but did not want to wait until Anita returned from work, out of fear that Jessie might return by then. Sherry taking charge of removing Judy and Melissa from the house while Anita was at work is consistent with Anita's initials descriptions of what happened that day -- that Melissa and Judy were gone when Anita got home from work (see, e.g., Appendix 25 & 26).

In order to frame Jessie and hoping to protect themselves from prosecution, Sherry and Anita eventually claimed that Judy's body was not moved until the early hours of the next morning when Jessie returned from Oklahoma City around 2:00 a.m, and that Melissa was alive and a passive hostage at the time. However, there are many inconsistencies in this version, as is more fully set forth in Appendix 11. For example, Anita claims she was in the house while Sherry and Jessie loaded Judy into her pickup (T. 701, 743), while Sherry claims that Anita helped them do that (T. 530; PH-I 108-9).⁶

Other available information show the falsity of the claimed long delay between Judy's death and the removal of her body and pickup late that night, Sherry's purported presence at the home all evening, and the alleged 10-12 hour hostage status of Melissa. The available information points to Judy's body and Melissa, whether dead or incapacitated, being removed from the Cummings' home by Sherry during the evening hours, while Anita was at work, and long before Jessie returned from Oklahoma City. However, Sherry could not have accomplished this by herself. Her first step, after Anita left for work and Jerry Walker had been by the house to feed his animals and left, was to go

⁶In Jessie's false confession which he recanted, Jessie gives yet another version: that he and Anita alone loaded Judy onto the truck (Appendix 24). He also has Anita going with him to the pond, while both Anita and Sherry have Sherry going with him.

recruit assistance in getting rid of Judy and Melissa.

That Sherry was not home that night and was busy getting rid of Judy and Melissa is supported by Anita's initial statements to the Fields that Judy was gone and Melissa was killed, by means unknown to Anita, by the time Anita returned from work that night (Appendix 25 & 26). Moreover, Ella Faye Potter came by the Cummings' home between 7:00 and 8:00 p.m. to find out why Judy and Melissa had not come to her house as Judy previously planned. She discovered the house to be dark and nobody at home, and Judy's truck was not at the house (Appendix 35 & 7). Likewise, Loretta Wells McCullar, a close friend of both Jessie and Sherry, and a frequent visitor to their home, came by the house at 10:00 p.m. that night. She reported that nobody was home and Judy's truck was not at the house (Appendix 33).

Other evidence that Sherry was not home all night while Anita was at work is Sherry's telling Jessie she had taken the kids out to eat that night at the Dairy Queen (see, e.g., Appendix 51, p. 3). That Sherry had driven through the D.Q.'s drive-through that night was corroborated by another employee. That trip would have served to let Sherry inform Anita that everything had already been taken care of at home.

It is not presently known who assisted Sherry in removing Judy and Melissa from the Cummings' home. Although Sherry was very strong and would not have necessarily needed assistance to move Judy to and from a vehicle, she would have needed assistance in leaving Judy's truck on the highway. Sherry logically could have enlisted the assistance of her mother, Lahoma Yaws, and her mother's live-in boyfriend, David Potter. They had recently moved to Atoka County and were living in a rental house southeast of Atoka, which is located between Atoka and where Melissa's body was found six weeks later in Choctaw County. Anita also could have obtained the assistance from a lover, such as Daniel Franklin Chick who lived near Coalgate at the time and mysteriously moved into the Cummings' household a few weeks after the homicides.

After loading Judy and Melissa's bodies in the same or different vehicles, Sherry and her assistant drove Judy's truck and one of the Cummings' other vehicles from Phillips to a pond near Atoka Lake. Judy was later found in this pond, which is just steps away from Atoka Lake. The

clothing that Judy had been wearing was found floating on the lake shore. Found with it was a jump suit later identified as belonging to Melissa, but not worn by her that day, and a set of adult clothing too small for Judy which was never identified as to ownership. Judy's red pickup was then parked not far away on the side of Highway 43, with the hood up as if the pickup had been abandoned due to mechanical trouble.

Sherry may not have been involved in the disposal of Melissa in Choctaw County. In her confession, Sherry substituted Jessie for the person who actually assisted in disposing of Judy and Melissa. However, Sherry ludicrously claims to have fallen asleep en route to getting rid of Melissa (T. 577) and en route from that location (T. 539), and hence was unable to identify the stop where Melissa was left. This appears to indicate that Sherry really did not know where Melissa was left, and hence her assistant/accomplice did this without her. Moreover, Sherry would have been in a hurry to return home, in case Jessie returned from the hospital. Given the absence of blood at the Cummings' home and in their vehicles, it is likely that Melissa was stabbed at the scene where her body was later found. In addition, Sherry testified that she waited in the car while Melissa was taken away and killed, but that she did not hear Melissa scream and any other noise, despite the fact that the windows of the car were rolled down (PH-I 59). This is further indication that Sherry did not accompany Melissa and her abductor to the Choctaw County site where Melissa was killed.

Sherry's minimal testimony as to Melissa's departure from the home and as to her death left Sherry free to avoid remembering details beyond placing the blame on Jessie. This is consistent with all of her testimony, which continuously differs with Anita's testimony (Appendix 11), except for shifting the ultimate blame to Jessie for everything.

The Dairy Queen closed at 10:00 pm, but Anita had to stay to clean up, and hence did not leave for home until about 10:30 pm. She arrived home about 11:00 p.m. Judy and Melissa were both gone according to her earliest admissions (Appendix 25 & 26). Later, both women claimed that Melissa was still confined to the bedroom when Anita got home, however there are many inconsistencies between their versions of events. Some of the more obvious inconsistencies are the following:

Anita's version

Sherry handcuffed Melissa (T. 699).

Melissa was asleep when Anita got home (T. 698).

when Jessie got home, he came inside (PH-I 107; T. 529).

Sherry and Jessie loaded Judy in her pickup, while Anita stayed in the house (T. 701, 743)

Sherry put a white blanket on Judy when we dragged her out to the cellar that afternoon (T. 696; PH-I 248).

She never saw the gun again after she shot Judy with it (T. 712, 735).

Jessie told Anita to stay in the house until they got back (PH-I 235, 312).

When Sherry and Jessie returned from disposing of Judy's body, all three of us were in the bedroom while Jessie had sex with Melissa (T. 702-3).

Jessie had Anita and Sherry take the cuffs off Melissa before he had sex with her (T. 702).

Melissa and Jessie were joking when they came out of the bedroom (T. 704 & 748).

The couch was in the livingroom when Jessie & Sherry returned without Melissa (PH-II 44).

Sherry's version

Anita handcuffed Melissa (T. 536, 583).

Melissa was awake when Anita got home (T. 584-5).

when Jessie got home, the women went out to meet him (T. 700, 744).

Anita helped Sherry and Jessie load Judy in the pickup (T. 503; PH-I 108-9).

Jessie put a white blanket on Judy after pulling her out of the cellar (T. 531)

Jessie asked for the gun & Anita gave it to him (T. 531 & 582).

Jessie didn't tell Anita to do anything (PH-I 110).

Anita and Jessie went in the bedroom where Melissa was; Sherry stayed in the livingroom; she didn't hear anything in the bedroom (T. 585-86).

Jessie told Anita to take the handcuffs off Melissa after they came out of the bedroom (T. 536).

Anita is lying if she says they were joking (T. 587).

The couch was outside when they got back (PH-II 100).

(See also, Appendix 11).

Another inconsistency between the women's claims and available information is the alleged phone call that Jessie made while in Oklahoma City with his father. It is undisputed that Jessie called his father's sister collect at 8:48 p.m., because the phone bill documenting that phone call

exists (Appendix 30). However, Sherry claimed that Jessie called her. At the time there was no phone in the Cummings' house, so they had to go to the pay phone up the road to make calls. However, sometimes somebody would make a collect call to them by calling the neighbor across the street, Stella Knight. Sherry claimed at trial that Jessie had called Stella Knight's house that day while Anita was at work, and implied that he called to check on whether Judy had been killed. However, Stella Knight told the OSBI that no phone calls were received that day for anybody in the Cummings' household (Appendix 31). In addition, her phone records show no collect calls to her home that day, except a collect call from her brother Ernest Knight (*id.*).

On Friday, September 6, 1991, Jessie returned to Oklahoma City to visit his father at the hospital. Sherry and Jessie's two children were with him. Anita stayed behind because she was scheduled to work the day shift at the Dairy Queen. Jessie, Sherry and the children returned from Oklahoma City without his father in the early evening. Anita was off work and they spent the evening together at home. Their friends, Loretta McCullar and her cousin Robert Atkinson, came to the house to spend the weekend with them.

The next day, Jessie returned to Oklahoma City to bring his ailing father home. Anita and Robert Atkinson went with him, and they returned to Philips around 4:30 pm. Jessie and his father then went to Tushka to see Judy to tell her the results of Mr. Cummings' tests. Because they did not find Judy at home, a note was left on her door.

On Sunday, Jessie saw Ella Faye Potter at Kuhlman's grocery store in Coalgate. Jessie learned from Ella Faye that she had not seen Judy for several days, and that her husband Robert Cogburn had seen her truck out on Highway 43, the road from Ella Faye's home to Coalgate. Jessie and his father went out to Highway 43 and found Judy's truck where Ella Faye said it would be. Jessie thought the truck must have had mechanical problems again, because he had just worked on it. Jessie and his dad started making efforts to locate Judy and Melissa. They left more notes on the door to her home in Tushka, which included an offer to help her with her truck. They contacted friends and acquaintances of Judy, local hospitals, and local law enforcement agencies. The Atoka Sheriff's Department recommended that Jessie move the truck from the highway, to prevent looters

from removing tires and other parts.

At the suggestion of Jessie's father, they filed a Missing Person Report with the Atoka Sheriff's Department around 7:15 pm. At trial the person who received the report incorrectly testified that it is signed by Jessie, when in fact it is signed by his father "Jesse Cummings" (Appendix 40). Then they went to the Coal County Sheriff's Department to file a Missing Person Report there (Appendix 39), which is also signed by "Jesse S. Cummings," Jessie's father. A second report was filed in that County the next day (*id*).

On Monday, September 9, 1991, Jessie and his dad located Eugene Mayo at his place of employment, and asked if he had an extra set of keys to the pickup, the Bill of Sale to which was in both Eugene's and Judy's names, but he did not. Eugene went with Jessie and his dad back to the truck. Jessie hot wired the truck to get it started, and then Eugene drove it home.

At approximately 7:30 p.m. that evening, Judy's body was discovered by a couple who were fishing. Atoka County Sheriff Gary McCool arrived at the scene and an identification was made that the body was Judy Mayo, with the cause of death being gunshot wounds. Sheriff McCool requested assistance and remained at the scene until agents from the Oklahoma State Bureau of Investigation (OSBI) arrived later that evening. The scene was secured until the next day because it was too dark to process. However, prior to securing the scene clothing in the area was noted. This included clothing for a person Judy's size and clothing that would fit a child. (Appendix 38).

Jessie, Sherry, and Anita were contacted by the OSBI that night and asked to come to Atoka County early the next morning. They were questioned separately at the Sheriff's office after their arrival. Eugene Mayo was also contacted and interviewed by law enforcement officials shortly after 1:00 a.m. on that day. He provided a consent for the truck to be searched and for Judy's residence to be searched (Appendix 32).

After daybreak on Tuesday morning, September 10, 1991, Judy's body was removed from the pond and law enforcement agents processed the area around the pond. Items gathered around the pond included cast impressions of tire tracks near the edge of the pond. It was observed that the grass near the pond looked like a body had been pushed or rolled into the water. Other clothing

items recovered included: a pink tank top, pink and black shorts, knit pants, a dark shirt, two pair of panties, a child's black and pink body suit turned inside out, a purse and a cigarette case, together with the contents, and a leather strap with beads attached (Appendix 42).

Judy's truck was processed and various items collected, including a bag with the nightgown that Judy had purchased the day she died, insurance papers, a deposit slip, leather gloves, a bag of photos, a lighter, sunglasses, a cigarette package, a panty shield package, tennis shoes, a towel, a tank top, the seat cover, a flashlight, a knife from the toolbox. Officers also recovered a latent print on the passenger side window. Luminol testing of the truck did not reveal evidence of blood in it. (Appendix 42).

Volunteer fire fighters from Atoka arrived at approximately 9:40 am to help remove Judy's body from the pond. The local coroner pronounced her dead and noted the presence of gunshot wounds. Judy's body was then transported to the office of the Medical Examiner in Tulsa, Oklahoma. Later in the day, the pond where Judy was found was drained and a cadaver dog was used to search for Melissa's body. In addition, law enforcement officials drained a second pond in the area. Jessie, Anita, Sherry, and persons outside of the family who were known to be close to Judy were interviewed.

The Medical examiner performed the autopsy on Judy's body on Wednesday, September 11, 1991. The autopsy revealed the gunshot wounds to Judy's body and the large abrasion on her lower right leg discussed above (Appendix 14). Two bullets were recovered from the body. Nothing else of significance was found. Judy was buried in Lehigh on September 14, 1991. The bullets were examined by the OSBI and determined to be most consistent with a .38 or a .357 magnum (T. 455).

On October 16, 1991, Melissa's body was discovered in rural Choctaw County near the southern bridge on Clear Boggy River Twin Bridges, which is on State Highway 109A, five miles north of U.S. Highway 70. The autopsy was performed the next day by Dr. Distefano, M.D. Due to decomposition of the body, the cause of death could not be determined, but it was ruled a homicide nonetheless.

Jessie's father died at home from cardiac arrest on November 4, 1991, and was buried on